State of Iowa

2006

ACTS AND JOINT RESOLUTIONS

(Session Laws)

Enacted at the

2006 REGULAR SESSION

and the

2006 FIRST EXTRAORDINARY 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 SIXTIETH YEAR OF THE STATE

REGULAR SESSION BEGUN ON THE NINTH DAY OF JANUARY
AND ENDED ON THE FOURTH DAY OF MAY, A.D. 2006

FIRST EXTRAORDINARY SESSION HELD ON THE
FOURTEENTH DAY OF JULY, A.D. 2006

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 2006 Regular Session and the 2006 First Extraordinary 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 2007 IOWA CODE IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 2007 Iowa Code.

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 2006 Regular Session took effect on July 1, 2006, unless otherwise provided. The date of enactment generally is the date an Act is approved by the Governor, which is shown at the end of each Act. The Act of the 2006 First Extraordinary Session took effect upon passage and at the specified time or times provided. See Iowa Code section 3.7.

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
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Stefanie G. Devin, Deputy Treasurer	Polk
Karen Austin, Deputy Treasurer	Polk
Steve Larson, Deputy Treasurer	Polk
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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
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Tam Ormiston, Deputy Attorney General	Polk
Julie Pottorff, Deputy Attorney General	Polk
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, 81(1st)
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Kreiman, Keith A. ..... Bloomfield	Attorney	47th—Appanoose, *Davis*, Wapello, Wayne	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
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, 81(1st)
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[1] Term ended April 10, 2006

[2] Term began April 10, 2006

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Quirmbach, Herman C. Ames	Associate Professor of Economics—Iowa State University	23rd—Boone, *Story*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
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, 81(1st)
Rielly, Tom ..... Oskaloosa	Insurance Sales	38th—Iowa, Keokuk, ... *Mahaska*, Poweshiek, Tama	81(1st)
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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, 81(1st)
Dolecheck, Cecil ..... Mount Ayr	Farmer	96th—Adams, ... 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, 81(1st)
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Elgin, Jeffrey C. ..... Cedar Rapids	Investor/Business ..... Owner	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, 81(1st)
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, 81(1st)
Foege, Ro ..... Mount Vernon	Licensed Independent 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, 81(1st)
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, 81(1st)
[1]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, 81(1st)
Frevert, Marcella R. ... Emmetsburg	Retired Teacher	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, 81(1st)

[1] Deceased September 5, 2006

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, 81(1st)
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, 81(1st)
Granzow, Polly A. ..... Eldora	Farming	44th—*Hardin,* Marshall	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
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, 81(1st)
Heaton, David ..... 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, 81(1st)
Heddens, Lisa K. ..... Ames	Family Support ..... Coordinator	46th—Boone, *Story*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
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, 81(1st)
Hogg, Robert M. ..... Cedar Rapids	Attorney	38th—*Linn*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
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, 81(1st)
Hunter, Bruce ..... Des Moines	Loan Counselor—Iowa Student Loan	62nd—*Polk*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Huseman, Daniel A. ... 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, 81(1st)
Huser, Geri D. ..... Altoona	Lawyer	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, 81(1st)
Hutter, Joseph I. ..... Bettendorf	Retired Police Officer ..	82nd—*Scott*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
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, 81(1st)
Jacoby, David (Dave) .. Coralville	Program Director	30th—*Johnson*	80(2nd), 80(2nd)X, 81(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
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, 81(1st)
Jochum, M. Pam ..... Dubuque	Adjunct—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, 81(1st)
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, 81(1st)
Kaufmann, Jeff ..... Wilton	Teacher/Livestock ..... Operator	79th—*Cedar*, Johnson, Muscatine	81(1st)
Kressig, Bob ..... Cedar Falls	Retired/John Deere	19th—*Black Hawk*	81(1st)
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, 81(1st)
Kurtenbach, James M. Nevada	Associate Professor	10th—Hamilton, *Story*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Lalk, David ..... Westgate	Farmer	18th—Black Hawk, ... Bremer, *Fayette*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Lensing, Vicki ..... Iowa City	Business Owner— ..... Funeral Home	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, 81(1st)
Lukan, Steven F. ..... New Vienna	Tire Technician	32nd—Delaware, ... *Dubuque*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Lykam, Jim ..... Davenport	.....	85th—*Scott*	73, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Maddox, O. Gene ..... Clive	.....	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, 81(1st)
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, 81(1st)
May, Mike ..... Spirit Lake	Retired Teacher/Resort Owner	6th—Clay, *Dickinson*	81(1st)
McCarthy, Kevin M. ... Des Moines	Prosecutor—Polk ..... County Attorney's Office	67th—*Polk*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Mertz, Dolores M. ..... Ottosen	Farmer	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, 81(1st)
Miller, Helen ..... Fort Dodge	Attorney/Arts Educator	49th—*Webster*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
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, 81(1st)
Oldson, Jo ..... Des Moines	.....	61st—*Polk*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Olson, Donovan ..... Boone	Distance Education .... Coordinator	48th—*Boone,* Dallas ...	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Olson, Rick ..... Des Moines	Attorney	68th—*Polk*	81(1st)
Olson, Steven N. ..... DeWitt	Farmer	83rd—*Clinton*, Scott ...	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Paulsen, Kraig ..... Hiawatha	Attorney	35th—*Linn*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
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, 81(1st)
Pettengill, Dawn E. .... Mount Auburn	Retirement and Investor Services	39th—*Benton*, Iowa	81(1st)
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, 81(1st)
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, 81(1st)
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, 81(1st)
Rasmussen, Daniel J. .. Independence	Executive Director— ... Land Improvement Contractor Association	23rd—Black Hawk, ... *Buchanan*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
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, 81(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Reasoner, Michael J. ... Creston	State Representative ...	95th—Clarke, Decatur, *Union*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Reichert, Nathan ..... Muscatine	Allsteel Customer ..... Support	80th—*Muscatine*	81(1st)
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, 81(1st)
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, 81(1st)
Schickel, Bill ..... Mason City	Radio Station Manager	13th—*Cerro Gordo*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Schueller, Thomas J. .. Maquoketa	Owner/Contractor ..... Schueller & Sons	25th—Clinton, Dubuque, *Jackson*	81(1st)
Shomshor, Paul C., Jr. Council Bluffs	Certified Public ..... Accountant	100th—*Pottawattamie*	80(2nd), 80(2nd)X, 81(1st)
Shoultz, Don ..... Waterloo	Retired	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, 81(1st)
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, 81(1st)
Soderberg, Chuck ..... LeMars	Vice President, Planning and Legislative Services—Northwest Iowa Power Cooperative	3rd—*Plymouth*, Sioux	81(1st)
Struyk, Douglas L. ..... Council Bluffs	Small Business Owner/ Attorney	99th—*Pottawattamie* ..	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Swaim, R. Kurt ..... Bloomfield	Attorney at Law	94th—Appanoose, *Davis*, Wayne	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
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, 81(1st)
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, 81(1st)
Thomas, Roger ..... Elkader	Farmer/Paramedic	24th—*Clayton*, ... Delaware, Fayette	77, 78, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Tjepkes, David A. ..... Gowrie	Retired State Trooper ..	50th—Calhoun, Greene, *Webster*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Tomenga, F. Walter .... Johnston	Management Consultant	69th—*Polk*	81(1st)
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, 81(1st)
Upmeyer, Linda L. ..... Garner	Nurse Practitioner	12th—Cerro Gordo, ... Franklin, *Hancock*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Van Engelenhoven, Jim 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, 81(1st)
Van Fossen, James .... (Jim) R. Davenport	Retired Davenport ..... Police Captain	84th—*Scott*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
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, 81(1st)
Watts, Ralph C. ..... Adel	Engineer/Retired	47th—Boone, *Dallas* ...	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Wendt, Roger F. ..... Sioux City	Retired/Educator	2nd—*Woodbury*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Wessel-Kroeschell, Beth Ames	State Representative ...	45th—*Story*	81(1st)
Whitaker, John R. ..... Hillsboro	Family Farmer	90th—Jefferson, ... *Van Buren*, Wapello	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
Whitead, Wes ..... Sioux City	Retired	1st—*Woodbury*	77, 78, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st)
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, 81(1st)
Winckler, Cindy L. ..... Davenport	Teacher	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, 81(1st)
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, 81(1st)
Zirkelbach, Raymond .. Monticello	Correctional Officer/ ... Soldier	31st—Dubuque, *Jones*	81(1st)

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

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206 Federal Building
101 First Street, SE
Cedar Rapids, Iowa 52401
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120 Federal Building
320 6th Street
Sioux City, Iowa 51101
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Fourth District: **Congressman Tom Latham (R)**

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526 Nebraska Street
Sioux City, Iowa 51101
(712) 224-4692
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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, 2005

	Balance July 1, 2004	Total Receipts and Transfers	Total Available	Total Disbursements and Transfers	Balance June 30, 2005
General Fund	$ 479,875,570	$ 9,376,761,994	$ 9,856,637,564	$ 9,307,523,582	$ 549,113,982
Special Revenue Fund	1,089,781,696	3,135,416,793	4,225,198,489	3,229,213,700	995,984,789
Capitol Projects Fund	2,579,707	19,021,015	21,600,722	18,921,603	2,679,119
Debt Service Fund	10,094,945	7,324,912	17,419,857	11,181,796	6,238,061
Enterprise Fund	35,276,455	460,412,406	495,688,861	460,025,900	35,662,961
Internal Service Fund	51,393,083	328,991,311	380,384,394	328,289,978	52,094,416
Expendable Trust Fund	39,910,992	406,134,700	446,045,692	351,626,881	94,418,811
Nonexpendable Trust Fund	8,797,684	1,088,298	9,885,982	0	9,885,982
Pension Fund	15,066,951,192	1,725,684,748	16,792,635,940	964,886,134	15,827,749,806
Trust and Agency Fund	165,933,155	4,057,647,450	4,223,580,605	3,992,218,827	231,361,778
Totals	$16,950,594,479	$19,518,483,627	$36,469,078,106	$18,663,888,401	$17,805,189,705

Balance July 1, 2004	$16,950,594,479
Receipts and Transfers	19,518,483,627
Total Available	36,469,078,106
Disbursements and Transfers	18,663,888,401
Balance June 30, 2005	$17,805,189,705

DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE ACCOUNTING ENTERPRISE

March 22, 2006

ANALYSIS BY CHAPTERS

2006 REGULAR SESSION

For Conversion Tables of Senate and House Files and Joint Resolutions to chapters of the 2006 Acts, Regular Session, see page 712

2006 FIRST EXTRAORDINARY SESSION

For Conversion Table of House File to chapter of the 2006 Acts, First Extraordinary Session, see page 1050

2006 Regular Session

of the

Eighty-First General Assembly

of the

State of Iowa

CHAPTER 1001

SALES AND USE TAX EXEMPTION AND REFUND —
COLLABORATIVE EDUCATIONAL FACILITY
BUILDING MATERIALS AND SERVICES

H.F. 864

AN ACT providing an exemption from and a refund of sales and use taxes on materials and services used in the construction of a building or addition to a building to be used as a collaborative educational facility and including effective and applicability date provisions.

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

Section 1. Section 423.3, subsection 80, paragraph a, Code 2005,[1] is amended to read as follows:

a. For purposes of this subsection, "designated exempt entity" means an entity which is designated in section 423.4, subsection 1 or 4.

Sec. 2. Section 423.3, Code 2005,[2] is amended by adding the following new subsection:

NEW SUBSECTION. 85. a. 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 for the original construction of a building or structure to be used as a collaborative educational facility.

b. 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 for the construction of additions or modifications to a building or structure used as part of a collaborative educational facility.

c. To receive the exemption provided in paragraph "a" or "b", a collaborative educational facility must meet all of the following criteria:

(1) The contract for construction of the building or structure is entered into on or after April 1, 2003.

(2) The building or structure is located within the corporate limits of a city in the state with a population in excess of one hundred ninety-five thousand residents.

---

[1] "Code Supplement 2005" probably intended; see chapter 1185, §128 herein

[2] "Code Supplement 2005" probably intended; new subsections 85 – 88 were added in Code Supplement 2005; see chapter 1185, §128 herein

(3) The sole purpose of the building or structure is to provide facilities for a collaborative of public and private educational institutions that provide education to students.

(4) The owner of the building or structure is a nonprofit corporation governed by chapter 504 or 504A which is exempt from federal income tax pursuant to section 501(a) of the Internal Revenue Code.

References to "building" or "structure" in subparagraphs (1) through (4) include any additions or modifications to the building or structure.

Sec. 3. Section 423.4, Code 2005,[3] is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. The owner of a collaborative educational facility in this state 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 construction contract with the owner of the collaborative educational facility for the original construction, or additions or modifications to, a building or structure to be used as part of the collaborative educational facility.

To receive the refund under this subsection, a collaborative educational facility must meet all of the following criteria:

(1) The contract for construction of the building or structure is entered into on or after April 1, 2003.

(2) The building or structure is located within the corporate limits of a city in the state with a population in excess of one hundred ninety-five thousand residents.

(3) The sole purpose of the building or structure is to provide facilities for a collaborative of public and private educational institutions that provide education to students.

(4) The owner of the building or structure is a nonprofit corporation governed by chapter 504 or 504A which is exempt from federal income tax pursuant to section 501(a) of the Internal Revenue Code.

References to "building" or "structure" in subparagraphs (1) through (4) include any additions or modifications to the building or structure.

b. 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 owner of the collaborative educational facility which has made any written contract for performance by the contractor.

c. The owner of the collaborative educational facility 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 owner of the collaborative educational facility 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.

d. 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.

Sec. 4. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of section 423.3, subsection 85, paragraph "a", in section 2 of this Act for the exemption of the sales of goods, wares, and merchandise, and the furnishing of services used in the fulfillment of a written construction contract for the original construction of a building or structure to be used as a collaborative educational facility occurring between April 1, 2003, and June 30, 2005, shall not be allowed unless refund claims are filed by June 30, 2006, notwithstanding any other provision of law.

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[3] "Code Supplement 2005" probably intended; new subsections 4 and 5 were added in Code Supplement 2005; see chapter 1185, §128 herein

Sec. 5. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE. Section 2 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to April 1, 2003.

Approved February 17, 2006

CHAPTER 1002

ELECTIONS — POLLING PLACES, BALLOTS, AND ELECTION REGISTERS

H.F. 2050

AN ACT relating to elections by making changes concerning requirements for entrances to certain polling places, arrangement of names on the ballot for nonpartisan offices, and election registers, and including effective and applicability date provisions.

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

Section 1. Section 49.10, subsection 4, Code 2005, is amended to read as follows:

4. ~~No~~ A single room or area of any building or facility ~~shall~~ may be fixed as the polling place for more than one precinct ~~unless there are separate entrances each~~. The location of each polling place shall be clearly marked within the room or area on the days on which elections are held as the ~~entrance to~~ location of the polling place of a particular precinct, and suitable arrangements ~~are~~ shall be made within the room or area to prevent direct access from the polling place of any precinct to the polling place of any other precinct. When the commissioner has fixed such a polling place for any precinct it shall remain the polling place at all subsequent elections, except elections for which the precinct is merged with another precinct as permitted by section 49.11, until the boundaries of the precinct are changed or the commissioner fixes a new polling place, except that the polling place shall be changed to a point within the boundaries of the precinct at any time not less than sixty days before the next succeeding election that a building or facility suitable for such use becomes available within the precinct.

Sec. 2. Section 49.31, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

On the general election ballot the names of candidates for the nonpartisan offices listed in section 39.21 shall be arranged by drawing lots for position. The ~~board of supervisors~~ commissioner shall hold the drawing ~~at its first meeting~~ on the first business day following the deadline for ~~receipt of objections and withdrawals by candidates~~ filing of nomination certificates or petitions with the commissioner for the general election pursuant to section 44.4. If a candidate withdraws, dies, or is removed from the ballot after the ballot position of names has been determined, such candidate's name shall be removed from the ballot, and the order of the remaining names shall not be changed.

Sec. 3. Section 49.77, subsections 1 and 2, Code 2005, are amended to read as follows:

1. The board members of their respective precincts shall have charge of the ballots and furnish them to the voters. Any person desiring to vote shall sign a voter's declaration provided by the officials, in substantially the following form:

VOTER'S DECLARATION OF ELIGIBILITY

I do solemnly swear or affirm that I am a resident of the . . . . precinct, ... ward or township, city of . . . . . ., county of . . . . . ., Iowa.

I am a registered voter. I have not voted and will not vote in any other precinct in said election.

I understand that any false statement in this declaration is a criminal offense punishable as provided by law.

. . . . . .
Signature of Voter

. . . . . .
Address

. . . . . .
Telephone

Approved:

. . . . . .
Board Member

At the discretion of the commissioner, this declaration may be printed on each page of the election register and the voter shall sign the election register next to the voter's printed name. The voter's signature in the election register shall be considered the voter's signed declaration of eligibility affidavit. The state commissioner of elections shall prescribe by rule an alternate method for providing the information in subsection 2 for those counties where the declaration of eligibility is printed in the election register. The state voter registration system shall be designed to allow for the affidavit to be printed on each page of the election register and to allow sufficient space for the voter's signature.

2. One of the precinct election officials shall announce the voter's name aloud for the benefit of any persons present pursuant to section 49.104, subsection 2, 3, or 5. ~~Any~~ If the declaration of eligibility is not printed on each page of the election register, any of those persons may upon request view the signed declarations of eligibility and may review the signed declarations on file so long as the person does not interfere with the functions of the precinct election officials. If the declaration of eligibility is printed on the election register, the precinct election official shall make available for viewing a listing of those voters who have signed declarations of eligibility. Any of those persons present pursuant to section 49.104, subsection 2, 3, or 5, may upon request view the listing of those voters who have signed declarations of eligibility, so long as the person does not interfere with the functions of the precinct election officials.

Sec. 4. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and applies to elections held after the effective date of this Act.

Approved March 1, 2006

CHAPTER 1003

VOTER REGISTRATION SYSTEM

H.F. 2051

AN ACT relating to maintenance of a voter registration system separate from the state voter registration system and providing an effective date.

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

Section 1. Section 47.7, subsection 2, paragraph b, Code Supplement 2005, is amended to read as follows:

b. On or after January 1, ~~2006~~ 2007, a county shall not establish or maintain a voter registration system separate from the state voter registration system. Each county shall provide to the state registrar the names, voter registration information, and voting history of each registered voter in the county in the form required by the state registrar.

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

Approved March 1, 2006

CHAPTER 1004

HONEY CREEK PREMIER DESTINATION PARK BONDS

S.F. 2056

AN ACT relating to the Honey creek premier destination park bond program and providing an effective date.

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

Section 1. Section 463C.2, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 5A. "Gross revenues" means all income and receipts derived from the operation of the Honey creek premier destination park.

NEW SUBSECTION. 5B. "Net revenues" means gross revenues less operating expenses.

NEW SUBSECTION. 5C. "Operating expenses" means salaries, wages, costs of maintenance and operation, and costs of materials, supplies, insurance, and purchases made at wholesale, in connection with the operation of the Honey creek premier destination park, and all other items normally included as operating expenses under requirements of law or recognized accounting practices. "Operating expenses" does not include depreciation, costs of capital improvements or extensions, bond principal payments, or bond interest payments.

Sec. 2. Section 463C.11, subsection 1, Code Supplement 2005, is amended to read as follows:

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~~ net 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.~~

Sec. 3. Section 463C.12, subsections 1 and 8, Code Supplement 2005, are amended to read as follows:

1. The authority may issue taxable or tax-exempt bonds, or a combination thereof, for the purpose of funding the Honey creek premier destination 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, the board shall issue bonds ~~issued~~ pursuant to this section ~~shall not be issued in an aggregate principal amount~~ which ~~exceeds~~ result in the deposit of net bond proceeds of not more than twenty-eight million dollars credited to the Honey creek premier destination park bond fund.

8. ~~All~~ Tax-exempt bonds issued by the authority in connection with the program, which are exempt from taxation for federal tax purposes, are also exempt from taxation by the state of Iowa and the interest on ~~the~~ these bonds is exempt from state income taxes and state inheritance and estate taxes.

Sec. 4. Section 463C.13, subsection 3, Code Supplement 2005, is amended to read as follows:

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 the lesser of any of the following:

a. ~~ten~~ Ten percent of the ~~outstanding~~ stated principal amount of bonds secured in whole or in part by the bond reserve fund.

b. The maximum annual debt service on the issue of bonds.

c. One hundred twenty-five percent of the average annual debt service on the issue of bonds.

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

Approved March 9, 2006

CHAPTER 1005

IOWA LOTTERY — MONITOR VENDING MACHINES

S.F. 2330

AN ACT prohibiting monitor vending machines and providing an excise tax and an effective date.

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

Section 1. Section 99G.3, subsection 7, Code 2005, is amended to read as follows:

7. "Lottery", "lotteries", "lottery game", "lottery games" or "lottery products" means any game of chance approved by the board and operated pursuant to this chapter and games using mechanical or electronic devices, provided that the authority shall not authorize a monitor vending machine or a player-activated gaming machine that utilizes an internal randomizer to determine winning and nonwinning plays and that upon random internal selection of a winning play dispenses coins, currency, or a ticket, credit, or token to the player that is redeemable for cash or a prize, and excluding gambling or gaming conducted pursuant to chapter 99B, 99D, or 99F.

Sec. 2. Section 99G.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. "Monitor vending machine" means a machine or other similar electronic device that includes a video monitor and audio capabilities that dispenses to a purchaser lottery tickets that have been determined to be winning or losing tickets by a predetermined pool drawing machine prior to the dispensing of the tickets.

Sec. 3. NEW SECTION. 99G.30A MONITOR VENDING MACHINE — TAX IMPOSED.

1. If revenues are generated from monitor vending machines on or after forty-five days following the effective date of this Act, then there shall be a monitor vending machine excise tax imposed on net monitor vending machine revenue receipts at the rate of sixty-five percent.

2. a. The director of revenue shall administer the monitor vending machine excise tax as nearly as possible in conjunction with the administration of state sales tax laws. The director shall provide appropriate forms or provide appropriate entries on the regular state tax forms for reporting local sales and services tax liability.

b. All powers and requirements of the director to administer the state sales and use tax law are applicable to the administration of the monitor vending machine excise tax, including but not limited to the provisions of section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70 to 422.75, section 423.14, subsection 1 and subsection 2, paragraphs "b" through "e", and sections 423.15, 423.23, 423.24, 423.25, 423.31 to 423.35, 423.37 to 423.42, 423.46, and 423.47.

c. Frequency of deposits and quarterly reports of the monitor vending machine excise tax with the department of revenue are governed by the tax provisions in section 423.31. Monitor

vending machine excise tax collections shall not be included in computation of the total tax to determine frequency of filing under section 423.31.

3. For purposes of this section, "net monitor vending machine revenue receipts" means the gross receipts received from monitor vending machines less prizes awarded.

Sec. 4. TRANSITION PROVISIONS — MONITOR VENDING MACHINES. Notwithstanding any provision of section 99G.3, as amended by this Act, to the contrary, a retailer that has acquired a monitor vending machine prior to the effective date of this Act shall be allowed to offer the machine to the public for only forty-five days following the effective date of this Act. On or after forty-five days following the effective date of this Act, a retailer shall not make a monitor vending machine available to the public.

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

Approved March 20, 2006

CHAPTER 1006

OBESITY PREVENTION GRANT PROGRAM

S.F. 2124

AN ACT providing for the establishment of a nutrition and physical activity community obesity prevention grant program, and providing a contingent effective date.

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

Section 1. NEW SECTION. 135.27 NUTRITION AND PHYSICAL ACTIVITY COMMUNITY OBESITY PREVENTION GRANT — PROGRAM ESTABLISHED.

1. PROGRAM GOALS. The department shall establish and implement a grant program that expands an existing community intervention plan for preventing obesity with nutrition and physical activity approved by the centers for disease control and prevention of the United States department of health and human services. The purpose of the program shall be to increase the physical activity and fruit and vegetable consumption of targeted youth of elementary school age, with a long-term objective of developing a model program that will support and sustain such healthy behavior and incorporate sixty minutes of physical activity per day, which can be replicated in other communities.

2. DISTRIBUTION OF GRANTS. The department shall distribute the grants on a competitive basis to six communities located in each of six public health regions identified by the department, and shall provide technical assistance regarding program administration to successful applicants. Communities currently participating in the existing intervention plan shall not be eligible to apply.

3. QUALIFICATIONS. A local board of health, community organization, or city that has an elementary building that meets grant criteria may submit an application to the department for review. A coalition of local boards of health, health care providers, and community and private organizations that meet grant criteria may also submit an application. Grant criteria may include the following:

a. Participation in the free fruit and vegetable pilot program sponsored by the United States department of agriculture in designated schools.

b. Establishment of a community coalition to support and advance the program.

c. Participation in the pick a better snack and act social marketing campaign, support of local community groceries in the campaign, and utilization of community billboards to advertise the campaign.

d. Use of the fitness gram and activity gram interactive computer programs to track children's daily physical activity.

e. Participation in the five a day fruit and vegetable campaign.

f. Measurement, reporting, and tracking of the height and weight of students in elementary schools.

Sec. 2. CONTINGENT EFFECTIVE DATE.

1. This Act shall take effect upon receipt by the Iowa department of public health of funding in an amount sufficient to establish the grant program.

2. The department shall notify the Code editor if the contingency in subsection 1 occurs.

Approved March 21, 2006

CHAPTER 1007

DISTRIBUTION OF PRESENTENCE INVESTIGATION REPORTS

S.F. 2285

AN ACT relating to the distribution of a presentence investigation report in a criminal proceeding.

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

Section 1. Section 901.4, Code Supplement 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 send a copy of all of the presentence investigation report by ordinary or electronic mail, to the~~ The defendant's attorney and the attorney for the state~~, and the~~ shall have access to the presentence investigation report at least three days prior to the date set for sentencing. 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 department and the board of parole ~~at the time of commitment~~ shall have access to the presentence investigation report. 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.~~

Approved March 21, 2006

CHAPTER 1008

CRIMINAL AND CHILD AND DEPENDENT ADULT ABUSE RECORD CHECKS — NURSING EDUCATION PROGRAMS

H.F. 2464

AN ACT authorizing an approved nursing education program to initiate criminal and child and dependent adult abuse record checks of students and prospective students regarding the students' involvement with the clinical education component of the program.

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

Section 1. Section 152.5, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. For the purposes of this subsection:

(1) "Nursing program" means a nursing program that is approved by the board pursuant to subsection 1 or 2.

(2) "Student" means a person applying for, enrolled in, or returning to the clinical education component of a nursing program.

b. A nursing program may access the single contact repository established pursuant to section 135C.33 as necessary for the nursing program to initiate record checks of students.

c. A nursing program shall request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks in this state on the nursing program's students.

d. If a student has a criminal record or a record of founded child or dependent adult abuse, upon request of the nursing program, the department of human services shall perform an evaluation to determine whether the record warrants prohibition of the person's involvement in a clinical education component of a nursing program involving children or dependent adults. The department of human services shall utilize the criteria provided in section 135C.33 in performing the evaluation and shall report the results of the evaluation to the nursing program. The department of human services has final authority in determining whether prohibition of the person's involvement in a clinical education component is warranted.

Sec. 2. Section 235A.15, subsection 2, paragraph c, Code Supplement 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (14) A nursing program that is approved by the state board of nursing under section 152.5, if the data relates to a record check performed pursuant to section 152.5.

Sec. 3. Section 235B.6, subsection 2, paragraph e, Code Supplement 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (12) A nursing program that is approved by the state board of

nursing under section 152.5, if the information relates to a record check performed pursuant to section 152.5.

Approved March 21, 2006

CHAPTER 1009

ENTERPRISE ZONES — ELIGIBLE BUSINESSES — LOCATION

S.F. 2147

AN ACT relating to the requirement of location as an eligibility criterion for businesses under the enterprise zone program and providing an effective date.

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

Section 1. Section 15E.193, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A business which is or will be located, in whole or in part, in an enterprise zone is eligible to receive incentives and assistance under this division if the business has not closed or reduced its operation in one area of the state and relocated substantially the same operation into the enterprise zone and if the business meets all of the following:

Sec. 2. Section 15E.193, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. If the business is only partially located in an enterprise zone, the business must be located on contiguous land.

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

Approved March 22, 2006

CHAPTER 1010

NONSUBSTANTIVE CODE CORRECTIONS

H.F. 2543

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 2.1, Code 2005, is amended to read as follows:

2.1 SESSIONS — PLACE.

The sessions of the general assembly shall be held annually at the seat of government, unless

the governor shall convene them at some other place in times of pestilence or public danger. Each annual session of the general assembly shall commence on the second Monday in January of each year. The general assembly may recess from time to time during each year in such manner as it may provide, subject to Article III, section 14 of the Constitution of the ~~state~~ State of Iowa.

Sec. 2. Section 3.7, subsection 8, Code 2005, is amended to read as follows:

8. An Act or resolution under this section is also subject to the applicable provisions of Article III, sections 16 and 17 ~~of Article III~~ of the Constitution of the State of Iowa.

Sec. 3. Section 3.14, Code 2005, is amended to read as follows:

3.14 CERTAIN APPROPRIATIONS PROHIBITED.

~~No appropriations~~ An appropriation shall not be made to any institution not wholly under the control of the state of Iowa.

Sec. 4. Section 7.15, Code 2005, is amended to read as follows:

7.15 FEDERAL FUNDS FOR HIGHWAY SAFETY.

The governor, in addition to other duties and responsibilities conferred by the Constitution and laws of this state, is hereby empowered to contract for the benefits available to this state under any Act of Congress for highway safety, law enforcement, or other related programs, and in so doing, to co-operate with federal and state agencies, private and public organizations, and with individuals, to effectuate the purposes of these enactments. The governor shall be responsible for and is hereby empowered to administer, either through the governor's office or through one or more state departments or agencies designated by the governor or any combination of the foregoing the highway safety, law enforcement and related programs of this state and those of its political subdivisions, all in accordance with said Acts and the Constitution of the ~~state~~ State of Iowa, in implementation thereof.

Sec. 5. Section 9G.12, Code 2005, is amended to read as follows:

9G.12 DUBUQUE AND PACIFIC RAILROAD LANDS.

The secretary of state is hereby authorized upon the application of any person claiming title under the trust deeds executed by the Dubuque and Pacific Railroad Company, to secure its construction bonds, to any lands included in the list of lands certified to the state of Iowa, by the commissioner of the general land office and approved by the secretary of the interior, as selected to satisfy the grant made to the state of Iowa, by Act of Congress approved May 15, 1856 ~~[11~~, 11 Stat. ~~L. 9]~~ 9, in aid of the construction of a railroad from Dubuque to Sioux City; to certify said land as inuring to the grantees of the said Dubuque and Pacific Railroad Company, which certificate shall be signed by the governor, and attested by the secretary of state, with the seal of the state, and deliver the same to such applicant who is hereby authorized to have said certificate recorded in the county in which the land so certified is situated, and when so recorded, shall be notice to all persons the same as deeds now are, and shall be evidence of the title from the state of Iowa to any person deriving title to said land under the Dubuque and Pacific Railroad Company, to the land therein described under the grant of Congress by which the land was certified to the state so far as the certified lists made by the commissioner aforesaid, conferred title to the state, but where lands embraced in such lists are not of the character embraced by such Acts of Congress or the Acts of the general assembly of the state, and are not intended to be granted thereby, the lists so far as these lands are concerned, shall be void; nor shall the secretary include, in any of the lists so certified to the state, lands which have been adjudicated by the proper courts to belong to any other grant, or adjudicated to belong to any county or individual under the swampland grant, or any homestead or ~~pre-emption~~ preemption settlement; nor shall said certificate so issued confer any right or title as against any person or company having any vested right, either legal or equitable, to any of the lands so certified.

Sec. 6. Section 13.24, subsection 1, Code 2005, is amended to read as follows:

1. The legal services provider which enters into a contract with the coordinator under authority of 1986 Iowa Acts, ~~chapter~~ ch. 1214 shall submit to the coordinator a working plan for the accomplishment of the objectives of ~~chapter~~ 1986 Iowa Acts, ch. 1214 within thirty days after the contract is awarded. The plan must establish priorities and procedures, and set forth its annual operating budget for the fiscal year including projected salaries and all anticipated expenses. This budget shall set forth the maximum obligation of financial aid proposed for payment by the state and the availability of any additional funds or resources from the federal government and other sources to meet such expenses of operation.

Sec. 7. Section 15.274, Code Supplement 2005, is amended to read as follows:

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 historic 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, if enacted~~ pursuant to section 303.3B. 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, if enacted~~ pursuant to section 303.3B. 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.

Sec. 8. Section 15A.9, subsection 5, paragraph a, Code Supplement 2005, is amended to read as follows:

a. All property, as defined in former section 427A.1, subsection 1, paragraphs "e" and "j", Code 1993, used by the primary business or a supporting business and located within the zone, shall be exempt from property taxation for a period of twenty years beginning with the year it is first assessed for taxation. In order to be eligible for this exemption, the property shall be acquired or leased by the primary business or a supporting business or relocated by the primary business or a supporting business to the zone from outside the state prior to project completion.

Sec. 9. Section 15G.111, subsection 2, unnumbered paragraphs 1 and 2, Code Supplement 2005, are amended to read as follows:

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 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 building 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 or-

ganization 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.

Sec. 10. Section 15G.111, subsection 6, paragraph a, Code Supplement 2005, is amended to read as follows:

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 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, 7, and 8, and under section 15E.233.

Sec. 11. Section 15H.2, subsection 3, paragraph i, Code Supplement 2005, is amended to read as follows:

i. Administer the retired ~~and~~ senior volunteer program.

Sec. 12. Section 16.2, subsection 8, Code 2005, is amended to read as follows:

8. The net earnings of the authority, beyond that necessary for retirement of its notes, bonds or other obligations, or to implement the public purposes and programs herein authorized, shall not inure to the benefit of any person other than the state. Upon termination of the existence of the authority, title to all property owned by the authority, including any such net earnings of the authority, shall vest in the state. The state reserves the right at any time to alter, amend, repeal, or otherwise change the structure, organization, programs or activities of the authority, including the power to terminate the authority, except that no law shall ever be passed impairing the obligation of any contract or contracts entered into by the authority to the extent that any such law would contravene Article I, section 21 of the Constitution of the ~~state~~ State of Iowa or Article I, section 10 of the Constitution of the United States.

Sec. 13. Section 16.15, subsections 1, 5, 6, and 7, Code 2005, are amended to read as follows:

1. The authority shall participate in the housing assistance payments program under section 8 of the United States Housing Act of 1937, ~~section 1401 et seq., title 42, United States Code,~~ as amended by section 201 of the Housing and Community Development Act of 1974 ~~(Public Law 93-383),~~ Pub. L. No. 93-383, codified at 42 U.S.C. § 1437 et seq. The purpose of participation is to enable the authority to obtain, on behalf of the state of Iowa, set-asides of contract authorization reserved by the United States secretary of housing and urban development for public housing agencies, to enter into annual contributions contracts, to otherwise expedite use of the program through the use of state housing finance funds, and to encourage new construction and substantial rehabilitation of housing suitable for assistance under the program. Assistance may be provided for existing housing units made available by owners for the program, as well as for newly constructed housing units. Maximum rents shall be established by the authority in conformity with federal law.

5. The authority shall, when appropriate, take necessary steps to cooperate with the United States department of agriculture in implementation of sections 517 and 521 of the Housing Act of 1949, ~~sections 1487 and 1490a, title 42, United States Code~~ codified at 42 U.S.C. § 1487 and 1490a, as amended by section 514 of the Housing and Community Development Act of 1974 ~~(Public Law 93-383),~~ Pub. L. No. 93-383. The purpose of such programs is to extend to rural areas the provisions of housing assistance payments programs.

6. The authority shall, when appropriate, take necessary steps to participate in the pro-

grams of federal assistance to state housing finance agencies for expanding the supply of housing available to low or moderate income families, as provided in section 802 of the Housing and Community Development Act of 1974 ~~(Public Law 93-383)~~, Pub. L. No. 93-383.

7. The authority may participate in other programs under the Housing and Community Development Act of 1974 ~~(Public Law 93-383)~~, Pub. L. No. 93-383, and in other federal programs designed to increase the supply of adequate housing for low or moderate income families and may recommend appropriate legislation to the general assembly where further legislation is needed to accomplish such participation. However, failure of the authority to participate in the federal programs set out in this section does not invalidate any bonds, notes or other obligations of the authority.

Sec. 14. Section 22.3, Code Supplement 2005, is amended to read as follows:

22.3 SUPERVISION — FEES.

1. 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 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 examination and copying of the records, but if it is impracticable to do the 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~~ examination and copying.

2. All expenses of the ~~work~~ examination and copying 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.

Sec. 15. Section 28.4, subsection 14, Code Supplement 2005, 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 care or early care services to annually report to the public and the early care 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 staff.

Sec. 16. Section 28J.2, subsection 1, Code Supplement 2005, is amended to read as follows:

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 each of the political ~~subdivision~~ subdivisions, 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.

Sec. 17. Section 28J.20, subsection 1, paragraph a, Code Supplement 2005, is amended to read as follows:

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.

Sec. 18. Section 29A.3, Code 2005, is amended to read as follows:

29A.3 UNITS OF GUARD.

The Iowa units, detachments, and organizations of the army national guard of the United States and the air national guard of the United States shall consist of such units, detachments, and organizations, as may be specified by the secretary of defense with the approval of the governor, in accordance with law and regulations.

Sec. 19. Section 29B.48, Code 2005, is amended to read as follows:

29B.48 REFUSAL TO APPEAR OR TESTIFY.

1. Any person not subject to this code ~~who~~ is guilty of a simple misdemeanor if the person does all of the following:

~~1.~~ a. Has been duly subpoenaed to appear as a witness or to produce books and records before a military court or before any military or civil officer and designated to take a deposition to be read in evidence before such a court~~;~~.

~~2.~~ b. Has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending the courts of the state~~; and~~.

~~3.~~ c. Willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person has been legally subpoenaed to produce~~;~~ ~~is guilty of a simple misdemeanor~~.

2. Upon certification of the facts in a case under this section by the military judge, president of courts-martial without a military judge, or summary courts-martial officer, the county attorney of the county where the offense occurred shall prosecute the offense as if it were included in the Iowa criminal code.

Sec. 20. Section 29B.74, Code 2005, is amended to read as follows:

29B.74 PRINCIPALS.

Any person subject to this code ~~who~~ is a principal if the person does any of the following:

1. Commits an offense punishable by this code, or aids, abets, counsels, commands, or procures its commission~~; or~~.

2. Causes an act to be done which if directly performed by the person would be punishable by this code~~;~~ ~~is a principal~~.

Sec. 21. Section 29B.80, Code 2005, is amended to read as follows:

29B.80 FRAUDULENT ENLISTMENT — APPOINTMENT OR SEPARATION.

Any person ~~who~~ shall be punished as a court-martial may direct if the person does any of the following:

1. Procures the person's own enlistment or appointment in the state military forces by knowingly false representation or deliberate concealment as to the person's qualifications for that enlistment or appointment and receives pay or allowances thereunder~~; or~~.

2. Procures the person's own separation from the state military forces by knowingly false representation or deliberate concealment as to the person's eligibility for that separation~~;~~ ~~shall be punished as a court-martial may direct~~.

Sec. 22. Section 29B.83, Code 2005, is amended to read as follows:

29B.83 ABSENCE WITHOUT LEAVE.

Any person subject to this code ~~who~~ shall be punished as a court-martial may direct, if the person without authority does any of the following:

1. Fails to go to the person's appointed place of duty at the time prescribed~~;~~.

2. Goes from that place~~; or~~.

3. Leaves or remains absent from the unit, organization, or place of duty at which the person is required to be at the time prescribed~~;~~

~~shall be punished as a court-martial may direct~~.

Sec. 23. Section 29B.87, Code 2005, is amended to read as follows:

29B.87 ASSAULTING OR WILLFULLY DISOBEYING SUPERIOR COMMISSIONED OFFICER.

Any person subject to this code ~~who~~ shall be punished as a court-martial may direct if the person does any of the following:

1. Strikes the person's superior commissioned officer or draws or lifts up any weapon or offers any violence against the superior commissioned officer while the superior commissioned officer is in the execution of the officer's office~~; or~~.

2. Willfully disobeys a lawful command of the person's superior commissioned officer~~;~~

~~shall be punished as a court-martial may direct~~.

Sec. 24. Section 29B.88, Code 2005, is amended to read as follows:

29B.88 INSUBORDINATE CONDUCT TOWARD WARRANT OFFICER, NONCOMMISSIONED OFFICER OR PETTY OFFICER.

Any warrant officer or enlisted member ~~who~~ shall be punished as a court-martial may direct if the person does any of the following:

1. Strikes or assaults a warrant officer, noncommissioned officer or petty officer, while that officer is in the execution of the officer's office~~;~~.

2. Willfully disobeys the lawful order of a warrant officer, noncommissioned officer, or petty officer~~; or~~.

3. Treats with contempt or is disrespectful in language or deportment toward a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of the officer's office~~;~~

~~shall be punished as a court-martial may direct~~.

Sec. 25. Section 29B.89, Code 2005, is amended to read as follows:

29B.89 FAILURE TO OBEY ORDER OR REGULATION.

Any person subject to this code ~~who~~ shall be punished as a court-martial may direct if the person does any of the following:

1. Violates or fails to obey any lawful general order or regulation~~;~~.

2. Having knowledge of any other lawful order issued by a member of the state military forces which it is the person's duty to obey, fails to obey the order~~; or~~.

3. Is derelict in the performance of the person's duties~~;~~

~~shall be punished as a court-martial may direct~~.

Sec. 26. Section 29B.95, Code 2005, is amended to read as follows:

29B.95 NONCOMPLIANCE WITH PROCEDURAL RULES.

Any person subject to this code ~~who~~ shall be punished as a court-martial may direct if the person does any of the following:

1. Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this code~~; or~~.

2. Knowingly and intentionally fails to enforce or comply with any provisions of this code regulating the proceedings before, during, or after trial of an accused~~;~~

~~shall be punished as a court-martial may direct~~.

Sec. 27. Section 29B.96, Code 2005, is amended to read as follows:

29B.96 MISBEHAVIOR BEFORE THE ENEMY.

Any person subject to this code ~~who~~ shall be punished as a court-martial may direct if the person, before or in the presence of the enemy, does any of the following:

1. Runs away~~;~~.

2. Shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is the person's duty to defend~~;~~.

3. Through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property~~;~~.

4. Casts away the person's arms or ammunition~~;~~.

5. Is guilty of cowardly conduct~~;~~.

6. Quits the person's place of duty to plunder or pillage~~;~~.

7. Causes false alarms in any command, unit, or place under control of the armed forces of the United States or the state military forces~~;~~.

8. Willfully fails to do the person's utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which it is the person's duty so to encounter, engage, capture or destroy~~; or~~.

9. Does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies, to the state, or to any other state, when engaged in battle~~;~~

~~shall be punished as a court-martial may direct~~.

Sec. 28. Section 29B.101, Code 2005, is amended to read as follows:

29B.101 AIDING THE ENEMY.

Any person subject to this code ~~who~~ shall be punished as a court-martial may direct if the person does any of the following:

1. Aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things~~; or~~.

2. Without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly~~;~~

~~shall be punished as a court-martial may direct~~.

Sec. 29. Section 29B.102, Code 2005, is amended to read as follows:

29B.102 MISCONDUCT OF A PRISONER.

Any person subject to this code ~~who~~ shall be punished as a court-martial may direct if the person, while in the hands of the enemy in time of war, does any of the following:

1. For the purpose of securing favorable treatment by the captors acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners~~; or~~.

2. While in a position of authority over such persons maltreats them without justifiable cause~~;~~

~~shall be punished as a court-martial may direct~~.

Sec. 30. Section 29B.109, Code 2005, is amended to read as follows:

29B.109 MALINGERING.

Any person subject to this code ~~who~~ shall be punished as a court-martial may direct if the person for the purpose of avoiding work, duty, or service in the state military forces does any of the following:

1. Feigns illness, physical disablement, mental lapse or derangement~~; or~~.

2. Intentionally inflicts self-injury~~;~~

~~shall be punished as a court-martial may direct~~.

Sec. 31. Section 29B.113, Code 2005, is amended to read as follows:

29B.113 FRAUDS AGAINST THE GOVERNMENT.

Any person subject to this code shall, upon conviction of any of the following, be punished as a court-martial may direct:

1. ~~Who~~ The person, knowing it to be false or fraudulent does any of the following:

a. Makes any claim against the United States, the state, or any officer thereof~~; or~~.

b. Presents to any person in the civil or military service thereof, for approval or payment any claim against the United States, the state, or any officer thereof~~;~~.

2. ~~Who~~ The person, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the state, or any officer thereof, does any of the following:

a. Makes or uses any writing or other paper knowing it to contain any false or fraudulent statements~~;~~.

b. Makes any oath to any fact or to any writing or other paper knowing the oath to be false~~; or~~.

c. Forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited~~;~~.

3. ~~Who~~ The person, having charge, possession, custody, or control of any money, or other property of the United States or the state, furnished or intended for the armed forces of the United States or the state military forces, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which the person receives a certificate or receipt~~; or~~.

4. ~~Who~~ The person, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the state, furnished or intended for the armed forces of the United States or the state military forces, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the state~~;~~

~~shall, upon conviction, be punished as a court-martial may direct~~.

Sec. 32. Section 29B.114, Code 2005, is amended to read as follows:

29B.114 LARCENY AND WRONGFUL APPROPRIATION.

1. Any person subject to this code who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or of any other person any money, personal property, or article of value of any kind:

~~1.~~ a. With intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to the person's own use or the use of any person other than the owner, steals that property and is guilty of larceny; or

~~2.~~ b. With intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to the person's own use or the use of any person other than the owner, is guilty of wrongful appropriation.

2. Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.

Sec. 33. Section 42.2, subsection 3, Code 2005, is amended to read as follows:

3. As soon as possible after January 1 of each year ending in one, the legislative services agency shall obtain from the United States bureau of the census the population data needed for legislative districting which the census bureau is required to provide this state under United States Pub. L. No. 94-171, and shall use that data to assign a population figure based upon certified federal census data to each geographic or political unit described pursuant to subsection 2, paragraph "a". Upon completing that task, the legislative services agency shall begin the preparation of congressional and legislative districting plans as required by section 42.3.

Sec. 34. Section 42.3, subsection 4, Code 2005, is amended to read as follows:

4. Notwithstanding subsections 1, 2 and 3 of this section:

a. If population data from the federal census which is sufficient to permit preparation of a congressional districting plan complying with ~~article~~ Article III, section 37 of the Constitution of the State of Iowa becomes available at an earlier time than the population data needed to permit preparation of a legislative districting plan in accordance with section 42.4, the legislative services agency shall so inform the presiding officers of the senate and house of representatives. If the presiding officers so direct, the legislative services agency shall prepare a separate bill establishing congressional districts and submit it separately from the bill establishing legislative districts. It is the intent of this chapter that the general assembly shall proceed to consider the congressional districting bill in substantially the manner prescribed by subsections 1, 2 and 3 of this section.

b. If the population data for legislative districting which the United States census bureau is required to provide this state under United States Pub. L. No. 94-171 and, if used by the legislative services agency, the corresponding topologically integrated geographic encoding and referencing data file for that population data, is not available to the legislative services agency on or before February 1 of the year ending in one, the dates set forth in this section shall be extended by a number of days equal to the number of days after February 1 of the year ending in one that the federal census population data and the topologically integrated geographic encoding and referencing data file for legislative districting becomes available.

Sec. 35. Section 42.4, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. Congressional districts shall each have a population as nearly equal as practicable to the ideal district population, derived as prescribed in paragraph "a" of this subsection. No congressional district shall have a population which varies by more than one percent from the applicable ideal district population, except as necessary to comply with ~~article~~ Article III, section 37 of the Constitution of the State of Iowa.

Sec. 36. Section 42.4, subsection 8, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Each bill embodying a plan drawn under this section shall include provisions for election of senators to the general assemblies which take office in the years ending in three and five, which shall be in conformity with ~~article~~ Article III, section 6 of the Constitution of the State of Iowa. With respect to any plan drawn for consideration in the year 2001, those provisions shall be substantially as follows:

Sec. 37. Section 49.3, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. When the general assembly by resolution designates a period after the federal decennial census is taken and before the next succeeding reapportionment of legislative districts required by Article III, section 35~~,~~ of the Constitution of the ~~state~~ State of Iowa as amended in 1968, during which precincts may be drawn without regard to the boundaries of existing legislative districts.

Sec. 38. Section 49.46, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

49.46 MARKING BALLOTS ON PUBLIC MEASURES.

The elector shall designate a vote by making the appropriate mark in the voting target. On paper ballots an "X", or a check mark may be placed in the proper target.

Sec. 39. Section 55.3, Code 2005, is amended to read as follows:

55.3 SERVICE ON BOARDS, COMMISSIONS, TASK FORCES, AND COMMITTEES.

For the purpose of this section, "state board" includes any board, commission, committee, council, or task force of the state government created by the ~~constitution~~ Constitution of the State of Iowa, or by statute, resolution of the general assembly, motion of the legislative council, executive order of the governor, or supreme court order, but does not include any such state board, commission, committee, council, or task force for which an annual salary is provided for its members. A person who is appointed to serve on a state board, upon written appli-

cation to the person's employer, shall be granted leaves of absence from regular employment to attend the meetings of the state board, except if leaves of absence are prohibited by federal law. The leaves of absence may be granted without pay and shall be granted without loss of net credited service and benefits earned. This section does not apply if the employer employs less than twenty full-time employees.

Sec. 40. Section 63A.2, subsection 6, Code 2005, is amended to read as follows:

6. All investigators for ~~supplemental~~ supplementary assistance as provided for under chapter 249.

Sec. 41. Section 68A.404, subsection 2, paragraph a, Code Supplement 2005, is amended to read as follows:

a. The ~~filing of~~ requirement to file an independent expenditure statement under this section does not ~~alone require~~ by itself mean that the person filing the independent expenditure statement is required to register and file reports under sections 68A.201 and 68A.402.

Sec. 42. Section 69.20, subsection 1, Code 2005, is amended to read as follows:

1. A temporary vacancy in an elective office of a political subdivision, community college, ~~and~~ or hospital board of trustees of this state occurs on the date when the person filling that office is placed on state military service or federal service, as those terms are defined in section 29A.1, and when such a person will not be able to attend to the duties of that person's elective position for a period greater than sixty consecutive days. The temporary vacancy terminates on the date when such person is released from such service, or the term of office expires.

Sec. 43. Section 80.22, Code 2005, is amended to read as follows:

80.22 PROHIBITION ON OTHER DEPARTMENTS.

All other departments and bureaus of the state are hereby prohibited from employing special peace officers or conferring upon regular employees any police powers to enforce provisions of the statutes which are specifically reserved by 1939 Iowa Acts, ~~chapter~~ ch. 120, to the department of public safety. But the commissioner of public safety shall, upon the requisition of the attorney general, from time to time assign for service in the department of justice such of its officers, not to exceed six in number, as may be requisitioned by the attorney general for special service in the department of justice, and when so assigned such officers shall be under the exclusive direction and control of the attorney general.

Sec. 44. Section 80.33, Code Supplement 2005, is amended to read as follows:

80.33 ACCESS TO DRUG RECORDS BY PEACE OFFICERS.

A person required by law to keep records, and a carrier maintaining records with respect to any shipment containing any controlled or counterfeit substances shall, upon request of an authorized peace officer of the department, designated by the commissioner, permit such peace officer at reasonable times to have access to and copy such records. For the purpose of examining and verifying such records, an authorized peace officer of the department, designated by the commissioner, 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 of such place or vehicle. For the purpose of enforcing laws relating to controlled or counterfeit substances, and upon good cause shown, ~~the~~ a peace officer of the department shall be allowed to inspect audits and records in the possession of the state board of pharmacy examiners.

Sec. 45. Section 85.34, subsection 7, paragraph b, Code Supplement 2005, is amended to read as follows:

b. If an injured employee has a preexisting disability that was caused by a prior injury arising out of and in the course of employment with the same employer, and the preexisting disability was compensable under the same paragraph of ~~section 85.34,~~ subsection 2~~,~~ as the employee's present injury, the employer is liable for the combined disability that is caused by the

injuries, measured in relation to the employee's condition immediately prior to the first injury. In this instance, the employer's liability for the combined disability shall be considered to be already partially satisfied to the extent of the percentage of disability for which the employee was previously compensated by the employer.

If, however, an employer is liable to an employee for a combined disability that is payable under ~~section 85.34,~~ subsection 2, paragraph "u", and the employee has a preexisting disability that causes the employee's earnings to be less at the time of the present injury than if the prior injury had not occurred, the employer's liability for the combined disability shall be considered to be already partially satisfied to the extent of the percentage of disability for which the employee was previously compensated by the employer minus the percentage that the employee's earnings are less at the time of the present injury than if the prior injury had not occurred.

Sec. 46. Section 96.12, subsection 1, Code 2005, is amended to read as follows:

1. DUTIES OF DEPARTMENT. The department shall establish and maintain free public employment services accessible to all Iowans for the purposes of this chapter, and for the purpose of performing the duties required by federal and state laws relating to employment and training including the Wagner-Peyser Act, 48 Stat. ~~L.~~ 113, codified at 29 U.S.C. § 49. All duties and powers conferred upon any other department, agency, or officer of this state relating to the establishment, maintenance, and operation of free employment services shall be vested in the department. This state accepts and shall comply with the provisions of the Wagner-Peyser Act, as amended. The department is designated and constituted the agency of this state for the purpose of the Wagner-Peyser Act. The department may cooperate with the railroad retirement board with respect to the establishment, maintenance, and use of department facilities. The railroad retirement board shall compensate the department for the services or facilities in the amount determined by the department to be fair and reasonable.

Sec. 47. Section 97A.1, subsection 13, Code Supplement 2005, is amended to read as follows:

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~~ by the department of public safety in accordance with section 80.15.

Sec. 48. Section 97A.3, subsection 1, Code Supplement 2005, is amended to read as follows:

1. All peace officer members of the division of state patrol and the division of criminal investigation or the predecessor divisions or subunits 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 or the predecessor divisions or subunits in the department of public safety or division of narcotics enforcement or division of state fire marshal or the predecessor divisions or subunits, 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 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. 49. Section 99G.8, subsection 15, Code 2005, is amended to read as follows:

15. The board of directors may delegate to the chief executive officer of the authority such powers and duties as it may deem proper to the extent such delegation is not inconsistent with the Constitution of ~~this state~~ the State of Iowa.

Sec. 50. Section 99G.21, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The authority shall have any and all powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter which are not in conflict with the Constitution of ~~this state~~ the State of Iowa, including, but without limiting the generality of the foregoing, the following powers:

Sec. 51. Section 123.53, subsection 3, Code Supplement 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 transferred shall be used by the ~~substance abuse division of the~~ Iowa department of public health staff who administer the comprehensive substance abuse program under chapter 125 for substance abuse treatment and prevention programs in an amount determined by the general assembly and any amounts received in excess of the amounts appropriated to the ~~substance abuse division of the~~ Iowa department of public health for use by the staff who administer the comprehensive substance abuse program under chapter 125 shall be considered part of the general fund balance.

Sec. 52. Section 135B.1, subsection 3, Code 2005, is amended to read as follows:

3. "Hospital" means a place which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care over a period exceeding twenty-four hours of two or more nonrelated individuals suffering from illness, injury, or deformity, or a place which is devoted primarily to the rendering over a period exceeding twenty-four hours of obstetrical or other medical or nursing care for two or more nonrelated individuals, or any institution, place, building or agency in which any accommodation is primarily maintained, furnished or offered for the care over a period exceeding twenty-four hours of two or more nonrelated aged or infirm persons requiring or receiving chronic or convalescent care; and shall include sanatoriums or other related institutions within the meaning of this chapter. Provided, however, nothing in this chapter shall apply to hotels or other similar places that furnish only food and lodging, or either, to their guests or to a freestanding hospice facility which operates a hospice program in accordance with 42 C.F.R. § 418. "Hospital" shall include, in any event, any facilities wholly or partially constructed or to be constructed with federal financial assistance, pursuant to ~~Public Law 725, 79th Congress~~ Pub. L. No. 79-725, 60 Stat. 1040, approved August 13, 1946.

Sec. 53. Section 141A.11, subsection 7, Code 2005, is amended to read as follows:

7. This chapter shall not be construed to impose civil liability or criminal sanctions for disclosure of HIV-related test results in accordance with any reporting requirement for a diagnosed case of AIDS or a related condition by the department or the centers for disease control and prevention of the United States ~~public health service~~ department of health and human services.

Sec. 54. Section 147.7, unnumbered paragraph 2, Code Supplement 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~~ either 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. 55. Section 152D.4, subsection 1, Code 2005, is amended to read as follows:

1. Persons otherwise licensed to practice medicine and surgery, osteopathy, osteopathic

medicine and surgery, optometry, occupational therapy, nursing, chiropractic, podiatry, dentistry, or physical therapy, ~~or a~~ and licensed physician ~~assistant~~ assistants who do not represent themselves to the public as athletic trainers.

Sec. 56. Section 163.27, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

163.27 BOILING GARBAGE.

It shall be unlawful for any person, firm, partnership, or corporation to feed garbage to animals unless such garbage has been heated to a temperature of two hundred twelve degrees Fahrenheit for thirty minutes, or other acceptable method, as provided by rules promulgated by the department, provided this requirement shall not apply to an individual who feeds to the individual's own animals only the garbage obtained from the individual's own household. It shall be unlawful for any person, firm, partnership, or corporation to feed any public or commercial garbage to swine after September 1, 1970.

Sec. 57. Section 176A.2, Code 2005, is amended to read as follows:

176A.2 DECLARATION OF POLICY.

It is the policy of the legislature to provide for aid in disseminating among the people of Iowa useful and practical information on subjects relating to agriculture, home economics, and community and economic development, and to encourage the application of the information in the counties of the state through extension work to be carried on in cooperation with Iowa state university of science and technology and the United States department of agriculture as provided in the Act of Congress known as the Smith-Lever Act, adopted May 8, 1914, as amended ~~by Public Law 83 of the Eighty-third Congress~~, 38 Stat. 372 – 374, codified at 7 U.S.C. § 341 – 349.

Sec. 58. Section 177A.12, subsection 2, Code 2005, is amended to read as follows:

2. The state entomologist, the entomologist's inspectors or duly authorized agents are authorized to seize, destroy, or return to the point of origin any material received in this state in violation of any state quarantine established under the authority of subsection 1 ~~hereof~~, or in violation of any federal quarantine established under the authority of the Act of August 20, 1912, ~~[37~~ 37 Stat. ~~L.~~ ch ~~308]~~ 308, or any amendment ~~thereto~~ to that Act.

Sec. 59. Section 184.9B, subsection 3, Code Supplement 2005, is amended to read as follows:

3. As part of the council's education programs or projects, ~~it~~ the council 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. 60. Section 191.2, subsection 9, paragraph b, Code 2005, is amended to read as follows:

b. When such milk and milk products do not conform to their definitions as contained in this chapter and chapters 190~~, 191~~ and 192.

Sec. 61. Section 207.1, subsection 2, Code 2005, is amended to read as follows:

2. The general assembly finds and declares that because the federal Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95-87, provides for a permit system to regulate the mining of coal and reclamation of the mining sites and provides that permits may be issued by states which are authorized to implement the provisions of that Act, it is in the interest of the people of Iowa to enact the provisions of this chapter in order to authorize the state to implement the provisions of the federal Surface Mining Control and Reclamation Act of 1977 and federal regulations and guidelines issued pursuant to that Act.

Sec. 62. Section 207.8, subsection 2, Code 2005, is amended to read as follows:

2. The requirements of this section do not apply to lands on which coal mining operations

are being conducted as of August 3, 1977, or under a permit issued pursuant to this chapter or pursuant to section 83A.12 ~~of the~~, Code 1979, ~~Code~~ or where substantial legal and financial commitments in an operation were in existence prior to January 4, 1977.

Sec. 63. Section 207.16, subsection 1, Code 2005, is amended to read as follows:

1. Each operator upon completion of any reclamation work required by this chapter shall apply to the division in writing for approval of the work. The division shall promulgate rules consistent with Pub. L. No. 95-87, section 519, regarding procedures and requirements to release performance bonds or deposits.

Sec. 64. Section 207.19, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The provisions of this chapter shall be applicable to surface operations and surface impacts incident to an underground coal mine with such modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are necessary to accommodate the distinct difference between surface and underground coal mining. The division shall promulgate such modifications in its rules to allow for such distinct differences and still fulfill the purposes of this chapter and be consistent with the requirements in section 516 of Pub. L. No. 95-87 and the permanent regulations issued pursuant to that Act.

Sec. 65. Section 216.13, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. The involuntary retirement of a person who has attained the age of sixty-five and has for the two prior years been employed in a bona fide executive or high policy-making position and who is entitled to an immediate, nonforfeitable annual retirement benefit from a pension, profit-sharing, savings or deferred compensation plan of the employer which equals twenty-seven thousand dollars. This retirement benefit test may be adjusted according to the regulations prescribed by the United States secretary of labor pursuant to ~~Public Law~~ Pub. L. No. 95-256, section 3.

Sec. 66. Section 216A.132, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The departments of human services, corrections, and public safety, the division on the status of African-Americans, the ~~division of substance abuse of the~~ Iowa department of public health, the chairperson of the board of parole, the attorney general, the state public defender, and the chief justice of the supreme court shall each designate a person to serve on the council. The person appointed by the Iowa department of public health shall be from the departmental staff who administer the comprehensive substance abuse program under chapter 125.

Sec. 67. Section 218.2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Nothing contained in section 218.1 shall limit the general supervisory or examining powers vested in the governor by the laws or Constitution of the ~~state~~ State of Iowa, or legally vested by the governor in any committee appointed by the governor.

Sec. 68. Section 226.19, subsection 1, Code Supplement 2005, is amended to read as follows:

1. ~~All patients~~ Every patient shall be discharged in accordance with the procedure prescribed in section 229.3 or section 229.16, whichever is applicable, immediately on regaining the patient's good mental health.

Sec. 69. Section 231.23A, subsection 3, Code Supplement 2005, is amended to read as follows:

3. The case management program for ~~the~~ frail ~~elderly~~ elders.

Sec. 70. Section 231B.2, subsection 1, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

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:

Sec. 71. Section 231B.13, Code Supplement 2005, is amended to read as follows:

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~~, and credited to the general fund of the state.

Sec. 72. Section 231C.3, subsection 1, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

The department shall establish by rule in accordance with chapter 17A 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. 73. Section 231C.13, Code 2005, is amended to read as follows:

231C.13 RETALIATION BY ASSISTED LIVING PROGRAM PROHIBITED.

An assisted living program shall not discriminate or retaliate in any way against a tenant, tenant's family, or an employee of the program who has initiated or participated in any proceeding authorized by this chapter. An assisted living program that violates this section is subject to a penalty as established by administrative rule in accordance with chapter 17A, ~~and~~ to be assessed and collected by the department of inspections and appeals, ~~and~~ paid into the state treasury ~~to be~~, and credited to the general fund of the state.

Sec. 74. Section 231D.12, subsection 1, Code Supplement 2005, is amended to read as follows:

1. An adult day services program shall not discriminate or retaliate in any way against a participant, 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~~, and credited to the general fund of the state.

Sec. 75. Section 235C.2, subsection 1, Code 2005, is amended to read as follows:

1. Two members of the Iowa department of public health selected by the director of the Iowa department of public health, one from the staff who administer the comprehensive ~~division of~~ substance abuse program under chapter 125, and one from the division of family and community health.

Sec. 76. Section 237A.30, subsection 3, Code Supplement 2005, is amended to read as follows:

3. A facility's quality rating may be included on the internet ~~page~~ webpage 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. 77. Section 249.1, subsection 3, Code Supplement 2005, is amended to read as follows:

3. "Federal supplemental security income" means cash payments made to individuals by the United States government under Title XVI of the Social Security Act as amended by ~~United States public law~~ Pub. L. No. 92-603, or any other amendments thereto.

Sec. 78. Section 257.33, unnumbered paragraph 1, Code 2005, is amended to read as follows:

If the electors of a school district approved the use of the additional enrichment amount prior to July 1, 1991, under chapter 442, Code 1991, or section 279.43, ~~as they appeared in~~ Code 1991, the approval for use of the enrichment amount shall continue in effect until the expiration of the period for which it was approved and districts may use the additional enrichment amount during that period. However, section 257.28 applies to the use of the additional enrichment amount.

Sec. 79. Section 257B.12, Code 2005, is amended to read as follows:

257B.12 BONDS TO COVER LOSSES.

When any sum not less than one thousand dollars shall be so audited and so become a debt of the state to the fund, as provided by the Constitution of the State of Iowa, the auditor of state shall issue the bond or bonds of the state in favor of the fund, bearing interest at a rate not exceeding that permitted by chapter 74A, payable semiannually on the first day of January and July after issuance, and the amount to pay the interest as it becomes due is appropriated out of any funds in the state treasury.

Sec. 80. Section 261A.14, unnumbered paragraph 2, Code 2005, is amended to read as follows:

This chapter does not authorize the authority or any department, board, commission, or other agency to create an obligation of the state within the meaning of the ~~constitution~~ Constitution or laws of the State of Iowa.

Sec. 81. Section 276.10, subsection 6, Code 2005, is amended to read as follows:

6. The board may use opportunities available under ~~Public Law~~ Pub. L. No. 93-380.

Sec. 82. Section 306A.3, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

The state department of transportation 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, 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. 83. Section 306C.24, subsection 2, Code 2005, is amended to read as follows:

2. JUST COMPENSATION REQUIRED. Political subdivisions of this state shall not remove, take, alter, or cause to be removed, taken, or altered a lawfully erected off-premises advertising device without paying just compensation in cash to the owner of the advertising device and to the owner of the real property on which the advertising device is located, as provided in section 306C.16. The department shall not remove, take, alter or cause to be removed, taken, or altered a lawfully erected off-premises advertising device subject to control under chapter 306B or ~~306C~~ this chapter without paying just compensation when required under 23 U.S.C. § 131(g) to the owner of the advertising device and to the owner of the real property on which the advertising device is located, as provided in section 306C.16. For the department, the sole intent of this section is to comply with 23 U.S.C. § 131(g) and it is not the intent of this section to, in any manner, relinquish any powers of the department relating to the control and removal of advertising devices under police power.

Sec. 84. Section 307.26, subsection 14, Code 2005, is amended to read as follows:

14. Enter the role of "applicant" pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, ~~United States Public Law~~ Pub. L. No. 94-210, and take such actions as are necessary to accomplish this role.

Sec. 85. Section 308.3, subsection 3, Code 2005, is amended to read as follows:

3. "National parkway" has the same meaning as defined in ~~Public Law~~ Pub. L. No. 93-87, first session, Ninety-third Congress of the United States.

Sec. 86. Section 312.3B, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

The Iowa county engineers association service bureau shall annually compute the secondary road fund and farm-to-market road fund 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. 87. Section 321.10, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Any records or certified copies of records prepared pursuant to this section and any certified abstract, or a copy of a certified abstract, of the operating record of a driver or a motor vehicle owner prepared pursuant to this chapter ~~321~~, chapter 321A, or chapter 321J, shall be received in evidence if determined to be relevant, in any court, preliminary hearing, grand jury proceeding, civil proceeding, administrative hearing, or forfeiture proceeding in the same manner and with the same force and effect as if the director or the director's designee had testified in person.

Sec. 88. Section 321.69, subsection 9, Code Supplement 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 described in subsection 2.

Sec. 89. Section 321.210C, Code 2005, is amended to read as follows:

321.210C PROBATION PERIOD.

A person whose driver's license or operating privileges have been suspended, revoked, or barred under this chapter ~~321~~ for a conviction of a moving traffic violation, or suspended, revoked, or barred under section 321.205 or section 321.210, subsection 1, paragraph "e", or chapter 321J, must satisfactorily complete a twelve-month probation period beginning immediately after the end of the period of suspension, revocation, or bar. Upon conviction of a moving traffic violation which occurred during the probation period, the department may suspend the driver's license or operating privileges for an additional period equal in duration to the original period of suspension, revocation, or bar, or for one year, whichever is the shorter period.

Sec. 90. Section 321J.2, subsection 3, paragraph a, subparagraph (5), Code 2005, is amended to read as follows:

(5) If the offense under this chapter ~~321J~~ results in bodily injury to a person other than the defendant.

Sec. 91. Section 321J.3, subsection 3, Code 2005, is amended to read as follows:

3. The state department of transportation, in cooperation with the judicial branch, shall adopt rules, pursuant to the procedure in section 125.33, regarding the assignment of persons ordered under section 321J.17 to submit to substance abuse evaluation and treatment. The rules shall be applicable only to persons other than those committed to the custody of the director of the department of corrections under section 321J.2. The rules shall be consistent with the practices and procedures of the judicial branch in sentencing persons to substance abuse evaluation and treatment under section 321J.2. The rules shall include the requirement that the treatment programs utilized by a person pursuant to an order of the department meet the licensure standards of the ~~division of substance abuse for the~~ department of public health for substance abuse treatment programs under chapter 125. The rules shall also include provisions for payment of costs by the offenders, including insurance reimbursement on behalf of offenders, or other forms of funding, and shall also address reporting requirements of the facility, consistent with the provisions of sections 125.84 and 125.86. The department shall be entitled to treatment information contained in reports to the department, notwithstanding any provision of chapter 125 that would restrict department access to treatment information and records.

Sec. 92. Section 327C.5, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Violations of the provisions of this chapter and chapters ~~327C~~ 327D to 327G, shall be punished as a schedule "one" penalty unless otherwise indicated. Violations of a continuing nature shall constitute a separate offense for each violation unless otherwise provided. The schedule of violations shall be:

Sec. 93. Section 331.301, subsection 1, Code 2005, is amended to read as follows:

1. A county may, except as expressly limited by the Constitution of the State of Iowa, and if not inconsistent with the laws of the general assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the county or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents. This grant of home rule powers does not include

the power to enact private or civil law governing civil relationships, except as incident to an exercise of an independent county power.

Sec. 94. Section 331.756, subsection 25, Code Supplement 2005, is amended to read as follows:

25. Assist the ~~division of beer and liquor law enforcement~~ department of public safety in the enforcement of beer and liquor laws as provided in section 123.14. The county attorney shall also prosecute nuisances, forfeitures of abatement bonds, and foreclosures of the bonds as provided in sections 123.62 and 123.86.

Sec. 95. Section 364.1, Code 2005, is amended to read as follows:

364.1 SCOPE.

A city may, except as expressly limited by the Constitution of the State of Iowa, and if not inconsistent with the laws of the general assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the city or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents. This grant of home rule powers does not include the power to enact private or civil law governing civil relationships, except as incident to an exercise of an independent city power.

Sec. 96. Section 364.2, subsection 2, Code Supplement 2005, is amended to read as follows:

2. The enumeration of a specific power of a city does not limit or restrict the general grant of home rule power conferred by the Constitution of the State of Iowa. A city may exercise its general powers subject only to limitations expressly imposed by a state or city law.

Sec. 97. Section 403.5, subsection 7, Code 2005, is amended to read as follows:

7. Notwithstanding any other provisions of this chapter, where the local governing body certifies that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the governor of the state has certified the need for disaster assistance under Pub. L. No. ~~875~~ 81-875, Eighty-first Congress, 64 Stat. ~~L.~~ 1109~~;~~, codified at 42 U.S.C. § ~~1855-1855g~~ 1855 – 1855g or other federal law, the local governing body may approve an urban renewal plan and an urban renewal project with respect to such area without regard to the provisions of subsection 4 and without regard to provisions of this section requiring notification and consultation, a general plan for the municipality, and a public hearing on the urban renewal plan or project.

Sec. 98. Section 414.14, Code Supplement 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. 99. Section 421.1, Code 2005, is amended to read as follows:

421.1 STATE BOARD OF TAX REVIEW.

1. There is hereby established within the department of revenue for administrative and budgetary purposes a state board of tax review for the state of Iowa. The state board of tax review, hereinafter called the state board, shall consist of three members~~.~~

~~The members of the state board~~ who shall be registered voters of the state and shall hold no other elective or appointive public office.

Members of the state board shall serve for six-year staggered terms beginning and ending as provided by section 69.19. A member who is appointed for a six-year term shall not be permitted a successive term.

Members shall be appointed by the governor subject to confirmation by the senate. Appointments to the board shall be bipartisan.

The members of the state board shall qualify by taking the regular oath of office as prescribed by law for state officers. A vacancy on the board shall be filled by appointment by the governor in the same manner as the original appointment.

The members of the state board shall be allowed their necessary travel and expenses while engaged in their official duties. Each member of the board may also be eligible to receive compensation as provided in section 7E.6. ~~They~~ The members shall organize the board and select one of their members as chairperson.

2. The place of office of the state board shall be in the office of the tax department in the capitol of the state.

3. The state board shall meet as deemed necessary by the chairperson. Special meetings of the state board may be called by the chairperson on five days' notice given to each member. All meetings shall be held at the office of the tax department unless a different place within the state is designated by the state board or in the notice of the meeting.

4. It shall be the responsibility of the state board to exercise the following general powers and duties:

~~1.~~ a. Determine and adopt such policies as are authorized by law and are necessary for the more efficient operation of any phase of tax review.

~~2.~~ b. Perform such duties prescribed by law as it may find necessary for the improvement of the state system of taxation in carrying out the purposes and objectives of the tax laws.

~~3.~~ c. Employ, pursuant to the Iowa merit system provisions in chapter 8A, subchapter IV, adequate clerical help to keep such records as are necessary to set forth clearly all actions and proceedings of the state board.

~~4.~~ d. Advise and counsel with the director of revenue concerning the tax laws and the rules adopted pursuant to the law~~;~~ and~~, upon its own motion or upon appeal by any affected taxpayer, review the record evidence and the decisions of, and any orders or directive issued by, the director of revenue for the identification of taxable property, classification of property as real or personal, or for assessment and collection of taxes by the department or an order to reassess or to raise assessments to any local assessor, and shall affirm, modify, reverse, or remand them within sixty days from the date the case is submitted to the board for decision. For an appeal to the board to be valid, written notice must be given to the department within thirty days of the rendering of the decision, order, or directive from which the appeal is taken. The director shall certify to the board the record, documents, reports, audits, and all other information pertinent to the decision, order, or directive from which the appeal is taken~~ conduct hearings and hear appeals in the manner provided in subsection 5.

~~The affected taxpayer and the department shall be given at least fifteen days' written notice by the board of the date the appeal shall be heard and both parties may be present at such hearing if they desire. The board shall adopt and promulgate, pursuant to chapter 17A, rules for the conduct of appeals by the board. The record and all documents, reports, audits and all other information certified to the board by the director, and hearings held by the board pursuant to the appeal and the decision of the board thereon shall be open to the public notwithstanding the provisions of section 422.72, subsection 1, and section 422.20; except that the board upon the application of the affected taxpayer may order the record and all documents, reports, audits, and all other information certified to it by the director, or so much thereof as it deems necessary, held confidential, if the public disclosure of same would reveal trade secrets or any other confidential information that would give the affected taxpayer's competitor a competitive advantage. Any deliberation of the board in reaching a decision on any appeal shall be confidential.~~

~~Judicial review of the decisions or orders of the board resulting from the review of decisions or orders of the director of revenue for assessment and collection of taxes by the department may be sought by the taxpayer or the director of revenue in accordance with the terms of chapter 17A.~~

~~5.~~ e. Adopt a long-range program for the state system of tax reform based upon special

studies, surveys, research, and recommendations submitted by or proposed under the direction of the director of revenue.

f. ~~The state board shall constitute~~ Constitute a continuing research commission as to tax matters in the state and cause to be prepared and submitted to each regular session of the general assembly a report containing such recommendations as to revisions, amendments, and new provisions of the law as the state board has decided should be submitted to the ~~legislature~~ general assembly for its consideration.

~~6.~~ 5. Upon its own motion or upon appeal by any affected taxpayer, the state board shall review the record evidence and the decisions of, and any orders or directive issued by, the director of revenue for the identification of taxable property, classification of property as real or personal, or for assessment and collection of taxes by the department or an order to reassess or to raise assessments to any local assessor, and shall affirm, modify, reverse, or remand them within sixty days from the date the case is submitted to the board for decision. For an appeal to the board to be valid, written notice must be given to the department within thirty days of the rendering of the decision, order, or directive from which the appeal is taken. The director shall certify to the board the record, documents, reports, audits, and all other information pertinent to the decision, order, or directive from which the appeal is taken.

The affected taxpayer and the department shall be given at least fifteen days' written notice by the board of the date the appeal shall be heard and both parties may be present at such hearing if they desire. The board shall adopt and promulgate, pursuant to chapter 17A, rules for the conduct of appeals by the board. The record and all documents, reports, audits and all other information certified to the board by the director, and hearings held by the board pursuant to the appeal and the decision of the board thereon shall be open to the public notwithstanding the provisions of section 422.72, subsection 1, and section 422.20; except that the board upon the application of the affected taxpayer may order the record and all documents, reports, audits, and all other information certified to it by the director, or so much thereof as it deems necessary, held confidential, if the public disclosure of same would reveal trade secrets or any other confidential information that would give the affected taxpayer's competitor a competitive advantage. Any deliberation of the board in reaching a decision on any appeal shall be confidential.

Judicial review of the decisions or orders of the board resulting from the review of decisions or orders of the director of revenue for assessment and collection of taxes by the department may be sought by the taxpayer or the director of revenue in accordance with the terms of chapter 17A.

All of the provisions of section 422.70 shall also be applicable to the state board of tax review.

Sec. 100. Section 422.1, Code 2005, is amended to read as follows:

422.1 CLASSIFICATION OF CHAPTER.

The provisions of this chapter are herein classified and designated as follows:

Division I	Introductory provisions.
Division II	Personal net income tax.
Division III	Business tax on corporations.
Division IV	~~Retail sales tax~~ Repealed by 2003 Acts, 1st Ex., ch. 2, § 151, 205; see chapter 423.
Division V	Taxation of financial institutions.
Division VI	Administration.
Division VII	Estimated taxes by corporations and financial institutions.
Division VIII	Allocation of revenues.
Division IX	Fuel tax credit.
Division X	Livestock production tax credit.

Sec. 101. Section 422.16, subsection 13, Code Supplement 2005, is amended to read as follows:

13. The director shall enter into an agreement with the secretary of the treasury of the

United States with respect to withholding of income tax as provided by this chapter, pursuant to an Act of Congress, section 1207 of the Tax Reform Act of 1976, ~~Public Law~~ Pub. L. No. 94-455, ~~amending title 5, section 5517 of the United States Code~~ amending 5 U.S.C. § 5517.

Sec. 102. Section 422.75, Code 2005, is amended to read as follows:

422.75 STATISTICS — PUBLICATION.

The department shall prepare and publish an annual report which shall include statistics reasonably available, with respect to the operation of this chapter, including amounts collected, classification of taxpayers, and such other facts as are deemed pertinent and valuable. The annual report shall also include the reports and information required pursuant to section 421.1, subsection ~~5~~ 4, paragraph "e"; section 421.17, subsection 13; section 421.17, subsection 27, paragraph "h"; section 421.60, subsection 2, paragraphs "i" and "l"; and 1997 Iowa Acts, chapter 211, section 22, subsection 5, paragraph "a".

Sec. 103. Section 423A.3, Code Supplement 2005, is amended to read as follows:

423A.3 STATE-IMPOSED HOTEL AND MOTEL TAX.

A tax of five percent is imposed upon the sales price for the ~~rental~~ renting of any lodging if the ~~rental~~ renting 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. 104. Section 423B.5, unnumbered paragraph 1, Code Supplement 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 sale of equipment by the state department of transportation, ~~and except the tax shall not be imposed~~ or 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 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 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. 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. 105. Section 423E.3, subsection 2, Code Supplement 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 sale of equipment by the state department of transportation, ~~and except the tax shall not be imposed~~ or 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 is subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

Sec. 106. Section 425.7, subsection 3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

If the director of revenue determines that a claim for homestead credit has been allowed by the board of supervisors which is not justifiable under the law and not substantiated by proper facts, the director may, at any time within thirty-six months from July 1 of the year in which the claim is allowed, set aside the allowance. Notice of the disallowance shall be given to the county auditor of the county in which the claim has been improperly granted and a written notice of the disallowance shall also be addressed to the claimant at the claimant's last known address. The claimant or board of supervisors may appeal to the state board of tax review pursuant to section 421.1, subsection 4, paragraph "d". The claimant or the board of supervisors may seek judicial review of the action of the state board of tax review in accordance with chapter 17A.

Sec. 107. Section 426A.6, Code 2005, is amended to read as follows:

426A.6 SETTING ASIDE ALLOWANCE.

If the director of revenue determines that a claim for military service tax exemption has been allowed by a board of supervisors which is not justifiable under the law and not substantiated by proper facts, the director may, at any time within thirty-six months from July 1 of the year in which the claim is allowed, set aside the allowance. Notice of the disallowance shall be given to the county auditor of the county in which the claim has been improperly granted and a written notice of the disallowance shall also be addressed to the claimant at the claimant's last known address. The claimant or the board of supervisors may appeal to the state board of tax review pursuant to section 421.1, subsection 4, paragraph "d". The claimant or the board of supervisors may seek judicial review of the action of the state board of tax review in accordance with chapter 17A. If a claim is disallowed by the director of revenue and not appealed to the state board of tax review or appealed to the state board of tax review and thereafter upheld upon final resolution, including judicial review, the credits allowed and paid from the general fund of the state become a lien upon the property on which the credit was originally granted, if still in the hands of the claimant and not in the hands of a bona fide purchaser, the amount so erroneously paid shall be collected by the county treasurer in the same manner as other taxes, and the collections shall be returned to the department of revenue and credited to the general fund of the state. The director of revenue may institute legal proceedings against a military service tax exemption claimant for the collection of payments made on disallowed exemptions.

Sec. 108. Section 426A.13, unnumbered paragraph 1, Code Supplement 2005, is 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~~ occupant of 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.

Sec. 109. Section 429.2, subsection 1, Code 2005, is amended to read as follows:

1. Notwithstanding the provisions of chapter 17A, the taxpayer shall have thirty days from the date of the notice of assessment to appeal the assessment to the state board of tax review. Thereafter, the proceedings before the state board of tax review shall conform to the provisions of subsection 2, section 421.1, subsection 4, paragraph "d", and chapter 17A.

Sec. 110. Section 429.2, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The following rules shall apply to the appeal proceedings in addition to those stated in section 421.1, subsection 4, paragraph "d", and chapter 17A.:

Sec. 111. Section 432.12F, Code Supplement 2005, is amended to read as follows:

432.12F ECONOMIC DEVELOPMENT REGION REVOLVING FUND CONTRIBUTION TAX CREDITS.

The tax imposed under this chapter shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.

Sec. 112. Section 437A.3, subsection 3, Code 2005, is amended to read as follows:

3. "Centrally assessed property tax" means property tax imposed with respect to the value of property determined by the director pursuant to section 427.1, subsection 2, Code 1997, section 428.29, chapter Code 1997, and chapters 437, and chapter 438, Code 1997, and allocated to electric service and natural gas service. For purposes of this subsection, "natural gas service" means such service provided by natural gas pipelines permitted pursuant to chapter 479.

Sec. 113. Section 437A.15, subsection 3, paragraph e, Code Supplement 2005, is amended to read as follows:

e. Notwithstanding the provisions of this section, if during the tax year a person who was not a taxpayer during the prior tax year acquires a new major addition, as defined in section 437A.3, subsection 18, paragraph "a", subparagraph (4), the replacement tax associated with that major addition shall be allocated, for that tax year, under this section in accordance with the general allocating formula on the basis of the general property tax equivalents established under section 437A.15 paragraph "a" of this subsection, except that the levy rates established and reported to the department of management on or before June 30 following the tax year in which the major addition was acquired shall be applied to the prorated assessed value of the major addition and provided that section 437A.19, subsection 2, paragraph "b", subparagraph (2), is in any event applicable. For purposes of this paragraph, "prorated assessed value of the major addition" means the assessed value of the major addition as of January 1 of the year following the tax year in which the major addition was acquired multiplied by the percentage derived by dividing the number of months that the major addition existed during the tax year by twelve, counting any portion of a month as a full month.

Sec. 114. Section 445.5, subsection 4, Code Supplement 2005, is amended to read as follows:

4. 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 or entity in lieu of to the titleholder.

Sec. 115. Section 446.20, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Service of the notice shall also be made by mail on any mortgagee having a lien upon the parcel, a vendor of the parcel under a recorded contract of sale, a lessor who has a recorded lease or memorandum of a recorded lease, and any other person who has an interest of record, at the person's last known address, if the mortgagee, vendor, lessor, or other person has filed

a request for notice, as prescribed in section 446.9, subsection 3, and on the state of Iowa in case of ~~an~~ a ~~old-age~~ supplementary assistance lien by service upon the department of human services. The notice shall also be served on any city where the parcel is situated. Failure to receive a mailed notice is not a defense to the payment of the total amount due.

Sec. 116. Section 446.38, Code 2005, is amended to read as follows:

446.38 SUSPENDED TAXES OF ~~OLD-AGE~~ SUPPLEMENTARY ASSISTANCE RECIPIENTS.

In cases where taxes were suspended one year or more upon the parcel of a deceased ~~old-age~~ supplementary assistance recipient and no estate was opened within ninety days after the death of the recipient and the surviving spouse of the recipient is not occupying the parcel, the county may apply to the probate court to have the parcel conveyed to it for satisfaction of the suspended taxes. The probate court shall prescribe the manner and notices to be given. The probate court shall order the parcel conveyed to the county for satisfaction of the suspended taxes if an estate is not opened within a time specified by the court. The probate court shall make and enter all appropriate orders to effect this conveyance to the county if an estate is not opened within the time specified. The parcel, at the election of the county treasurer, may be offered at tax sale in accordance with this chapter in lieu of the county making application to the probate court.

Sec. 117. Section 455A.4, subsection 1, paragraph b, Code Supplement 2005, is amended to read as follows:

b. Provide overall supervision, direction, and coordination of functions to be administered by the administrators under chapters 321G, 321I, 455B, 455C, 456, 456A, 456B, 457A, 458A, 459, ~~subchapters I, II, III, IV, and VI, chapters~~ 461A, 462A, 462B, 464A, 465C, 473, 481A, 481B, 483A, 484A, and 484B.

Sec. 118. Section 455G.4, subsection 3, paragraph a, Code Supplement 2005, is amended to read as follows:

a. The board shall adopt rules regarding its practice and procedures, develop underwriting standards, establish procedures for investigating and settling claims made against the fund, and otherwise implement and administer this chapter.

Sec. 119. Section 456A.27, Code 2005, is amended to read as follows:

456A.27 FEDERAL WILDLIFE ACT — ASSENT.

The state of Iowa assents to the provisions of the Act of Congress entitled "An Act to provide that the United States shall aid the states in wildlife restoration projects, and for other purposes", approved September 2, 1937, 50 Stat. ~~L.~~ 917, and the department may perform acts as necessary to the conduct and establishment of ~~co-operative~~ cooperative wildlife restoration projects, as defined in the Act of Congress, in compliance with the Act and with regulations promulgated by the secretary of agriculture under the Act. No funds accruing to the state of Iowa from license fees paid by hunters shall be diverted for any other purpose than as set out in sections 456A.17 and 456A.19.

Sec. 120. Section 459A.102, Code Supplement 2005, is amended by adding the following new unnumbered paragraph before subsection 1:

NEW UNNUMBERED PARAGRAPH. As used in this chapter, unless the context otherwise requires:

Sec. 121. Section 466A.3, subsection 1, paragraph b, Code Supplement 2005, is amended to read as follows:

b. The board shall ~~consist of~~ also include 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.

Sec. 122. Section 468.378, Code 2005, is amended to read as follows:

468.378 BANKRUPTCY PROCEEDINGS.

All drainage districts with pumping plant and levee, which have power to incur indebtedness, through action of their own governing bodies are hereby authorized to proceed under and take advantage of all laws enacted by the Congress of the United States under the federal bankruptcy powers, which laws have for their object the relief of municipal indebtedness, including 48 Stat. ~~L. ch~~ 345, entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, and Acts amendatory thereof and supplementary thereto", approved May 24, 1934, and the officials and governing bodies of such drainage, pumping plant and levee districts, are authorized to adopt all proceedings and to do any and all acts necessary or convenient to fully avail such drainage, pumping plant, and levee districts, of the provisions of such Acts of Congress.

Sec. 123. Section 476.1D, subsection 1, paragraph c, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

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 line 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 line 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.

Sec. 124. Section 481B.2, Code 2005, is amended to read as follows:

481B.2 COOPERATION WITH FEDERAL GOVERNMENT.

The commission shall perform those acts necessary for the conservation, protection, restoration, and propagation of endangered and threatened species in cooperation with the federal government, pursuant to ~~Public Law~~ Pub. L. No. 93-205, and pursuant to rules promulgated by the secretary of the interior.

Sec. 125. Section 483A.24, subsection 6, Code Supplement 2005, is amended to read as follows:

6. A license shall not be required of minor pupils of the state school for the blind, state school for the deaf, or of minor residents of other state institutions under the control of an administrator of a division of the department of human services. In addition, a person who is on active duty with the armed forces of the United States, on authorized leave from a duty station located outside of this state, and a resident of the state of Iowa shall not be required to have a license to hunt or fish in this state. The military person shall carry the person's leave papers and a copy of the person's current earnings statement showing a deduction for Iowa income taxes while hunting or fishing. In lieu of carrying the person's earnings statement, the military person may also claim residency if the person is registered to vote in this state. If a deer or wild turkey is taken, the military person shall immediately contact a state conservation officer to obtain an appropriate tag to transport the animal. A license shall not be required of residents of county care facilities or any person who is receiving ~~old-age~~ supplementary assistance under chapter 249.

Sec. 126. Section 490.1701, subsection 3, paragraph b, Code Supplement 2005, is amended to read as follows:

b. The instrument shall be delivered to the secretary of state for filing and recording in the secretary of state's office. If the corporation was organized under chapter ~~176,~~ 524~~,~~ or 533, the instrument shall also be filed and recorded in the office of the county recorder. The corporation shall at the time it files the instrument with the secretary of state deliver also to the secretary of state for filing in the secretary of state's office any biennial report which is then due.

If the county of the initial registered office as stated in the instrument for a corporation organized under chapter ~~176,~~ 524~~,~~ or 533 is one which is other than the county where the principal place of business of the corporation, as designated in its articles of incorporation, was located, the corporation shall forward to the county recorder of the county in which the principal place of business of the corporation was located a copy of the instrument and the corporation shall forward to the recorder of the county in which the initial registered office of the corporation is located, in addition to a copy of the original instrument, a copy of the articles of incorporation of the corporation together with all amendments to them as then on file in the secretary of state's office. The corporation shall, through an officer or director, certify to the secretary of state that a copy has been sent to each applicable county recorder, including the date each copy was sent.

Sec. 127. Section 490A.1201, Code Supplement 2005, is amended to read as follows:

490A.1201 CONSTITUENT ENTITY.

~~As used in this section, unless~~ 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. 128. Section 501A.504, subsection 4, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

An amendment of the articles shall be filed with the secretary as required in section ~~501A.503~~ 501A.201. The amendment is effective as provided in subchapter II. 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:

Sec. 129. Section 501A.601, subsection 2, Code Supplement 2005, is amended to read as follows:

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, pa-

trons, or nonmembers; or commodities or products of 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 or products may be sold.

Sec. 130. Section 501A.715, subsection 2, paragraph a, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

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, and 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:

Sec. 131. Section 501A.1008, subsection 5, paragraph b, Code Supplement 2005, is amended to read as follows:

b. Economic development including private or joint public and private investments involving the creation of economic opportunities for ~~its~~ the cooperative's members or the retention of existing sources of income that would otherwise be lost.

Sec. 132. Section 501A.1101, subsection 2, paragraph c, Code Supplement 2005, is amended to read as follows:

c. The manner and basis of converting membership or ownership interests of the constituent domestic cooperative, the ~~surviving~~ Iowa limited liability company that is a party 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.

Sec. 133. Section 501A.1104, subsection 1, paragraph a, Code Supplement 2005, is amended to read as follows:

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.

Sec. 134. Section 507A.2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

In furtherance of such state interest, the general assembly herein provides methods for substituted service of process upon such persons or insurers in any proceeding, suit or action in any court and substitute service of any notice, order, pleading or process upon such persons or insurers in any proceeding before the commissioner of insurance to enforce or effect full compliance with the insurance and tax laws of this state. In so doing, the state exercises its powers to protect residents of this state and to define what constitutes doing an insurance business in this state, and also exercises powers and privileges available to this state by virtue of ~~Public Law~~ Pub. L. No. 79-15, 79th Congress of the United States, Chapter 20, 1st Sess., S. 340, 59 Stat. ~~L.~~ 33~~;~~, codified at 15 U.S.C. § ~~1011 to 1015, inclusive~~ 1011 – 1015, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

Sec. 135. Section 507B.1, Code 2005, is amended to read as follows:

507B.1 DECLARATION OF PURPOSE.

The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945, ~~Public Law 15, 79th Congress~~ Pub. L. No. 79-15, 59 Stat. ~~L.~~ 33~~;~~, codified at 15 U.S.C. § ~~1011 to~~

~~1015, inc.~~ 1011 – 1015, by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

Sec. 136. Section 511.8, subsection 9, paragraphs b, c, and e, Code 2005, are amended to read as follows:

b. Bonds, notes, or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed, or insured, in accordance with the terms and provisions of an Act of Congress of the United States of America approved June 27, 1934, entitled the "National Housing Act", 48 Stat. 1246, 12 U.S.C. § 1701, et seq., as heretofore and hereafter amended.

c. Bonds, notes, or other evidences of indebtedness representing loans and advances of credit that have been issued or guaranteed, in whole or in part, in accordance with the terms and provisions of Title III of an Act of Congress of the United States of America approved June 22, 1944, known as Public Law 346 ~~— Seventy-eighth Congress, Chapter 268 — 2nd Session~~, Pub. L. No. 78-268, cited as the "Servicemen's Readjustment Act of 1944", 58 Stat. 284, recodified at 72 Stat. 1105, 1273, 38 U.S.C. § 3701, et seq., as heretofore and hereafter amended.

e. Bonds, notes, or other evidences of indebtedness representing loans and advances of credit that have been issued or guaranteed, in whole or in part, in accordance with Title I of the Bankhead-Jones Farm Tenant Act, an Act of the Congress of the United States, cited as the "Farmers Home Administration Act of 1946", 60 Stat. 1062, as heretofore or hereafter amended.

Sec. 137. Section 511.8, subsection 15, paragraph b, subparagraph (2), unnumbered paragraph 2, Code 2005, is amended to read as follows:

The terms "class I railroads", "balance of income available for the payment of fixed charges", "fixed charges" and "railway operating revenues" when used in this subsection, are to be given the same meaning as in the accounting reports filed by a railroad company in accordance with the regulations for common carriers by rail of the Interstate Commerce Act~~;~~, 24 Stat. ~~L.~~ 379~~;~~, codified at 49 U.S.C. § ~~1 to 40 inc., 1001 to 1100 inc.~~ 1 – 40, 1001 – 1100, provided that the "balance of income available for the payment of fixed charges" and "railway operating revenues remaining", as the terms are used in this subsection, shall be computed before deduction of federal income or excess profits taxes; and that in computing "fixed charges" there shall be excluded interest and amortization charges applicable to debt called for redemption or which will otherwise mature within six months from the time of investment and for the payment of which funds have been or currently are being specifically set aside.

Sec. 138. Section 512A.10, subsection 1, Code 2005, is amended to read as follows:

1. An organization shall present to the commissioner of insurance for approval its articles of incorporation and any subsequent amendment. The commissioner shall submit the articles of incorporation and any subsequent amendment to the attorney general for examination and, if found by the attorney general to be in accordance with this chapter and the ~~constitution~~ Constitution and laws of the ~~state~~ State of Iowa, the attorney general shall certify such fact on the articles of incorporation or amendment and return the articles or amendment to the commissioner. Articles of incorporation or an amendment to the articles shall not be approved by the commissioner or recorded unless certified by the attorney general.

Sec. 139. Section 512B.13, Code 2005, is amended to read as follows:

512B.13 INSTITUTIONS.

A society may create, maintain, and operate, or may establish organizations to operate, not-for-profit institutions to further the purposes permitted by section 512B.5, subsection 1, paragraph "b". The institutions may furnish services free or at a reasonable charge. Any real or personal property owned, held, or leased by the society for this purpose shall be reported in every annual statement. A not-for-profit institution so established is a charitable institution

with all the rights, benefits, and privileges given to charitable institutions under the ~~constitution~~ Constitution and laws of ~~this state~~ the State of Iowa. The commissioner may adopt appropriate rules and reporting requirements.

Sec. 140. Section 514B.3, unnumbered paragraph 3, Code 2005, is amended to read as follows:

Upon receipt of an application for a certificate of authority, the commissioner shall immediately transmit copies of the application and accompanying documents to the director of public health and the affected regional health planning council, as authorized by ~~Public Law~~ Pub. L. No. 89-749, ~~(42~~ 42 U.S.C. § 246(b) ~~2b)~~ 2b, for their nonbinding consultation and advice.

Sec. 141. Section 518.14, subsection 4, paragraph a, Code Supplement 2005, is amended to read as follows:

a. UNITED STATES GOVERNMENT OBLIGATIONS. Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality of the United States of America, ~~include~~ including 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. 142. Section 518A.12, subsection 4, paragraph a, Code Supplement 2005, is amended to read as follows:

a. UNITED STATES GOVERNMENT OBLIGATIONS. Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality of the United States of America, ~~include~~ including 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. 143. Section 518B.1, subsection 3, Code 2005, is amended to read as follows:

3. "The Act" means Section 1223 of the Housing and Urban Development Act of 1968, ~~Public Law~~ Pub. L. No. 90-448, 90th Congress approved August 1, 1968.

Sec. 144. Section 523.13, Code 2005, is amended to read as follows:

523.13 EXCEPTIONS AS TO DOMESTIC STOCK COMPANIES.

The provisions of sections 523.7, 523.8 and 523.9 shall not apply to equity securities of a domestic stock insurance company if ~~(1) such~~ either of the following apply:

1. The securities ~~shall be~~ are registered, or ~~shall be~~ are required to be registered, pursuant to section 12 of the Securities Exchange Act of 1934, ~~[48~~ 48 Stat. ~~L.~~ 881~~;~~, 15 U.S.C.~~,~~ § 77b et ~~seq.,]~~ seq., as amended~~, or if (2) such~~.

2. The domestic stock insurance company ~~shall~~ does not have any class of its equity securities held of record by one hundred or more persons on the last business day of the year next preceding the year in which equity securities of the company would be subject to the provisions of sections 523.7, 523.8 and 523.9 except for the provisions of this subsection 2.

Sec. 145. Section 523C.1, subsection 6, Code 2005, is amended to read as follows:

6. "Licensed service company" means a service company which is licensed by the ~~commission~~ commissioner pursuant to this chapter.

Sec. 146. Section 523C.9, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. The service company violated a lawful order of the ~~commission~~ commissioner or any provision of this chapter.

Sec. 147. Section 523I.103, subsection 3, Code Supplement 2005, is amended to read as follows:

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~~ the person's 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.

Sec. 148. Section 523I.601, Code Supplement 2005, is amended to read as follows:

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~~ space in 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. 149. Section 524.1416, subsection 2, Code 2005, is amended to read as follows:

2. A state bank which converts into a national bank or federal savings association shall notify the superintendent of the proposed conversion, provide such evidence of the adoption of the plan as the superintendent may request, notify the superintendent of any abandonment or disapproval of the plan, and file with the superintendent and with the secretary of state a certificate of the approval of the conversion by the comptroller of the currency of the United States or director of the office of thrift supervision, as applicable, and the date upon which such conversion is to become effective. A state bank that converts into a national bank or federal savings association shall comply with the provisions of section 524.310, subsection 1.

Sec. 150. Section 533.3, subsection 2, Code 2005, is amended to read as follows:

2. The prohibitions contained in subsection 1 do not apply to a credit union organized under this chapter or under the Federal Credit Union Act, 12 U.S.C. ~~Sec.~~ § 1751 et seq., or to the Iowa credit union league, or a chapter, affiliate or subsidiary of the Iowa credit union league, or to a political action committee formed under ~~Public Law~~ Pub. L. No. 94-283 or chapter 68A by the Iowa credit union league or by credit unions organized under this chapter or federal law.

Sec. 151. Section 591.11, Code 2005, is amended to read as follows:

591.11 FAILURE TO PUBLISH NOTICE OF AMENDMENT.

In all instances where notices of amendments to articles of incorporation have not been published within three months after the filing with and approval by the secretary of state of such amendments, as provided in section 491.20, ~~of the~~ Code 1954, but such notices have been thereafter published in the form and manner as required by law and proof of publication filed with the secretary of state, such notices are hereby legalized and shall have the same force and effect as though published within said period of three months and proper proof of publication filed with the secretary of state.

Sec. 152. Section 598.21G, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

In any order or judgment entered under this chapter or 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:

Sec. 153. Section 602.10125, Code 2005, is amended to read as follows:

602.10125 ATTORNEY GENERAL — APPROPRIATENESS OF PROCEDURE — ORDER FOR APPEARANCE.

If an action is commenced on the petition of an individual, the court shall notify and refer the matter to the attorney general. The attorney general, within thirty days of the referral, shall submit a report to the court concerning the appropriateness of bringing the action under this chapter. The court shall not proceed with consideration of the merits of the complaint until the report from the attorney general is received. If the court deems the accusation sufficient to justify further action, the court shall determine whether the complaint is more appropriately pursued under this chapter rather than the procedures established under Iowa court rules, ~~chapter~~ ch. 35. If the court finds that proceeding under this chapter is more appropriate, it shall cause an order to be entered requiring the accused to appear and answer in the court where the accusation has been filed on the day fixed in the order, and shall cause a copy of the accusation and order to be served upon the accused personally.

Sec. 154. Section 633.3, subsections 15, 17, 34, and 35, Code Supplement 2005, are amended to read as follows:

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~~ described in section 633.10.

17. FIDUCIARY — includes personal representative, executor, administrator, guardian, conservator, and the trustee of any trust ~~as defined~~ described in section 633.10.

34. TRUSTEE — the person or persons serving as trustee of a trust ~~as defined~~ described in section 633.10.

35. TRUSTS — includes only those trusts ~~defined~~ described in section 633.10.

Sec. 155. Section 633.10, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

In addition to the jurisdiction granted the district court under the trust code, chapter 633A, or elsewhere, the district court sitting in probate shall have jurisdiction of:

Sec. 156. Section 633.699B, Code Supplement 2005, is amended to read as follows:

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, chapter 633A, and such trusts shall be governed by terms of the trust code, chapter 633A, that are not inconsistent with this probate code.

Sec. 157. Section 679C.103, subsection 2, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

This chapter shall not apply to a mediation relating to or conducted ~~by~~ under any of the following circumstances:

Sec. 158. Section 679C.104, subsection 1, Code Supplement 2005, is amended to read as follows:

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 the privilege is waived or precluded as provided by section 679C.105.

Sec. 159. Section 692B.2, Articles VIII and XI, Code 2005, are amended to read as follows:

ARTICLE VIII — MISCELLANEOUS PROVISIONS

(a) RELATION OF COMPACT TO CERTAIN FBI ACTIVITIES.

Administration of this compact shall not interfere with the management and control of the

director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act, ~~(~~5 5 U.S.C. ~~App.)~~ App., for all purposes other than noncriminal justice.

(b) NO AUTHORITY FOR NONAPPROPRIATED EXPENDITURES. Nothing in this compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) RELATING TO ~~PUBLIC LAW~~ PUB. L. NO. 92-544. Nothing in this compact shall diminish or lessen the obligations, responsibilities, and authorities of any state, whether a party state or a nonparty state, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 ~~(Public Law 92-544)~~, Pub. L. No. 92-544, or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the council under Article VI(a), regarding the use and dissemination of criminal history records and information.

ARTICLE XI — ADJUDICATION OF DISPUTES

(a) IN GENERAL. The council shall

(1) have initial authority to make determinations with respect to any dispute regarding

(A) interpretation of this compact;

(B) any rule or standard established by the council pursuant to Article VI; and

(C) any dispute or controversy between any parties to this compact; and

(2) hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the council and only render a decision based upon a majority vote of the members of the council. Such decision shall be published pursuant to the requirements of Article VI(e).

(b) DUTIES OF FBI. The FBI shall exercise immediate and necessary action to preserve the integrity of the III system, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the council holds a hearing on such matters.

(c) RIGHT OF APPEAL. The FBI or a party state may appeal any decision of the council to the attorney general, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this compact. Any suit arising under this compact and initiated in a state court shall be removed to the appropriate district court of the United States in the manner provided by ~~section 1446 of title 28, United States Code~~ 28 U.S.C. § 1446, or other statutory authority.

Sec. 160. Section 725.12, subsection 1, Code Supplement 2005, is amended to read as follows:

1. If any person ~~make~~ makes or ~~aid~~ aids in making or establishing, or ~~advertise~~ advertises or ~~make~~ makes public a scheme for a lottery; or ~~advertise~~ advertises, ~~offer~~ offers for sale, ~~sell~~ sells, ~~distribute~~ distributes, ~~negotiate~~ negotiates, ~~dispose~~ disposes of, ~~purchase~~ purchases, or ~~receive~~ receives a ticket or part of a ticket in a lottery or number of a ticket in a lottery; or ~~have~~ has 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 the 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 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.

Sec. 161. Section 729.1, Code 2005, is amended to read as follows:

729.1 RELIGIOUS TEST.

Any violation of section 4, Article I of the Constitution of the State of Iowa is hereby declared to be a simple misdemeanor unless a greater penalty is otherwise provided by law.

Sec. 162. Section 822.2, Code 2005, is amended to read as follows:

822.2 SITUATIONS WHERE LAW APPLICABLE.

1. Any person who has been convicted of, or sentenced for, a public offense and who claims ~~that~~ any of the following may institute, without paying a filing fee, a proceeding under this chapter to secure relief:

~~1.~~ a. The conviction or sentence was in violation of the Constitution of the United States or the Constitution or laws of this state~~;~~.

~~2.~~ b. The court was without jurisdiction to impose sentence~~;~~.

~~3.~~ c. The sentence exceeds the maximum authorized by law~~;~~.

~~4.~~ d. There exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice~~;~~.

~~5.~~ e. The person's sentence has expired, or probation, parole, or conditional release has been unlawfully revoked, or the person is otherwise unlawfully held in custody or other restraint~~;~~.

~~6.~~ f. The person's reduction of sentence pursuant to sections 903A.1 through 903A.7 has been unlawfully forfeited and the person has exhausted the appeal procedure of section 903A.3, subsection 2~~; or~~.

~~7.~~ g. The conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error formerly available under any common law, statutory or other writ, motion, petition, proceeding, or remedy, except alleged error relating to restitution, court costs, or fees under section 904.702 or chapter 815 or 910~~;~~

~~may institute, without paying a filing fee, a proceeding under this chapter to secure relief~~.

2. This remedy is not a substitute for nor does it affect any remedy, incident to the proceedings in the trial court, or of direct review of the sentence or conviction. Except as otherwise provided in this chapter, it comprehends and takes the place of all other common law, statutory, or other remedies formerly available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them.

Sec. 163. Section 822.3, Code 2005, is amended to read as follows:

822.3 HOW TO COMMENCE PROCEEDING — LIMITATION.

A proceeding is commenced by filing an application verified by the applicant with the clerk of the district court in which the conviction or sentence took place. However, if the applicant is seeking relief under section 822.2, subsection ~~6~~ 1, paragraph "f", the application shall be filed with the clerk of the district court of the county in which the applicant is being confined within ninety days from the date the disciplinary decision is final. All other applications must be filed within three years from the date the conviction or decision is final or, in the event of an appeal, from the date the writ of procedendo is issued. However, this limitation does not apply to a ground of fact or law that could not have been raised within the applicable time period. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The supreme court may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the county attorney and the attorney general.

Sec. 164. Section 822.5, Code 2005, is amended to read as follows:

822.5 PAYMENT OF COSTS.

If the applicant is unable to pay court costs and stenographic and printing expenses, these costs and expenses shall be made available to the applicant in the trial court, and on review. Unless the applicant is confined in a state institution and is seeking relief under section 822.2,

~~subsections 5 and 6~~ subsection 1, paragraphs "e" and "f", the costs and expenses of legal representation shall also be made available to the applicant in the preparation of the application, in the trial court, and on review if the applicant is unable to pay. However, nothing in this section shall be interpreted to require payment of expenses of legal representation, including stenographic, printing, or other legal services or consultation, when the applicant is self-represented or is utilizing the services of an inmate.

Sec. 165. Section 822.7, Code 2005, is amended to read as follows:

822.7 COURT TO HEAR APPLICATION.

The application shall be heard in, and before any judge of the court in which the conviction or sentence took place. However, if the applicant is seeking relief under section 822.2, subsection ~~6~~ 1, paragraph "f", the application shall be heard in, and before any judge of the court of the county in which the applicant is being confined. A record of the proceedings shall be made and preserved. All rules and statutes applicable in civil proceedings including pretrial and discovery procedures are available to the parties. The court may receive proof of affidavits, depositions, oral testimony, or other evidence, and may order the applicant brought before it for the hearing. If the court finds in favor of the applicant, it shall enter an appropriate order with respect to the conviction or sentence in the former proceedings, and any supplementary orders as to rearraignment, retrial, custody, bail, discharge, correction of sentence, or other matters that may be necessary and proper. The court shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented. This order is a final judgment.

Sec. 166. Section 822.9, Code 2005, is amended to read as follows:

822.9 APPEAL.

An appeal from a final judgment entered under this chapter may be taken, perfected, and prosecuted either by the applicant or by the state in the manner and within the time after judgment as provided in the rules of appellate procedure for appeals from final judgments in criminal cases. However, if a party is seeking an appeal under section 822.2, subsection ~~6~~ 1, paragraph "f", the appeal shall be by writ of certiorari.

Sec. 167. Section 904.513, subsection 3, Code 2005, is amended to read as follows:

3. The department shall adopt rules for the implementation of this section. The rules shall include the requirement that the treatment programs established pursuant to this chapter meet the licensure standards of the ~~division of substance abuse for the~~ department of public health under chapter 125. The rules shall also include provisions for the funding of the program by means of self-contribution by the offenders, insurance reimbursement on behalf of offenders, or other forms of funding, program structure, criteria for the evaluation of offenders and programs, and all other issues the director shall deem appropriate.

Sec. 168. Section 914.1, Code 2005, is amended to read as follows:

914.1 POWER OF GOVERNOR.

The power of the governor under the ~~constitution~~ Constitution of the State of Iowa to grant a reprieve, pardon, commutation of sentence, remission of fines and forfeitures, or restoration of the rights of citizenship shall not be impaired.

Sec. 169. 2004 Iowa Acts, chapter 1076, section 1, subsection 1, enacting Code section 69.20, subsection 1, is amended to read as follows:

1. A temporary vacancy in an elective office of a political subdivision, community college, and hospital board of trustees of this state occurs on the date when the person filling that office is placed on ~~active~~ state military service or federal service, as those terms are defined in section 29A.1, and when such a person will not be able to attend to the duties of that person's elective position for a period greater than sixty consecutive days. The temporary vacancy terminates on the date when such person is released from such service, or the term of office expires.

Sec. 170. 2005 Iowa Acts, chapter 136, section 20, the bill section amending clause, is amended to read as follows:

SEC. 20. Section 455B.103, ~~subsections~~ subsection 3 and subsection 4, unnumbered paragraph 1, Code 2005, are amended to read as follows:

Sec. 171. Section 15.103, subsection 1, paragraph a, as enacted by 2005 Iowa Acts, chapter 150, section 4, is amended to read as follows:

a. The Iowa economic development board is created, consisting of 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 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 division of this Act, at least one voting member shall have been less than thirty years of age at the time of appointment. The governor shall appoint the 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.

Sec. 172. Section 455B.172, subsection 5, unnumbered paragraph 2, Code 2005, as amended by 2005 Iowa Acts, chapter 153, section 2, 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 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. 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 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. 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. The septic disposal management plan may be examined to determine the duration of the violation. 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. 173. 2005 Iowa Acts, chapter 179, section 14, unnumbered paragraph 1, is amended to read as follows:

There is appropriated from the general fund of the state to the homeland security and emergency management division of the department of public ~~safety~~ defense 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:

Sec. 174. 2005 Iowa Acts, chapter 179, section 48, is amended to read as follows:

SEC. 48. HEALTH FACILITIES ~~COUNCIL~~ DIVISION. If 2005 Iowa Acts, House File 810,[1] 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~~ division 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. 175. Section 12B.6, as enacted by 2005 Iowa Acts, chapter 179, section 98, is amended to read as follows:

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 division 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. 176. The section of this Act amending section 147.7 is repealed effective July 1, 2008.

Sec. 177. EFFECTIVE DATES.

1. The section of this Act amending 2004 Acts, ch 1076, section 1, being deemed of immediate importance, takes effect upon enactment and applies retroactively to April 14, 2004.

2. The sections of this Act amending 2005 Acts, ch 136, section 20; section 15.103, as amended by 2005 Acts, ch 150, section 4; section 455B.172, as amended by 2005 Acts, ch 153, section 2; 2005 Acts, ch 179, section 14; and 2005 Acts, ch 179, section 48, being deemed of immediate importance, take effect upon enactment and apply retroactively to July 1, 2005.

3. The section of this Act amending section 12B.6, as enacted by 2005 Acts, ch 179, section 98, being deemed of immediate importance, takes effect upon enactment and applies retroactively to June 16, 2005.

Approved March 22, 2006

[1] 2005 Iowa Acts, chapter 173

CHAPTER 1011

ADMINISTRATIVE RULES — FILING AND PUBLICATION

S.F. 2316

AN ACT relating to the procedures for filing administrative rules.

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

Section 1. Section 7.17, Code 2005, is amended to read as follows:

7.17 OFFICE OF ADMINISTRATIVE RULES ~~CO-ORDINATOR~~ COORDINATOR.

1. The governor shall establish the office of the administrative rules ~~co-ordinator~~ coordinator, and appoint its staff, which shall be a part of the governor's office. The administrative rules ~~co-ordinator~~ coordinator shall receive all notices and rules adopted pursuant to chapter 17A and provide the governor with an opportunity to review and object to any rule as provided in chapter 17A.

2. ~~The~~ In consultation with the administrative rules ~~co-ordinator in consultation with~~ coordinator, the administrative code editor shall prescribe a uniform style and form by which an agency shall prepare and file a rule pursuant to chapter 17A, which shall correlate each rule to a uniform numbering system devised by the administrative ~~rules co-ordinator~~ code editor and which shall provide for electronic filing and publication of the rules from the database used to produce the official publications of the administrative rules of this state. The administrative ~~rules co-ordinator~~ code editor shall review all submitted rules for style and form and notify the administrative rules coordinator if a rule is not in proper style or form as provided in section 2B.5, and may return or revise a rule which is not in proper style and form. ~~In prescribing the~~ The style and form~~, the administrative rules co-ordinator~~ prescribed shall require that the agency include a reference to the statute which the rules are intended to implement.

Sec. 2. Section 17A.4, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. Give notice of its intended action by submitting ~~three copies of~~ the notice to the administrative rules coordinator~~, who~~ and the administrative code editor. The administrative rules coordinator shall assign an ARC number to each rulemaking document ~~and forward two copies to the~~. The administrative code editor ~~for publication~~ shall publish each notice meeting the requirements of this chapter in the Iowa administrative bulletin created pursuant to section 17A.6. Any notice of intended action shall be published at least thirty-five days in advance of the action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views.

Sec. 3. Section 17A.5, subsection 1, Code 2005, is amended to read as follows:

1. Each agency shall file ~~in~~ each rule adopted by the agency with the office of the administrative rules coordinator ~~three certified copies of each rule adopted by it~~ and provide an exact copy to the administrative code editor. The administrative rules coordinator shall assign an ARC number to each rulemaking document ~~and forward two copies to the administrative code editor~~. The administrative rules coordinator shall keep a permanent register of the rules open to public inspection. The administrative code editor shall publish each rule adopted in accordance with this chapter in the Iowa administrative code.

Sec. 4. Section 17A.6, subsection 2, Code 2005, is amended to read as follows:

2. ~~Subject to the direction of~~ In consultation with the administrative rules coordinator, the administrative code editor shall cause the Iowa administrative code to be compiled, indexed, and published in accordance with section 2.42 in a form containing all rules adopted and filed by each agency. The administrative code editor further shall ~~cause~~ publish supplements to the Iowa administrative code ~~to be published as determined by the administrative rules coordina-~~

~~tor and the administrative rules review committee,~~ containing all rules filed for publication in the prior time period. ~~The supplements shall be in such form that they may be inserted in the appropriate places in the permanent compilation.~~ The administrative ~~rules coordinator~~ code editor shall devise a uniform numbering system for rules and may renumber rules before publication to conform with the system.

Approved March 29, 2006

CHAPTER 1012

REAL PROPERTY —
APPROVAL OF SUBDIVISION PLAT NAME OR TITLE
H.F. 2177

AN ACT requiring the county auditor to evidence approval of the name of a subdivision plat and requiring such statement for filing the subdivision plat with the county recorder.

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

Section 1. Section 354.6, subsection 2, Code 2005, is amended to read as follows:

2. A subdivision plat shall have a succinct name or title that is unique, as approved by the auditor, for the county in which the plat lies. The auditor shall evidence the approval of such name or title in a statement that shall accompany the plat as provided in section 354.11. The plat shall include an accurate description of the land included in the subdivision and shall give reference to two section corners within the United States public land survey system in which the plat lies or, if the plat is a subdivision of any portion of an official plat, two established monuments within the official plat. Each lot within the plat shall be assigned a progressive number. Streets, alleys, parks, open areas, school property, other areas of public use, or areas within the plat that are set aside for future development shall be assigned a progressive letter and shall have the proposed use clearly designated. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of practical use or service as determined by the governing body. Progressive block numbers or letters may be assigned to groups of lots separated from other lots by streets or other physical features of the land. The surveyor shall not assign lot numbers or letters to a lot shown within a subdivision plat unless the lot has been surveyed by the surveyor in compliance with chapter 355. The auditor may note a permanent real estate index number upon each lot within a subdivision plat. Sufficient information, including dimensions and angles or bearings, shall be shown on the plat to accurately establish the boundaries of each lot, street, and easement. Easements necessary for the orderly development of the land within the plat shall be shown and the purpose of the easement shall be clearly stated.

Sec. 2. Section 354.11, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A statement by the auditor approving the name or title of the subdivision plat.

Sec. 3. Section 354.11, unnumbered paragraph 2, Code 2005, is amended to read as follows:

A subdivision plat which includes no land set apart for streets, alleys, parks, open areas, school property, or public use other than utility easements, shall be accompanied by the docu-

ments listed in subsections 1, 2, 3, ~~and~~ 4, and 6 and a certificate of the treasurer that the land is free from certified taxes other than certified special assessments.

Approved March 29, 2006

CHAPTER 1013

INDIVIDUAL INCOME TAX AND CAPITAL GAINS — HOLDING PERIOD

H.F. 2465

AN ACT relating to the determination of the holding period for purposes of certain capital gains under the individual income tax and including effective and retroactive applicability date provisions.

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

Section 1. Section 422.7, subsection 21, Code Supplement 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this subsection, the term "held" shall be determined with reference to the holding period provisions of section 1223 of the Internal Revenue Code and the federal regulations adopted pursuant thereto.

Sec. 2. RETROACTIVE APPLICABILITY DATE PROVISIONS. This Act, being deemed of immediate importance, takes effect upon enactment and retroactively applies to all of the following:

1. Sales made on or after January 1, 2006.
2. Determining the holding period for sales made on or after January 1, 2006.
3. Tax years ending on or after January 1, 2006.

Approved March 29, 2006

CHAPTER 1014

DEPARTMENT OF NATURAL RESOURCES DUTIES

H.F. 2541

AN ACT eliminating certain duties of the department of natural resources.

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

Section 1. Section 72.5, subsection 2, Code 2005, is amended to read as follows:

2. ~~In connection with development of a statewide building energy efficiency rating system, pursuant to section 473.40, the~~ The director of the department of natural resources in consulta-

tion with the department of management, state building code commissioner, and state fire marshal, shall develop standards and methods to evaluate design development documents and construction documents based upon ~~the energy efficiency rating system for public buildings, and other~~ life cycle cost factors, to facilitate fair and uniform comparisons between design proposals and informed decision making by public bodies.

Sec. 2. Section 455B.173, subsection 8, Code 2005, is amended to read as follows:

8. Formulate and adopt specific and detailed statewide standards pursuant to chapter 17A for review of plans and specifications and the construction of sewer systems and water supply distribution systems and extensions to such systems not later than October 1, 1977. The standards shall be based on criteria contained in the "Recommended Standards for Sewage Works" and "Recommended Standards for Water Works" (Ten States Standards) as adopted by the Great Lakes-Upper Mississippi River board of state sanitary engineers, design manuals published by the department, applicable federal guidelines and standards, standard textbooks, current technical literature, and applicable safety standards. ~~The material standards for polyvinyl chloride pipe shall not exceed the specifications for polyvinyl chloride pipe in designations D-1784-69, D-2241-73, D-2564-76, D-2672-76, D-3036-73, and D-3139-73 of ASTM (American society for testing and materials) international.~~ The rules adopted which directly pertain to the construction of sewer systems and water supply distribution systems and the review of plans and specifications for such construction shall be known respectively as the Iowa Standards for Sewer Systems and the Iowa Standards for Water Supply Distribution Systems and shall be applicable in each governmental subdivision of the state. Exceptions shall be made to the standards so formulated only upon special request to and receipt of permission from the department. The department shall publish the standards and make copies of such standards available to governmental subdivisions and to the public.

Sec. 3. Section 455B.304, subsection 17, Code 2005, is amended to read as follows:

17. The commission shall adopt rules to establish a special waste authorization program. For purposes of this subsection, "special waste" means any industrial process waste, pollution control waste, or toxic waste which presents a threat to human health or the environment or a waste with inherent properties which make the disposal of the waste in a sanitary landfill difficult to manage. Special waste does not include domestic, office, commercial, medical, or industrial waste that does not require special handling or limitations on its disposal. Special waste does not include hazardous wastes which are regulated under the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921 – 6934, or hazardous wastes as defined in section 455B.411, subsection 3~~, or hazardous wastes included in the list compiled in accordance with section 455B.464~~.

Sec. 4. Section 455B.335, subsection 2, Code 2005, is amended by striking the subsection.

Sec. 5. Section 455B.412, subsection 1, Code 2005, is amended by striking the subsection.

Sec. 6. Section 455B.461, subsection 2, Code 2005, is amended to read as follows:

2. "Hazardous waste" means hazardous waste as defined in section 455B.411, subsection 3~~, and section 455B.464~~.

Sec. 7. Section 455B.482, subsection 3, Code 2005, is amended to read as follows:

3. "Hazardous waste" means hazardous waste as defined in section 455B.411, subsection 3~~, and under section 455B.464~~.

Sec. 8. Section 455B.484, subsection 11, Code 2005, is amended by striking the subsection.

Sec. 9. Section 558.69, unnumbered paragraph 1, Code 2005, is amended to read as follows:

With each declaration of value submitted to the county recorder under chapter 428A, there

shall also be submitted a statement regarding whether any known private burial site is situated on the property, and if a known private burial site is situated on the property, the statement shall state the approximate location of the site. The statement shall also state that no known wells are situated on the property, or if known wells are situated on the property, the statement must state the approximate location of each known well and its status with respect to section 455B.190 or 460.302. The statement shall also state that no known disposal site for solid waste, as defined in section 455B.301, which has been deemed to be potentially hazardous by the department of natural resources, exists on the property, or if such a known disposal site does exist, the location of the site on the property. The statement shall additionally state that no known underground storage tank, as defined in section 455B.471, subsection 11, exists on the property, or if a known underground storage tank does exist, the type and size of the tank, and any known substance in the tank. The statement shall also state that no known hazardous waste as defined in section 455B.411, subsection 3, or listed by the department pursuant to section 455B.412, subsection 2~~, or section 455B.464~~, exists on the property, or if known hazardous waste does exist, that the waste is being managed in accordance with rules adopted by the department of natural resources. The statement shall be signed by at least one of the sellers or their agents. The county recorder shall refuse to record any deed, instrument, or writing for which a declaration of value is required under chapter 428A unless the statement required by this section has been submitted to the county recorder. A buyer of property shall be provided with a copy of the statement submitted, and, following the fulfillment of this provision, if the statement submitted reveals no private burial site, well, disposal site, underground storage tank, or hazardous waste on the property, the county recorder may destroy the statement. The land application of sludges or soils resulting from the remediation of underground storage tank releases accomplished in compliance with department of natural resources rules without a permit is not required to be reported as the disposal of solid waste or hazardous waste.

Sec. 10. Sections 455B.220, 455B.332, 455B.333, 455B.464, and 473.40, Code 2005, are repealed.

Approved March 29, 2006

CHAPTER 1015

REGULATION OF FINANCIAL INSTITUTIONS

H.F. 2587

AN ACT relating to financial institutions including the regulation of state banks, bank holding companies, and industrial loan companies, and providing for penalties.

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

Section 1. Section 12C.22, subsection 6, paragraph a, Code 2005, is amended to read as follows:

a. Investment securities and shares in which a bank is permitted to invest under section 524.901, subsections 1, 2, ~~and~~ 3, and 4.

Sec. 2. Section 524.217, subsection 2, Code 2005, is amended to read as follows:

2. The superintendent may furnish to the federal deposit insurance corporation, the federal

reserve system, the office of the comptroller of the currency, the office of thrift supervision, national credit union administration, the federal home loan bank, the financial crimes enforcement network of the federal department of the treasury, the United States internal revenue service, and financial institution regulatory authorities of other states, or to any official or supervising examiner of such regulatory authorities, a copy of the report of any or all examinations made of any state bank and of any affiliate of a state bank.

Sec. 3. Section 524.220, subsection 1, Code 2005, is amended to read as follows:

1. A state bank shall render a full, clear, and accurate statement of its condition to the superintendent, in a format prescribed by the superintendent, ~~verified by the oath of an officer and attested by the signatures of at least three of the directors, or~~ verified by the oath of two of its officers, and attested by at least two of the directors. The superintendent may, in the superintendent's discretion, use any form of statement of condition that is used by the federal deposit insurance corporation or the federal reserve system.

Sec. 4. Section 524.220, subsection 3, Code 2005, is amended by striking the subsection.

Sec. 5. Section 524.312, subsection 3, Code 2005, is amended to read as follows:

3. If a change in the location of the principal place of business of a state bank is proposed, application for approval of the superintendent shall be made as required by the superintendent pursuant to this section. A change in location of the principal place of business of a state bank, including a change from one municipal corporation to another municipal corporation within an urban complex, requires an amendment to the articles of incorporation pursuant to sections 524.1502, 524.1504, and 524.1506. A state bank seeking approval of a change of location pursuant to this subsection shall publish ~~once each week for two consecutive weeks~~ a notice of the proposed change of location in a newspaper of general circulation in the municipal corporation or unincorporated area in which the state bank has its principal place of business, or if there is none, in a newspaper of general circulation in the county, or in a county adjoining the county, in which the state bank has its principal place of business, and in the municipal corporation in which it seeks to establish its principal place of business, or if there is none, in a newspaper of general circulation in the county, or in a county adjoining the county, in which the municipal corporation is located. The ~~notices~~ notice shall be published within thirty days after the application to the superintendent for approval of the change in location is accepted for processing. The notice shall set forth the name of the state bank, the present location of its principal place of business, the location to which it proposes to move its principal place of business, and the date upon which the application was accepted for processing by the superintendent.

Sec. 6. Section 524.606, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

If, in the opinion of the superintendent, any director of a state bank or bank holding company has violated any law relating to such state bank or bank holding company or has engaged in unsafe or unsound practices in conducting the business of such state bank or bank holding company, the superintendent may cause notice to be served upon such director, to appear before the superintendent to show cause why the director should not be removed from office. A copy of such notice shall be sent to each director of the state bank or bank holding company affected, by registered or certified mail. If, after granting the accused director a reasonable opportunity to be heard, the superintendent finds that the director violated any law relating to such state bank or bank holding company or engaged in unsafe or unsound practices in conducting the business of such state bank or bank holding company, the superintendent, in the superintendent's discretion, may order that such director be removed from office, and that such director be prohibited from serving in any capacity in any other bank, bank holding company, bank affiliate, trust company, or an entity licensed under chapter 533A, 533C, 533D, 535B, 536, or 536A. A copy of the order shall be served upon such director and upon the state

bank or bank holding company of which the person is a director at which time the person shall cease to be a director of the state bank or bank holding company. The resignation, termination of employment, or separation of such director, including a separation caused by the closing of the state bank or bank holding company at which the person serves as a director, does not affect the jurisdiction and authority of the superintendent to cause notice to be served and proceed under this subsection against the director, if the notice is served before the end of the six-year period beginning on the date the director ceases to be a director with the bank.

Sec. 7. Section 524.707, subsection 2, Code 2005, is amended to read as follows:

2. Section 524.606, subsection 2, which provides for the removal of directors by the superintendent, shall have equal application to officers and employees of a bank, bank holding company, bank affiliate, or trust company.

Sec. 8. Section 524.1201, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A bank shall not operate a loan production office or deposit production office in this state unless either the bank has received approval from the superintendent or the bank operated the loan production office or deposit production office before July 1, 2006.

Sec. 9. Section 524.1601, Code 2005, is amended to read as follows:

524.1601 PENALTIES AND CRIMINAL PROVISIONS APPLICABLE TO DIRECTORS, OFFICERS, AND EMPLOYEES OF STATE BANKS AND BANK HOLDING COMPANIES.

1. A director, officer, or employee of a state bank or bank holding company who willfully violates any of the provisions of subsection 4 of section 524.612, section 524.613, subsection 2 of section 524.706, insofar as such subsection incorporates subsection 4 of section 524.612, or section 524.710, shall be guilty of a serious misdemeanor, plus, in the following circumstances, an additional fine or fines equal to:

a. The amount of money or the value of the property which the director, officer, or employee received for procuring, or attempting to procure, a loan, extension of credit, or investment by the state bank or bank holding company, upon conviction of a violation of subsection 1 of section 524.613, or of subsection 1 of section 524.710.

b. The amount by which the director's, officer's, or employee's deposit account in the state bank or bank holding company is overdrawn, upon conviction of a violation of subsection 2 of section 524.613, or of subsection 2 of section 524.710.

c. The amount of any profit which the director, officer, or employee receives on the transaction, upon conviction of a violation of subsection 4 of section 524.612, or of subsection 2 of section 524.706, insofar as each applies to purchases from and sales to a state bank or bank holding company upon terms more favorable to such director, ~~or~~ officer, or employee than those offered to other persons.

d. The amount of profit, fees or other compensation received, upon conviction of a violation of section 524.710, subsection 1, paragraph "b".

2. A director or officer who willfully makes or receives a loan in violation of subsection 1 of section 524.612, or subsection 1 of section 524.706, shall be guilty of a serious misdemeanor and shall be subject to an additional fine equal to that amount of the loan in excess of the limitation imposed by such subsections, and shall be forever disqualified from acting as a director or officer of any state bank or bank holding company. For the purpose of this subsection, amounts which are treated as obligations of an officer or director pursuant to subsection 5 of section 524.612, shall be considered in determining whether the loan or extension of credit is in violation of subsection 1 of section 524.612 and subsection 1 of section 524.706.

3. A director, officer, or employee of a state bank or bank holding company who willfully makes or receives a loan or extension of credit of funds held by the state bank or bank holding company as fiduciary, in violation of subsection 4 of section 524.1002, shall be guilty of a serious misdemeanor and shall be subject to a further fine equal to the amount of the loan or exten-

sion of credit made in violation of subsection 4 of section 524.1002, and shall be forever disqualified from acting as a director, officer, or employee of any state bank or bank holding company.

4. A director, officer, or employee of a state bank or bank holding company who willfully violates, or participates in the violation of, section 524.814, or section 524.819, shall be guilty of a serious misdemeanor.

Sec. 10. Section 524.1602, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The superintendent may impose a penalty on a state bank of up to one ~~hundred~~ thousand dollars for each day:

Sec. 11. Section 524.1603, subsection 2, Code 2005, is amended to read as follows:

2. The superintendent may impose a penalty on a state bank of up to one ~~hundred~~ thousand dollars for each day that it violates the provisions of section 524.1201.

Sec. 12. Section 536A.2, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Affiliate" means the same as defined in 12 U.S.C. § 1841(k).

NEW SUBSECTION. 1B. "Commercial activities" means activities in which an industrial loan company is not specifically authorized to engage under the provisions of this chapter.

NEW SUBSECTION. 1C. "Control" means the same as provided in 12 U.S.C. § 1841(a)(2).

Sec. 13. Section 536A.4, Code 2005, is amended to read as follows:

536A.4 LIMITATIONS.

~~No~~ A license shall not be issued to any individual, partnership, nonprofit organization, or unincorporated association. A license shall not be issued to an applicant that engages in commercial activities directly or through an affiliate. Not more than one place of business where loans are made shall be maintained under the same license but the superintendent may issue more than one license to the same licensee upon compliance, for each such additional license, with all the provisions of this chapter governing an original issuance of a license.

Sec. 14. Section 536A.5, subsection 6, Code 2005, is amended by striking the subsection.

Sec. 15. Section 536A.12, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. For purposes of this section, ~~"control" means control as defined in section 524.103. However,~~ a change of control does not occur when a majority shareholder of an industrial loan company transfers the shareholder's shares of the industrial loan company to a revocable trust, so long as the transferor retains the power to revoke the trust and take possession of such shares.

Sec. 16. Section 536A.21, Code 2005, is amended to read as follows:

536A.21 OTHER BUSINESS IN SAME OFFICE.

A licensee engaged in the business of operating an industrial loan company under the provisions of this chapter may not conduct its business within any office, room, suite, ~~or~~ place of business ~~in which any other business is engaged in or conducted, unless specifically authorized to do so in writing by the superintendent upon the superintendent's finding that the character of the other business is such that its operation by the licensee would not facilitate evasions of this chapter or any other statute of the state of Iowa relating to the making of loans,~~ or premises in which commercial activities are conducted, unless the place where its business is conducted by the industrial loan company is physically separated from the location where commercial activities are conducted and has a separate entrance. The prohibition of this section shall not apply to the conduct of business if, prior to January 1, 2006, the superintendent has determined in writing that the character of the other business is such that its operation by the licensee would not facilitate evasions of the provisions of this chapter or any other provision of the Code relating to the making of loans.

Sec. 17. Section 536A.22, unnumbered paragraph 3, Code 2005, is amended by striking the unnumbered paragraph.

Sec. 18. Section 536A.23, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Engage in commercial activities or have an affiliate that engages in commercial activities. This subsection shall not apply to an industrial loan company with an affiliate that is engaged in commercial activities prior to January 1, 2006, if control of the industrial loan company is not thereafter transferred to an entity that engages in commercial activities directly or through an affiliate.

Sec. 19. NEW SECTION. 536A.32 ACQUISITIONS.

Neither an out-of-state bank nor an out-of-state bank holding company shall directly or indirectly acquire control of, or directly or indirectly acquire all or substantially all of the assets of, an industrial loan company located in this state, unless the industrial loan company has been in continuous existence and operation for at least five years.

Sec. 20. NEW SECTION. 536A.33 ACQUISITIONS AND BRANCHES BY OUT-OF-STATE COMPANIES.

An out-of-state industrial loan company, industrial bank, or similar institution as provided in 12 U.S.C. § 1841(c)(2)(H), shall not do any of the following:

1. Establish or operate a branch in this state.
2. Directly or indirectly acquire control of an industrial loan company located in this state.
3. Directly or indirectly acquire all or substantially all of the assets of an industrial loan company in this state.

Sec. 21. NEW SECTION. 536A.34 ACTIVITIES OF BRANCHES OF OUT-OF-STATE COMPANIES.

A branch of an out-of-state industrial loan company, industrial bank, or similar institution as provided in 12 U.S.C. § 1841(c)(2)(H), shall not engage in any activity in this state in which an industrial loan company is not specifically permitted to engage under the provisions of this chapter, and shall not conduct operations at any location where an industrial loan company is not permitted to conduct operations under this chapter.

Sec. 22. Section 524.1803, Code 2005, is repealed.

Approved March 29, 2006

CHAPTER 1016

HUMAN SERVICES PROGRAMS AND REGULATION
— MISCELLANEOUS CHANGES

H.F. 2644

AN ACT relating to department of human services' technical requirements involving individual development accounts, family investment program limited benefit plans, paternity establishment definitions, and the state child care assistance program, and including effective date and retroactive applicability provisions.

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

DIVISION I
INDIVIDUAL DEVELOPMENT ACCOUNTS

Section 1. Section 450.4, subsection 6, Code 2005, is amended to read as follows:

6. On property in an individual development account in the name of the decedent that passes to another individual development account ~~or the state human investment reserve pool created in section 541A.4~~. For purposes of this subsection, "individual development account" means an account that has been certified as an individual development account pursuant to chapter 541A.

Sec. 2. Section 541A.1, subsection 9, Code 2005, is amended by striking the subsection.

Sec. 3. Section 541A.2, subsection 2, paragraph b, Code 2005, is amended by striking the paragraph.

Sec. 4. Section 541A.2, subsection 9, Code 2005, is amended to read as follows:

9. In the event of an account holder's death, the account may be transferred to the ownership of a contingent beneficiary or to the individual development account of another account holder. An account holder shall name contingent beneficiaries or transferees at the time the account is established and a named beneficiary or transferee may be changed at the discretion of the account holder. ~~If the named beneficiary or transferee is deceased or otherwise cannot accept the transfer, the moneys shall be transferred to the reserve pool.~~

Sec. 5. Section 541A.3, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Payment by the state of a savings refund on amounts of up to two thousand dollars per calendar year that an account holder deposits in the account holder's account. Moneys transferred to an individual development account from another individual development account and a savings refund received by the account holder in accordance with section 541A.3[1] shall not be considered an account holder deposit for purposes of determining a savings refund. Payment of a savings refund either shall be made directly to the account ~~holder's account~~ holder or to an operating organization's central reserve account for later distribution to the account ~~holder's account~~ holder in the most appropriate manner as determined by the administrator. The state savings refund shall be the indicated percentage of the amount deposited:

Sec. 6. Section 541A.3, subsection 5, Code 2005, is amended to read as follows:

5. The administrator shall coordinate the filing of claims for savings refunds authorized under subsection 1, between account holders, operating organizations, and the department of administrative services. Claims approved by the administrator may be paid by the department of administrative services to each account holder, for an aggregate amount for distribution to the holders of the accounts in a particular financial institution, or to an operating organiza-

[1] See chapter 1185, §123 herein

tion's central reserve account for later distribution to the account ~~holders' accounts~~ holders depending on the efficiency for issuing the refunds. Claims shall be initially filed with the administrator on or before a date established by the administrator. Claims approved by the administrator shall be paid from the general fund of the state in the manner specified in section 422.74.

Sec. 7. Section 541A.4, Code 2005, is repealed.

Sec. 8. RETROACTIVE APPLICABILITY. This division of this Act, being deemed of immediate importance, takes effect upon enactment, is retroactively applicable to January 1, 2006, and is applicable on and after that date.

DIVISION II
FAMILY INVESTMENT PROGRAM — LIMITED BENEFIT PLAN

Sec. 9. Section 239B.9, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. If a participant responsible for signing and fulfilling the terms of a family investment agreement, as defined by the director of human services in accordance with section 239B.8, chooses not to sign or fulfill the terms of the agreement, the participant's family, or the individual participant shall enter into a limited benefit plan. Initial actions in a written statement under section 239B.2, subsection 4, which were committed to by a participant during the application period and which commitment remains in effect, shall be considered to be a term of the participant's family investment agreement. A limited benefit plan shall apply for the period of time specified in this section. The first month of the limited benefit plan is the first month after the month in which timely and adequate notice of the limited benefit plan is given to the participant as defined by the director of human services. ~~A participant who is exempt from the JOBS program but who volunteers for the program is not subject to imposition of a limited benefit plan.~~ The elements of a limited benefit plan shall be specified in the department's rules.

Sec. 10. Section 239B.9, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. PARENT. If the participant responsible for the family investment agreement is a parent, the limited benefit plan is applicable to the entire participant family. ~~If the family reapplies for assistance after an ineligibility period, eligibility shall be established in the same manner as for any other new applicant.~~

Sec. 11. Section 239B.9, subsection 2, paragraph c, Code 2005, is amended to read as follows:

c. MINOR PARENT LIVING WITH ADULT PARENT OR SPECIFIED RELATIVE. If the participant family includes a minor parent living with the minor parent's adult parent or specified relative who receives family investment program assistance and both individuals are responsible for developing a family investment agreement, each individual is responsible for a separate family investment agreement, and the limited benefit plan shall be applied as follows:

(1) If the adult parent ~~or specified relative~~ chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the entire participant family, even though the minor parent has not chosen the limited benefit plan. However, the minor parent may reapply for assistance as a minor parent living with self-supporting parents or living independently and continue in the family investment agreement process.

(2) If the minor parent chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the minor parent and any child of the minor parent.

(3) If the specified relative chooses the limited benefit plan, the requirements of the limited benefit plan shall apply only to the specified relative.

DIVISION III
PATERNITY ESTABLISHMENT

Sec. 12. Section 252F.1, Code 2005, is amended by adding the following new subsection:
NEW SUBSECTION. 1A. "Child" means a person who is less than age eighteen or a person who is age eighteen but less than age nineteen and 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 age nineteen.

DIVISION IV
STATE CHILD CARE ASSISTANCE PROGRAM

Sec. 13. Section 237A.13, subsection 5, paragraphs c and d, Code 2005, are amended to read as follows:
c. Families with an income of more than one hundred percent but not more than one hundred ~~forty~~ forty-five percent of the federal poverty level whose members are employed at least twenty-eight hours per week.
d. Families with an income at or below ~~one~~ two hundred ~~seventy-five~~ percent of the federal poverty level whose members are employed at least twenty-eight hours per week with a special needs child as a member of the family.

Approved March 29, 2006

CHAPTER 1017

PUBLIC IMPROVEMENT CONTRACTS AND BID PROCEDURES
H.F. 2713

AN ACT changing the bid threshold requirement for certain public improvement contracts and providing for an effective date.

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

Section 1. NEW SECTION. 38.1 CITATION.
This chapter shall be known and may be cited as the "Iowa Construction Bidding Procedures Act".

Sec. 2. NEW SECTION. 38.2 DEFINITIONS.
As used in this chapter, unless the context clearly indicates otherwise:
1. "Estimated total cost of a public improvement" or "estimated total cost" means the estimated total cost to the governmental entity to construct a public improvement, including cost of labor, materials, equipment, and supplies, but excluding the cost of architectural or engineering design services and inspection.
2. "Governmental entity" means the state, political subdivisions of the state, public school corporations, and all officers, boards, or commissions empowered by law to enter into contracts for the construction of public improvements, excluding the state board of regents and the state department of transportation.
3. "Public improvement" means a building or construction work which is constructed under

the control of a governmental entity and is paid for in whole or in part with funds of the governmental entity, including a building or improvement constructed or operated jointly with any other public or private agency, but excluding urban renewal demolition and low-rent housing projects, industrial aid projects authorized under chapter 419, emergency work or repair or maintenance work performed by employees of a governmental entity, and excluding a highway, bridge, or culvert project, and excluding construction or repair or maintenance work performed for a city utility under chapter 388 by its employees or performed for a rural water district under chapter 357A by its employees.

4. "Repair or maintenance work" means the preservation of a road, street, bridge, culvert, storm sewer, sanitary sewer, or other public facility so that it remains in sound or proper condition, including minor replacements and additions as necessary to restore the public facility to its original condition with the same design.

Sec. 3. NEW SECTION. 38.3 COMPETITIVE BIDS FOR PUBLIC IMPROVEMENT CONTRACTS.

1. If the estimated total cost of a public improvement exceeds the competitive bid threshold of one hundred thousand dollars, or the adjusted competitive bid threshold established in section 314.1B, the governmental entity shall advertise for sealed bids for the proposed public improvement by publishing a notice to bidders as provided in section 362.3. Additionally, the governmental entity may publish a notice in a relevant contractor organization publication and a relevant contractor plan room service with statewide circulation, provided that a notice is posted on a website sponsored by either a governmental entity or a statewide association that represents the governmental entity. The notice to bidders shall be published more than twenty days but not more than forty-five days before the date for filing bids.

2. A governmental entity shall have an engineer licensed under chapter 542B or an architect registered under chapter 544A prepare plans and specifications, and calculate the estimated total cost of a proposed public improvement.

3. Sections 38.4 through 38.13 apply to all competitive bidding pursuant to this section.

Sec. 4. NEW SECTION. 38.4 EXEMPTIONS FROM COMPETITIVE BIDS AND QUOTATIONS.

Architectural or engineering design services procured for a public improvement are not subject to sections 38.3 and 38.14.

Sec. 5. NEW SECTION. 38.5 PROHIBITED CONTRACTS.

If the estimated total cost of a public improvement exceeds the competitive bid threshold of one hundred thousand dollars, or as established in section 314.1B, a governmental entity shall not divide the public improvement project into separate parts, regardless of intent, if a resulting part of the public improvement project is not let in accordance with section 38.3.

Sec. 6. NEW SECTION. 38.6 DONATED FUNDS.

If private funds are offered to a governmental entity for a building or an improvement to be used by the public and such funds are conditioned upon private construction of the building or improvement, this chapter shall not apply to the project if the governmental entity does not contribute any funds to such construction.

Sec. 7. NEW SECTION. 38.7 NOTICE TO BIDDERS.

The notice to bidders shall adequately notify a potential bidder of a proposed bid and shall include the following items:

1. The time and place for filing sealed proposals.

2. The time and place sealed proposals will be opened and considered on behalf of the governmental entity.

3. The general nature of the public improvement on which bids are requested.

4. In general terms when the work must be commenced and completed.

5. That each bidder shall accompany the bid with a bid security as defined in section 38.8 and as specified by the governmental entity.

6. Any further information which the governmental entity deems pertinent.

The notice to bidders may provide that bids will be received for the furnishing of all labor and materials and furnishing or installing equipment under one contract, or for parts thereof in separate sections.

On public improvements to be financed wholly or partially by special assessments against benefited property, the governmental entity, in the notice to bidders, may request aggregate bids for all projects included in any resolution of necessity, notwithstanding variations in the sizes of the improvements and notwithstanding that some parts of the improvements are assessable and some nonassessable, and may award the contract to the lowest responsive, responsible bidder submitting the lowest aggregate bid.

Sec. 8. NEW SECTION. 38.8 BID SECURITY.

1. Each bidder shall accompany its bid with a bid security as security that the successful bidder will enter into a contract for the work bid upon and will furnish after the award of contract a corporate surety bond, acceptable to the governmental entity, for the faithful performance of the contract, in an amount equal to one hundred percent of the amount of the contract. The bid security shall be in an amount fixed by the governmental entity, and shall be in the form of a cashier's check or certified check drawn on a state-chartered or federally chartered bank, or a certified share draft drawn on a state-chartered or federally chartered credit union, or the governmental entity may provide for a bidder's bond with corporate surety satisfactory to the governmental entity. The bid bond shall contain no conditions except as provided in this section.

2. The governmental entity shall fix the amount of bid security prior to ordering publication of the notice to bidders and such amount must equal at least five percent, but shall not exceed ten percent of either the estimated total contract cost of the public improvement, or the amount of each bid.

Sec. 9. NEW SECTION. 38.9 AWARD OF CONTRACT.

The contract for the public improvement must be awarded to the lowest responsive, responsible bidder. However, contracts relating to public utilities or extensions or improvements thereof, as described in sections 384.80 through 384.94, may be awarded by the city as it deems to be in the best interests of the city. This section shall not be construed to prohibit a governmental entity in the award of a contract for a public improvement or a governing body of a city utility from providing, in the award of a contract for a public improvement, an enhancement of payments upon early completion of the public improvement if the availability of the enhancement payments is included in the notice to bidders, the enhancement payments are competitively neutral to potential bidders, the enhancement payments are considered as a separate item in the public hearing on the award of contract, and the total value of the enhancement payments does not exceed ten percent of the value of the contract.

Sec. 10. NEW SECTION. 38.10 OPENING AND CONSIDERING BIDS.

The governmental entity shall open, announce the amount of the bids, and file all proposals received, at the time and place specified in the notice to bidders. The governmental entity may, by resolution, award the contract for the public improvement to the bidder submitting the lowest responsive, responsible bid, determined as provided in section 38.9, or the governmental entity may reject all bids received, fix a new date for receiving bids, and order publication of a new notice to bidders. The governmental entity shall retain the bid security furnished by the successful bidder until the approved contract form has been executed, and a bond filed by the bidder guaranteeing the performance of the contract, and the contract and bond, have been approved by the governmental entity. The provisions of chapter 573, where applicable, apply to contracts awarded under this chapter.

The governmental entity shall promptly return the checks or bidder's bonds of unsuccessful

bidders to the bidders as soon as the successful bidder is determined or within thirty days whichever is sooner.

Sec. 11. NEW SECTION. 38.11 DELEGATION OF AUTHORITY.

When bids are required for any public improvement, the governmental entity may delegate, by motion, resolution, or policy to the city manager, clerk, engineer, or other public officer, as applicable, the duty of receiving and opening bids and announcing the results. The officer shall report the results of the bidding with the officer's recommendations to the next meeting of the governmental entity's governing body.

Sec. 12. NEW SECTION. 38.12 WHEN HEARING NECESSARY.

If the estimated total cost of a public improvement exceeds the competitive bid threshold in section 38.3, or as adjusted in section 314.1B, the governmental entity shall not enter into a contract for the public improvement until the governmental entity has held a public hearing and has approved the proposed plans, specifications, and form of contract, and estimated total cost of the public improvement. Notice of the hearing must be published as provided in section 362.3. At the hearing any interested person may appear and file objections to the proposed plans, specifications, contract, or estimated cost of the public improvement. After hearing objections, the governmental entity shall by resolution enter its decision on the plans, specifications, contract, and estimated cost. This section does not apply to the state.

Sec. 13. NEW SECTION. 38.13 EARLY RELEASE OF RETAINED FUNDS.

Payments made by a governmental entity or the state department of transportation for the construction of public improvements and highway, bridge, or culvert projects shall be made in accordance with the provisions of chapter 573, except as provided in this section. For purposes of this section, "department" means the state department of transportation.

1. At any time after all or any part of the work on the public improvement or highway, bridge, or culvert project is substantially completed, the contractor may request the release of all or part of the retained funds owed. The request shall be accompanied by a sworn statement of the contractor that, ten calendar days prior to filing the request, notice was given as required by subsection 7 to all known subcontractors, sub-subcontractors, and suppliers.

2. Except as provided under subsection 3, upon receipt of the request, the governmental entity or the department shall release all or part of the retained funds. Retained funds that are approved as payable shall be paid at the time of the next monthly payment or within thirty days, whichever is sooner. If partial retained funds are released pursuant to a contractor's request, no retained funds shall be subsequently held based on that portion of the work. If within thirty days of when payment becomes due the governmental entity or the department does not release the retained funds due, interest shall accrue on the amount of retained funds at the rate of interest that is calculated as the prime rate plus one percent per year as of the day interest begins to accrue until the amount is paid.

3. If at the time of the request for the release of the retained funds labor or materials are yet to be provided, an amount equal to two hundred percent of the value of the labor or materials yet to be provided, as determined by the governmental entity's or the department's authorized contract representative, may be withheld until such labor or materials are provided. For purposes of this section, "authorized contract representative" means the person chosen by the governmental entity or the department to represent its interests or the person designated in the contract as the party representing the governmental entity's or the department's interest regarding administration and oversight of the project.

4. An itemization of the labor or materials yet to be provided, or the reason that the request for release of retained funds is denied, shall be provided to the contractor in writing within thirty calendar days of the receipt of the request for release of retained funds.

5. For purposes of this section, "substantially completed" means the first date on which any of the following occurs:

a. Completion of the public improvement project or the highway, bridge, or culvert project

or when the work on the public improvement or the highway, bridge, or culvert project has been substantially completed in general accordance with the terms and provisions of the contract.

b. The work on the public improvement or on the designated portion is substantially completed in general accordance with the terms of the contract so that the governmental entity or the department can occupy or utilize the public improvement or designated portion of the public improvement for its intended purpose. This paragraph shall not apply to highway, bridge, or culvert projects.

c. The public improvement project or the highway, bridge, or culvert project is certified as having been substantially completed by either of the following:

(1) The architect or engineer authorized to make such certification.

(2) The authorized contract representative.

d. The governmental entity or the department is occupying or utilizing the public improvement for its intended purpose. This paragraph shall not apply to highway, bridge, or culvert projects.

6. The contractor shall release retained funds to the subcontractor or subcontractors in the same manner as retained funds are released to the contractor by the governmental entity or the department. Each subcontractor shall pass through to each lower tier subcontractors all retained fund payments from the contractor.

7. Prior to applying for release of retained funds, the contractor shall send a notice to all known subcontractors, sub-subcontractors, and suppliers that provided labor or materials for the public improvement project or the highway, bridge, or culvert project. The notice shall be substantially similar to the following:

"NOTICE OF CONTRACTOR'S REQUEST FOR EARLY RELEASE OF RETAINED FUNDS

You are hereby notified that [name of contractor] will be requesting an early release of funds on a public improvement project or a highway, bridge, or culvert project designated as [name of project] for which you have or may have provided labor or materials. The request will be made pursuant to Iowa Code section 38.13. The request may be filed with the [name of governmental entity or department] after ten calendar days from the date of this notice. The purpose of the request is to have [name of governmental entity or department] release and pay funds for all work that has been performed and charged to [name of governmental entity or department] as of the date of this notice. This notice is provided in accordance with Iowa Code section 38.13."

Sec. 14. NEW SECTION. 38.14 COMPETITIVE QUOTATIONS FOR PUBLIC IMPROVEMENT CONTRACTS.

1. Competitive quotations shall be required for a public improvement having an estimated total cost that exceeds the amount provided in this section, but is less than the competitive bid threshold established in section 38.3.

2. Unless the threshold amount is adjusted pursuant to section 314.1B, the competitive quotation threshold shall be as follows:

a. Sixty-seven thousand dollars for a county, including a county hospital.

b. Fifty-one thousand dollars for a city having a population of fifty thousand or more.

c. Fifty-one thousand dollars for a school district having a population of fifty thousand or more.

d. Fifty-one thousand dollars for an aviation authority created within a city having a population of fifty thousand or more.

e. Thirty-six thousand dollars for a city having a population of less than fifty thousand, for a school district having a population of less than fifty thousand, and for any other governmental entity.

f. The threshold amount applied to a city applies to a city hospital.

3. a. When a competitive quotation is required, the governmental entity shall make a good faith effort to obtain quotations for the work from at least two contractors regularly engaged in such work prior to letting a contract. Quotations may be obtained from contractors after

the governmental entity provides a description of the work to be performed, including the plans and specifications prepared by an architect or engineer, if required under chapter 542B or 544A, and an opportunity to inspect the work site. The contractor shall include in the quotation the price for labor, materials, equipment, and supplies required to perform the work. If the work can be performed by an employee or employees of the governmental entity, the governmental entity may file a quotation for the work to be performed in the same manner as a contractor.

b. The governmental entity shall designate the time, place, and manner for filing quotations, which may be received by mail, facsimile, or electronic mail. The governmental entity shall record the approved quotation in meeting minutes. Quotations approved outside a meeting of the governing body of a governmental entity shall be included in the minutes of the next meeting of the governing body. The governmental entity shall award the contract to the contractor submitting the lowest responsive, responsible quotation subject to section 38.9, or the governmental entity may reject all of the quotations.

c. If a public improvement may be performed by an employee of the governmental entity, the amount of estimated sales and fuel tax which a contractor identifies in its quotation shall be deducted from the contractor's price for determining the lowest responsible bidder. If no quotations are received to perform the work, or if the governmental entity's estimated cost to do the work with its employee is less than the lowest responsive, responsible quotation received, the governmental entity may authorize its employee or employees to perform the work.

Sec. 15. NEW SECTION. 38.15 STRUCTURE DEMOLITION PROJECT.

A governmental entity may enter into annual contracts with multiple contractors for structure demolition projects, with each project having a total estimated cost of one hundred thousand dollars or less, or each project having a total estimated cost equal to or less than the competitive bid threshold as established in section 314.1B. The governmental entity shall solicit contractors by publishing a notice as provided in section 362.3. A contractor is eligible to perform structure demolition work for the governmental entity after the contractor executes an annual demolition contract in a form satisfactory to the governmental entity, including a bond and insurance. For the twelve-month period following execution of the contract or contracts, the governmental entity may obtain competitive proposals from each eligible contractor as necessary for the demolition of structures. The contractor submitting the lowest responsible proposal shall enter into a contract addendum to perform the work.

Sec. 16. Section 8A.311, subsection 10, paragraph a, Code Supplement 2005, is amended to read as follows:

a. When the estimated total cost of construction, erection, demolition, alteration, or repair of a public improvement exceeds ~~twenty-five thousand dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B, the department shall ~~solicit bids on the proposed improvement by publishing an advertisement in a print format. The advertisement shall appear in two publications in a newspaper published in the county in which the work is to be done. The first advertisement for bids appearing in a newspaper shall be not less than fifteen days prior to the date set for receiving bids. The department may publish an advertisement in an electronic format as an additional method of soliciting bids under this paragraph~~ comply with chapter 38.

Sec. 17. Section 28J.9, subsection 18, paragraph b, Code Supplement 2005, is amended to read as follows:

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~~ the competitive bid threshold in section 38.3, or as established in section 314.1B, 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 news-

paper 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.

Sec. 18. Section 35A.10, subsections 2 and 3, Code 2005, are amended to read as follows:

2. The commandant and the commission shall have plans and specifications prepared by the department of administrative services for authorized construction, repair, or improvement projects in excess of ~~twenty-five thousand dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B. An appropriation for a project shall not be expended until the department of administrative services has adopted plans and specifications and has completed a detailed estimate of the cost of the project, prepared under the supervision of a registered architect or registered professional engineer.

3. The director of the department of administrative services shall, in writing, let all contracts for authorized improvements in excess of ~~twenty-five thousand dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B in accordance with chapter 8A, subchapter III, and chapter 38. The director of the department of administrative services shall not authorize payment for construction purposes until satisfactory proof has been furnished by the proper officer or supervising architect that the parties have complied with the contract.

Sec. 19. Section 73A.1, subsection 2, Code Supplement 2005, is amended to read as follows:

2. "Municipality" as used in this chapter means township~~, school corporation, and~~ or the state fair board.

Sec. 20. Section 73A.2, Code 2005, is amended to read as follows:

73A.2 NOTICE OF HEARING.

Before any municipality shall enter into any contract for any public improvement to cost ~~twenty-five thousand dollars or more~~ in excess of the competitive bid threshold in section 38.3, or as established in section 314.1B, the governing body proposing to make the contract shall adopt proposed plans and specifications and proposed form of contract, fix a time and place for hearing at the municipality affected or other nearby convenient place, and give notice by publication in at least one newspaper of general circulation in the municipality at least ten days before the hearing.

Sec. 21. Section 73A.18, Code 2005, is amended to read as follows:

73A.18 WHEN BIDS REQUIRED — ADVERTISEMENT — DEPOSIT.

When the estimated total cost of construction, erection, demolition, alteration or repair of a public improvement exceeds ~~twenty-five thousand dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B, the municipality shall advertise for bids on the proposed improvement by two publications in a newspaper published in the county in which the work is to be done. The first advertisement for bids shall be not less than fifteen days prior to the date set for receiving bids. The municipality shall let the work to the lowest responsible bidder submitting a sealed proposal. However, if in the judgment of the municipality bids received are not acceptable, all bids may be rejected and new bids requested. A bid shall be accompanied, in a separate envelope, by a deposit of money or a certified check or credit union certified share draft in an amount to be named in the advertisement for bids as security that the bidder will enter into a contract for the doing of the work. The municipality shall fix the bid security in an amount equal to at least five percent, but not more than ten percent of the estimated total cost of the work. The checks, share drafts or deposits of money of the unsuccessful bidders shall be returned as soon as the successful bidder is determined, and the check, share draft or deposit of money of the successful bidder shall be returned upon execution of the contract documents. ~~This section does not apply to the construction, erection, demolition,~~

~~alteration or repair of a public improvement when the contracting procedure for the doing of the work is provided for in another provision of law.~~

Sec. 22. Section 161C.2, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. Any work project with an estimated cost ~~of twenty-five thousand dollars or more~~ in excess of the competitive bid threshold in section 38.3, or as established in section 314.1B shall be undertaken as a public contract as provided in chapters 73A and 573. The local contracting organization shall designate a contracting officer and shall establish procedures to manage the contract, approve bills for payment, and review proposed change orders or amendments to the contract.

Sec. 23. Section 218.58, subsections 2 through 4, Code 2005, are amended to read as follows:

2. The director shall have plans and specifications prepared by the department of administrative services for authorized construction, repair, or improvement projects costing over ~~twenty-five thousand dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B. An appropriation for a project shall not be expended until the department of administrative services has adopted plans and specifications and has completed a detailed estimate of the cost of the project, prepared under the supervision of a registered architect or registered professional engineer. Plans and specifications shall not be adopted and a project shall not proceed if the project would require an expenditure of money in excess of the appropriation.

3. The department of administrative services shall comply with the competitive bid procedures in chapter 38 to let all contracts under chapter 8A, subchapter III, for authorized construction, repair, or improvement of departmental buildings, grounds, or equipment.

4. If the director of the department of human services and the director of the department of administrative services determine that emergency repairs or improvements estimated to cost more than ~~twenty-five thousand dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B are necessary to assure the continued operation of a departmental institution, the requirements of subsections 2 and 3 for preparation of plans and specifications and competitive procurement procedures are waived. A determination of necessity for waiver by the director of the department of human services and the director of the department of administrative services shall be in writing and shall be entered in the project record for emergency repairs or improvements. Emergency repairs or improvements shall be accomplished using plans and specifications and competitive ~~procurement~~ quotation or bid procedures, as applicable, to the greatest extent possible, considering the necessity for rapid completion of the project. A waiver of the requirements of subsections 2 and 3 does not authorize an expenditure in excess of an amount otherwise authorized for the repair or improvement.[1]

Sec. 24. Section 262.34, subsection 4, Code Supplement 2005, is amended by striking the subsection and inserting in lieu thereof the following:

4. The contractor shall release retained funds to the subcontractor or subcontractors in the same manner as retained funds are released to the contractor by the board. Each subcontractor shall pass through to each lower tier subcontractors all retained fund payments from the contractor.

Sec. 25. Section 297.7, subsection 1, Code 2005, is amended to read as follows:

1. ~~Sections 73A.2 and 73A.18 are~~ Chapter 38 is applicable to the construction and repair of school buildings and other public improvements as defined in section 38.2.

Sec. 26. Section 297.8, Code 2005, is amended to read as follows:

297.8 EMERGENCY REPAIRS.

When emergency repairs costing more than ~~twenty-five thousand dollars~~ the competitive

[1] See chapter 1185, §127 herein

bid threshold in section 38.3, or as established in section 314.1B are necessary in order to prevent the closing of any school, the provisions of the law with reference to advertising for bids shall not apply, and in that event the board may contract for such emergency repairs without advertising for bids. However, before such emergency repairs can be made to any schoolhouse, it shall be necessary to procure a certificate from the area education agency administrator that such emergency repairs are necessary to prevent the closing of the school.

Sec. 27. Section 314.1, subsection 2, Code 2005, is amended to read as follows:

2. Notwithstanding any other provision of law to the contrary, a public improvement that involves the construction, reconstruction, or improvement of a highway, bridge, or culvert and that has a cost in excess of the applicable threshold in section 73A.18, 262.34, 297.7, 309.40, 310.14, or 313.10, ~~or 384.96,~~ as modified by the bid threshold subcommittee pursuant to section 314.1B, shall be advertised and let for bid, except such public improvements that involve emergency work pursuant to section 309.40A, 313.10, ~~384.95,~~ or 384.103, subsection 2. However, a public improvement that has an estimated total cost to a city in excess of a threshold of fifty thousand dollars, as modified by the bid threshold subcommittee pursuant to section 314.1B, and that involves the construction, reconstruction, or improvement of a highway, bridge, or culvert that is under the jurisdiction of a city with a population of more than fifty thousand, shall be advertised and let for bid.[2]

Sec. 28. Section 314.1A, Code 2005, is amended to read as follows:

314.1A DETAILED COST ACCOUNTINGS BY CITIES AND COUNTIES — RULES.

1. The department shall adopt rules prescribing the manner by which cities and counties shall provide a detailed cost accounting under section 309.93 or 312.14, of all instances of the use of day labor or public or private contracts for construction, reconstruction, or improvement projects ~~on highways~~ of a highway, bridge, or culvert within their jurisdiction.

2. The department shall adopt rules prescribing the manner by which governmental entities, as defined in section 38.2, shall administer section 38.14 concerning public improvement quotations.

3. The rules shall include definitions concerning types of projects and uniform requirements and definitions that cities and counties under subsection 1 and governmental entities under subsection 2 shall use in determining costs for such projects. The department shall establish ~~an~~ horizontal and vertical infrastructure advisory ~~committee~~ committees composed of representatives of public sector agencies, private sector vertical and horizontal contractor organizations, and certified public employee collective bargaining organizations to make recommendations for such rules.

Sec. 29. Section 314.1B, Code 2005, is amended to read as follows:

314.1B BID THRESHOLD SUBCOMMITTEE[3] — ADJUSTMENTS — NOTICE.

1. HORIZONTAL INFRASTRUCTURE.

a. The director of the department shall appoint, from the members of the appropriate advisory committee established under section 314.1A, a horizontal infrastructure bid threshold subcommittee for highway, bridge, or culvert projects. The subcommittee shall consist of seven members, three of whom shall be representatives of ~~local public sector agencies~~ cities and counties, three of whom shall be representatives of private sector contractor organizations, and with the remaining member being the director or the director's designee, who shall serve as chairperson of the subcommittee. A vacancy in the membership of the subcommittee shall be filled by the director.

~~2. a.~~ b. The subcommittee shall review the competitive bid thresholds applicable to city and county highway, bridge, and culvert projects. The subcommittee shall review price adjustments for all types of city and county highway, bridge, and culvert construction, reconstruction, and improvement projects, based on changes in the construction price index from the preceding year. Upon completion of the review the subcommittee may make adjustments in the applicable bid thresholds for types of work based on the price adjustments.

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[2] See chapter 1185, §80 herein

[3] The word "SUBCOMMITTEES" probably intended

~~b.~~ c. A bid threshold, under this subsection, shall not be adjusted to an amount that is less than the bid threshold applicable to a city or county on July 1, ~~2002~~ 2006, as provided in section 73A.18, 309.40, 310.14, or 314.1~~, or 384.96~~. An adjusted bid threshold shall take effect as provided in subsection 3, and shall remain in effect until a new adjusted bid threshold is established and becomes effective as provided in this section.

2. VERTICAL INFRASTRUCTURE.

a. The director of the department shall appoint, from the members of the appropriate advisory committee established under section 314.1A, a vertical infrastructure bid threshold subcommittee for public improvements as defined in section 38.2. The subcommittee shall consist of seven members, three of whom shall be representatives of governmental entities as defined in section 38.2, three of whom shall be representatives of private sector vertical infrastructure contractor organizations, and with the remaining member being the director or the director's designee, who shall serve as chairperson of the subcommittee. A vacancy in the membership of the subcommittee shall be filled by the director.

b. The subcommittee appointed under this subsection shall review the competitive bid thresholds applicable to governmental entities under chapter 38. The subcommittee shall review price adjustments for all types of construction, reconstruction, and public improvement projects based on the changes in the construction price index, building cost index, and material cost index from the preceding year. Upon completion of the review the subcommittee may make adjustments in the applicable bid thresholds for types of work based on the price adjustments.

c. The subcommittee shall not make an initial adjustment to the competitive bid threshold in section 38.3 to be effective prior to January 1, 2012. Thereafter, the subcommittee shall adjust the bid threshold amount in accordance with subsection 3 but shall not adjust the bid threshold to an amount less than the bid threshold applicable to a governmental entity on January 1, 2007.

d. Beginning July 1, 2006, the subcommittee shall make adjustments to the competitive quotation threshold in section 38.14 for vertical infrastructure in accordance with adjustments made by the horizontal infrastructure subcommittee under subsection 1 applicable to city and county highway, bridge, and culvert projects.

3. REVIEW — PUBLICATION. ~~The~~ Each subcommittee shall meet to conduct the review and make the adjustments described in this section on or before August 1 of every other year, or of every year if determined necessary by the subcommittee~~, with the first meeting occurring on or before August 1, 2002~~. By September 1 of each year in which ~~the~~ a subcommittee makes adjustments in the bid or quotation thresholds, the director shall cause an advisory notice to be published in the Iowa administrative bulletin and in a newspaper of general circulation in this state, stating the adjusted bid and quotation thresholds to be in effect on January 1 of the following year, as established by the ~~subcommittee~~ subcommittees under this section.

Sec. 30. Section 330A.12, Code 2005, is amended to read as follows:

330A.12 AWARD OF CONTRACT.

All contracts entered into by an authority for the construction, reconstruction, and improvement of aviation facilities shall be entered into pursuant to and shall comply with the competitive bid procedures in chapter ~~73A~~ 38. However, where an authority determines an emergency exists, it may enter into contracts obligating the authority for not in excess of ~~twenty-five thousand dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B per emergency without regard to the requirements of chapter ~~73A~~ 38 and the authority may proceed with the necessary action as expeditiously as possible to the extent necessary to resolve such emergency.

Sec. 31. Section 331.341, subsections 1 and 2, Code 2005, are amended to read as follows:

1. When the estimated total cost of a public improvement, other than improvements which may be paid for from the secondary road fund, exceeds the ~~amount specified in section 309.40~~ competitive bid threshold in section 38.3, or as established in section 314.1B, the board shall

follow the ~~contract letting~~ competitive bid procedures ~~provided~~ for ~~cities~~ governmental entities in ~~sections 384.95 to 384.103~~ chapter 38. ~~However, in following those sections the board shall substitute the word "county" for the word "city", section 331.305 for section 362.3, shall consider "governing body" to mean the board, and shall exclude references to a city utility, utility board of trustees, or public utilities.~~ As used in this section, "public improvement" means the same as defined in section ~~384.95~~ 38.2 as modified by this subsection.

2. The board shall give preference to Iowa products and labor in accordance with chapter 73 and shall comply with bid and contract requirements in ~~section 73.2~~ chapter 38.

Sec. 32. Section 331.341, subsection 4, Code 2005, is amended to read as follows:

4. If the contract price for a public improvement is ~~fifteen~~ twenty-five thousand dollars or more, the board shall require a contractor's bond in accordance with chapter 573.

Sec. 33. Section 357.14, unnumbered paragraph 2, Code 2005, is amended to read as follows:

When the completed plans and specifications are on file with the county auditor, and the estimated total cost of the project exceeds the competitive bid threshold in section 38.3, or as established in section 314.1B, the board of supervisors shall ~~advertise for bids and shall publish a notice once each week for two consecutive weeks in some newspaper published in the county in which the improvement is to be constructed, setting forth the location and nature of the improvement and the date and place where bids will be received by the board~~ comply with the competitive bid procedures in chapter 38 for the construction of the project. ~~The last published notice to bidders shall be at least seven days before the time set for receiving bids. Bidders shall be required to submit certified checks or credit union certified share drafts for five percent of the amount of the bid.~~

Sec. 34. Section 357A.12, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The procedures for ~~contract letting~~ competitive bidding specified in ~~sections 384.95 through 384.102~~ chapter 38 and for emergency repairs as specified in section 384.103, subsection 2, shall apply to construction carried out pursuant to this chapter. ~~References in those sections to a city shall be applicable to a rural water district operating under this chapter, and references to a city council shall be applicable to the board of directors of a rural water district.~~

Sec. 35. Section 364.4, subsection 4, paragraph i, Code 2005, is amended to read as follows:

i. A contract for construction by a private party of property to be leased or lease-purchased by a city is not a contract for a public improvement under section ~~384.95, subsection 1, except for purposes of section 384.102~~ 38.2, subsection 3, except for purposes of section 38.12. However, if a lease-purchase contract is funded in advance by means of the lessor depositing moneys to be administered by a city, with the city's obligations to make rent payments commencing with its receipt of moneys, a contract for construction of the property in question awarded by the city is subject to ~~division VI of~~ chapter ~~384~~ 38.

Sec. 36. Section 384.20, unnumbered paragraph 3, Code 2005, is amended to read as follows:

"Continuing appropriation" means the unexpended portion of the cost of public improvements, as defined in section ~~384.95~~ 38.3, which cost was adopted through a public hearing pursuant to section ~~384.102~~ 38.12 and was included in an adopted or amended budget of a city. A continuing appropriation does not expire at the conclusion of a fiscal year. A continuing appropriation continues until the public improvement is completed, but expenditures under the continuing appropriation shall not exceed the resources available for paying for the public improvement.

Sec. 37. Section 384.103, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

In that event the governing body may contract for emergency repairs without holding a pub-

lic hearing and advertising for bids, and the provisions of ~~sections 384.96 to 384.102,~~ chapter 38 do not apply.

Sec. 38. Section 390.3, unnumbered paragraph 2, Code 2005, is amended to read as follows:

However, in the performance of a joint agreement, the governing body is not subject to statutes generally applicable to public contracts, including hearings on plans, specifications, form of contracts, costs, notice and competitive bidding required under ~~sections 384.95 through~~ chapter 38 and section 384.103, unless all parties to the joint agreement are cities located within the state of Iowa.

Sec. 39. Section 904.314, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The director shall cause plans and specifications to be prepared by the department of administrative services for all improvements authorized and costing over ~~twenty-five thousand dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B. An appropriation for any improvement costing over ~~twenty-five thousand dollars~~ the competitive bid threshold in section 38.3, or as established in section 314.1B, shall not be expended until the adoption of suitable plans and specifications, prepared by a competent architect or engineer and accompanied by a detailed statement of the amount, quality, and description of all material and labor required for the completion of the improvement.

Sec. 40. Section 904.315, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The director of the department of administrative services shall, in writing, let all contracts for authorized improvements ~~costing in excess of twenty-five thousand dollars~~ under chapter 8A, subchapter III, costing in excess of the competitive bid threshold in section 38.3, or as established in section 314.1B. Upon prior authorization by the director, improvements costing five thousand dollars or less may be made by the superintendent of any institution.

Sec. 41. Sections 384.95 through 384.102, Code 2005, are repealed.

Sec. 42. EFFECTIVE DATE. Sections 24, 28, and 29 of this Act take effect upon enactment and the remainder of this Act takes effect January 1, 2007.

Sec. 43. APPLICABILITY DATE. This Act applies to public improvement contracts governed by chapter 38 and entered into on or after January 1, 2007.

Approved March 29, 2006

CHAPTER 1018

CLAIMS AGAINST REGIONAL TRANSIT DISTRICTS, COUNTIES, CITIES, AND CITY UTILITIES

S.F. 2194

AN ACT relating to county, city, and school board publication of allowed claims.

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

Section 1. Section 28M.4, subsection 8, Code Supplement 2005, is amended to read as follows:

8. Immediately following a regular or special meeting of a commission, the secretary of the commission shall prepare a condensed statement of the proceedings of the commission and cause the statement to be published not more than twenty days following the meeting in one or more newspapers which meet the requirements of section 618.14. The statement shall include a list of all claims allowed, showing the name of the person or firm making the claim, the reason for the claim, and the amount of the claim. If the reason for the claims is the same, two or more claims made by the same vendor, supplier, or claimant may be consolidated if the number of claims consolidated and the total consolidated claim amount are listed in the statement. However, the commission shall provide at its office upon request an unconsolidated list of all claims allowed. Salary claims must show the gross amount of the claim except that salaries paid to persons regularly employed by the commission, for services regularly performed by the persons, shall be published once annually showing the gross amount of the salary.

Sec. 2. Section 279.35, Code 2005, is amended to read as follows:

279.35 PUBLICATION OF PROCEEDINGS.

The proceedings of each regular, adjourned, or special meeting of the board, including the schedule of bills allowed, shall be published after the adjournment of the meeting in the manner provided in this section and section 279.36, and the publication of the schedule of the bills allowed shall include a list of claims allowed, including salary claims for services performed. The schedule of bills allowed may be published on a once monthly basis in lieu of publication with the proceedings of each meeting of the board. The list of claims allowed shall include the name of the person or firm making the claim, the purpose of the claim, and the amount of the claim. If the purpose for the claims is the same, two or more claims made by the same vendor, supplier, or claimant may be consolidated if the number of claims consolidated and the total consolidated claim amount are listed in the statement. ~~However, salaries~~ However, the board shall provide at its office upon request an unconsolidated list of all claims allowed. Salaries paid to individuals regularly employed by the district shall only be published annually and the publication shall include the total amount of the annual salary of each employee. The secretary shall furnish a copy of the proceedings to be published within two weeks following the adjournment of the meeting.

Sec. 3. Section 331.471, subsection 6, paragraph d, Code 2005, is amended to read as follows:

d. Immediately following a regular or special meeting of a commission, the secretary of the commission shall prepare a condensed statement of the proceedings of the commission and cause the statement to be published as provided in section 331.305. The statement shall include a list of all claims allowed, showing the name of the person or firm making the claim, the reason for the claim, and the amount of the claim. If the reason for the claims is the same, two or more claims made by the same vendor, supplier, or claimant may be consolidated if the number of claims consolidated and the total consolidated claim amount are listed in the statement. However, the commission shall provide at its office upon request an unconsolidated list of all claims allowed. Salary claims must show the gross amount of the claim except that salaries paid to persons regularly employed by the commission, for services regularly performed

by the persons shall be published once annually showing the gross amount of the salary. In counties having more than one hundred fifty thousand population the commission shall each month prepare in pamphlet form the statement required in this paragraph for the preceding month, and furnish copies to the public library, the daily and official newspapers of the county, the auditor, and to persons who apply at the office of the secretary, and the pamphlet shall constitute publication as required. Failure by the secretary to make publication is a simple misdemeanor.

Sec. 4. Section 349.18, Code 2005, is amended to read as follows:

349.18 SUPERVISORS' PROCEEDINGS — EACH PAYEE LISTED — PUBLICATION.

1. All proceedings of each regular, adjourned, or special meeting of a board of supervisors, including the schedule of bills allowed, shall be published immediately after the adjournment of the meeting~~, and the~~.

2. The publication of the schedule of the bills allowed shall include a list of all claims allowed, including salary claims for services performed, showing the name of the person or firm making the claim, the reason for the claim, and the amount of the claim, except that the publication of claims shall comply with the following:

a. The names of persons receiving relief shall not be published. ~~and salaries~~

b. The salaries paid to persons regularly employed by the county shall only be published annually showing the total amount of the annual salary.

c. If the reason for the claims is the same, two or more claims made by the same vendor, supplier, or claimant may be consolidated if the number of claims consolidated and the total consolidated claim amount are listed in the statement. However, the board shall provide at its office upon request an unconsolidated list of all claims allowed.

3. The county auditor shall furnish a copy of the proceedings to be published, within one week following the adjournment of the board.

Sec. 5. Section 372.13, subsection 6, Code 2005, is amended to read as follows:

6. Within fifteen days following a regular or special meeting of the council, the clerk shall cause the minutes of the proceedings of the council, including the total expenditure from each city fund, to be published in a newspaper of general circulation in the city. The publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the ~~claim~~ claims. The list of claims allowed shall show the name of the person or firm making the claim, the reason for the claim, and the amount of the claim. If the reason for the claims is the same, two or more claims made by the same vendor, supplier, or claimant may be consolidated if the number of claims consolidated and the total consolidated claim amount are listed in the statement. However, the city shall provide at its office upon request an unconsolidated list of all claims allowed. Matters discussed in closed session pursuant to section 21.3 shall not be published until entered on the public minutes. However, in cities having more than one hundred fifty thousand population the council shall each month print in pamphlet form a detailed itemized statement of all receipts and disbursements of the city, and a summary of its proceedings during the preceding month, and furnish copies to the city library, the daily newspapers of the city, and to persons who apply at the office of the city clerk, and the pamphlet shall constitute publication as required. Failure by the clerk to make publication is a simple misdemeanor. The provisions of this subsection are applicable in cities in which a newspaper is published, or in cities of two hundred population or over, but in all other cities, posting the statement in three public places in the city which have been permanently designated by ordinance is sufficient compliance with this subsection.

Sec. 6. Section 388.4, subsection 4, Code 2005, is amended to read as follows:

4. Immediately following a regular or special meeting of a utility board, the secretary shall prepare a condensed statement of the proceedings of the board and cause the statement to be published in a newspaper of general circulation in the city. The statement must include a list of all claims allowed, showing the name of the person or firm making the claim, the reason for the claim, and the amount of the claim. If the reason for the claims is the same, two or more

claims made by the same vendor, supplier, or claimant may be consolidated if the number of claims consolidated and the total consolidated claim amount are listed in the statement. However, the utility board shall provide at its office upon request an unconsolidated list of all claims allowed. Salary claims must show the gross amount of the claim except that salaries paid to persons regularly employed by the utility, for services regularly performed by them, must be published once annually showing the gross amount of the salary. In cities having more than one hundred fifty thousand population the utility board shall each month prepare in pamphlet form the statement herein required for the preceding month, and furnish copies to the city library, the daily newspapers of the city, the city clerk, and to persons who apply at the office of the secretary, and the pamphlet shall constitute publication as required. Failure by the secretary to make publication is a simple misdemeanor.

Approved April 6, 2006

CHAPTER 1019

PUBLICATION OF OFFICIAL NOTICES

S.F. 2207

AN ACT relating to the publication of official notices in English language newspapers.

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

Section 1. Section 618.1, Code 2005, is amended to read as follows:

618.1 PUBLICATIONS IN ENGLISH.

All notices, proceedings, and other matter whatsoever, required by law or ordinance to be published in a newspaper, shall be published only in the English language and in newspapers published ~~wholly~~ primarily in the English language.

Approved April 6, 2006

CHAPTER 1020

STATE EMPLOYEE SICK LEAVE

S.F. 2231

AN ACT concerning accrued sick leave and the conversion of sick leave for state employees.

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

Section 1. Section 70A.1, Code 2005, is amended to read as follows:

70A.1 SALARIES — PAYMENT — VACATIONS — SICK LEAVE — EDUCATIONAL LEAVE.

1. Salaries specifically provided for in an appropriation Act of the general assembly shall

be in lieu of existing statutory salaries, for the positions provided for in the Act, and all salaries, including longevity where applicable by express provision in the Code, shall be paid according to the provisions of chapter 91A and shall be in full compensation of all services, including any service on committees, boards, commissions or similar duty for Iowa government, except for members of the general assembly. A state employee on an annual salary shall not be paid for a pay period an amount which exceeds the employee's annual salary transposed into a rate applicable to the pay period by dividing the annual salary by the number of pay periods in the fiscal year. Salaries for state employees covered by the overtime payment provisions of the federal Fair Labor Standards Act shall be established on an hourly basis.

2. All employees of the state earn two weeks' vacation per year during the first year of employment and through the fourth year of employment, and three weeks' vacation per year during the fifth and through the eleventh year of employment, and four weeks' vacation per year during the twelfth year through the nineteenth year of employment, and four and four-tenths weeks' vacation per year during the twentieth year through the twenty-fourth year of employment, and five weeks' vacation per year during the twenty-fifth year and all subsequent years of employment, with pay. One week of vacation is equal to the number of hours in the employee's normal work week. Vacation allowances accrue according to chapter 91A as provided by the rules of the department of administrative services. The vacations shall be granted at the discretion and convenience of the head of the department, agency, or commission, except that an employee shall not be granted vacation in excess of the amount earned by the employee. Vacation leave earned under this ~~paragraph~~ subsection shall not be cumulated to an amount in excess of twice the employee's annual rate of accrual. The head of the department, agency, or commission shall make every reasonable effort to schedule vacation leave sufficient to prevent any loss of entitlements.

PARAGRAPH DIVIDED. If the employment of an employee of the state is terminated the provisions of chapter 91A relating to the termination apply.

If ~~said~~ the termination of employment ~~shall be~~ is by reason of the death of the employee, ~~such~~ the vacation allowance shall be paid to the estate of the deceased employee if ~~such~~ the estate ~~shall be~~ is opened for probate. If ~~no~~ an estate ~~be~~ is not opened, the allowance shall be paid to the surviving spouse, if any, or to the legal heirs if no spouse survives.

3. Payments authorized by this section shall be approved by the department subject to rules of the department of administrative services and paid from the appropriation or fund of original certification of the claim.

4. ~~Commencing July 1, 1979~~ Effective July 1, 2006, permanent full-time and permanent part-time employees of state departments, boards, agencies, and commissions~~, excluding employees covered under a collective bargaining agreement which provides otherwise,~~ shall accrue sick leave ~~at the rate of one and one-half days for each complete month of full-time employment~~ as provided in this subsection which shall be credited to the employee's sick leave account. The sick leave accrual rate for part-time employees shall be prorated to the accrual rate for full-time employees. The sick leave accrual rate for each complete month of full-time employment, excluding employees covered under a collective bargaining agreement which provides for a different rate of accrual, shall be as follows:

a. For employees of the state board of regents, one and one-half days.

b. For employees who are peace officers employed within the department of public safety or department of natural resources and who are not covered under a collective bargaining agreement, the rate shall be the same as the rate provided under the state police officers council collective bargaining agreement.

c. For all other employees, the rate shall be as follows:

(1) If the employee's accrued sick leave balance is seven hundred fifty hours or less, one and one-half days.

(2) If the employee's accrued sick leave balance is one thousand five hundred hours or less but more than seven hundred fifty hours, one day.

(3) If the employee's accrued sick leave balance is more than one thousand five hundred hours, one-half day.

5. Sick leave shall not accrue during any period of absence without pay. Employees may use accrued sick leave for physical or mental personal illness, bodily injury, medically related disabilities, including disabilities resulting from pregnancy and childbirth, or contagious disease, which result in any of the following:

~~1.~~ a. ~~Which require the~~ The employee's confinement~~,~~ is required.

~~2.~~ b. ~~Which render the~~ The employee is rendered unable to perform assigned duties~~, or~~.

~~3.~~ c. ~~When~~ The performance of assigned duties would jeopardize the employee's health or recovery.

6. ~~Separation from state employment shall cancel~~ Except as provided in section 70A.23, all unused accrued sick leave in an employee's sick leave account is canceled upon the employee's separation from state employment. However, if an employee is laid off and the employee is re-employed by any state department, board, agency, or commission within one year of the date of the layoff, accrued sick leave of the employee shall be restored.

7. State employees, excluding state board of regents' faculty members with nine-month appointments, and employees covered under a collective bargaining agreement negotiated with the public safety bargaining unit who are eligible for accrued vacation benefits and accrued sick leave benefits, who have accumulated thirty days of sick leave, and who do not use sick leave during a full month of employment may elect to ~~accrue~~ have up to one-half day of additional vacation added to the employee's accrued vacation account. The ~~accrual of~~ additional vacation time ~~by~~ added to an ~~employee~~ employee's accrued vacation account for not using sick leave during a month is in lieu of the accrual of ~~up to one and one-half days of~~ sick leave for that month. The amount of additional vacation for part-time employees shall be prorated to the amount of additional vacation authorized for full-time employees. The director of the department of administrative services may adopt the necessary rules and procedures for the implementation of this program for all state employees except employees of the state board of regents. The state board of regents may adopt necessary rules for the implementation of this program for its employees.

8. The head of any department, agency, or commission, subject to rules of the department of administrative services, may grant an educational leave to employees for whom the head of the department, agency, or commission is responsible pursuant to section 70A.25 and funds appropriated by the general assembly may be used for this purpose. The head of the department, agency, or commission shall notify the legislative council and the director of the department of administrative services of all educational leaves granted within fifteen days of the granting of the educational leave. If the head of a department, agency, or commission fails to notify the legislative council and the director of the department of administrative services of an educational leave, the expenditure of funds appropriated by the general assembly for the educational leave shall not be allowed.

9. A specific annual salary rate or annual salary adjustment commencing with a fiscal year shall commence on July 1 except that if a pay period overlaps two fiscal years, a specific annual salary rate or annual salary adjustment shall commence with the first day of a pay period as specified by the general assembly.

Sec. 2. Section 70A.23, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

70A.23 CREDIT FOR ACCRUED SICK LEAVE.

1. For purposes of this section:

a. "Eligible retirement system" means a retirement system authorized under chapter 97A or 97B, including the teachers insurance and annuity association-college retirement equities fund (TIAA-CREF).

b. "Eligible state employee" means a state employee eligible to receive retirement benefits under an eligible retirement system.

2. An eligible state employee, excluding an employee covered under a collective bargaining agreement which provides otherwise, who retires and has applied for retirement benefits under an eligible retirement system, or who dies while in active employment, shall be credited

with the number of accrued days of sick leave of the employee. The employee, or the employee's estate, shall receive a cash payment of the monetary value of the employee's accrued sick leave balance, not to exceed two thousand dollars. The value of the employee's accrued sick leave balance shall be calculated by multiplying the number of hours of accrued sick leave by the employee's regular hourly rate of pay at the time of retirement.

3. a. An eligible state employee, excluding an employee covered under a collective bargaining agreement which provides otherwise or an employee of the state board of regents, who retires and receives a payment as provided in subsection 2 shall be entitled to elect to have the employee's available remaining value of sick leave to be[1] used to pay the state share for the employee's continuation of state group health insurance coverage pursuant to the requirements of this subsection.

b. An eligible state employee's available remaining value of sick leave shall be calculated as follows:

(1) If the employee's accrued sick leave balance prior to payment as provided in subsection 2 is seven hundred fifty hours or less, sixty percent of the value of the remaining accrued sick leave balance.

(2) If the employee's accrued sick leave balance prior to payment as provided in subsection 2 is one thousand five hundred hours or less but more than seven hundred fifty hours, eighty percent of the value of the remaining accrued sick leave balance.

(3) If the employee's accrued sick leave balance prior to payment as provided in subsection 2 is more than one thousand five hundred hours, one hundred percent of the value of the remaining accrued sick leave balance.

c. An eligible state employee's available remaining value of sick leave shall be available to pay for that portion of the employee's state group health insurance premium that would otherwise be paid for by the state if the employee were still a state employee. The benefits provided for in this subsection have no cash value and are not transferable to any other person, including the retiree's spouse. Payment of state group health insurance premiums pursuant to this subsection continues until the earliest of when the eligible state employee's available remaining value of sick leave is exhausted, the employee otherwise becomes eligible for federal Medicare program benefits, or the employee dies. In addition, an employee electing benefits pursuant to this subsection who is reinstated or reemployed in a permanent full-time or permanent part-time position within state government forfeits any remaining benefits for payment of state group health insurance benefits, and such employee is not eligible for restoration of the unused sick leave accrued during the employee's prior employment with the state.

4. Notwithstanding any provision of this section to the contrary, peace officers employed within the department of public safety and the 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 negotiated under chapter 20 between the state and the state police officers council labor union for peace officers. In addition, an employee of the department of public safety or the department of natural resources who has earned benefits of payment of premiums under a collective bargaining agreement and who becomes a manager or supervisor and is no longer covered by the agreement shall not lose the benefits of payment of premiums earned while covered by the agreement. The payment shall be calculated by multiplying the number of hours of accumulated, unused sick leave by the employee's hourly rate of pay at the time of retirement.

Approved April 6, 2006

[1] See chapter 1185, §116 herein

CHAPTER 1021

OPERATION OF MOTOR VEHICLES — SAFETY-RELATED REGULATION

S.F. 2267

AN ACT relating to safe motor vehicle operation, including penalties for certain motor vehicle violations causing death or serious injury and classroom instruction for driver education courses.

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

Section 1. Section 321.178, subsection 1, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Instruction providing an awareness about sharing the road with bicycles and motorcycles. The instruction course shall be first approved by the state department of transportation. Instructional materials creating an awareness about sharing the road with bicycles and motorcycles shall also be distributed during the course of instruction.

Sec. 2. NEW SECTION. 321.482A VIOLATIONS RESULTING IN INJURY OR DEATH — ADDITIONAL PENALTIES.

Notwithstanding section 321.482, a person who is convicted of operating a motor vehicle in violation of section 321.275, subsection 4, section 321.297, 321.298, 321.299, 321.302, 321.303, 321.304, 321.305, 321.306, 321.307, 321.308, section 321.309, subsection 2, or section 321.311, 321.319, 321.320, 321.321, 321.322, 321.323, 321.323A, 321.324, 321.324A, 321.327, 321.329, or 321.333 causing serious injury to or death of another person may be subject to the following penalties in addition to the penalty provided for a scheduled violation in section 805.8A or any other penalty provided by law:

1. For a violation causing serious injury, a fine of five hundred dollars or suspension of the violator's driver's license or operating privileges for not more than ninety days, or both. For purposes of this subsection, "serious injury" means the same as defined in section 702.18.

2. For a violation causing death, a fine of one thousand dollars or suspension of the violator's driver's license or operating privileges for not more than one hundred eighty days, or both.

Approved April 6, 2006

CHAPTER 1022

GOVERNMENT VEHICLE REGISTRATION PLATES — OFF-SITE OR IN-HOME MEDICAL OR MENTAL HEALTH SERVICES PROVIDERS

S.F. 2289

AN ACT relating to identification of publicly owned motor vehicles used by persons who provide off-site or in-home medical or mental health services.

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

Section 1. Section 321.19, subsection 1, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

The department shall furnish, on application, free of charge, distinguishing plates for vehi-

cles thus exempted, which plates except plates on state patrol vehicles shall bear the word "official" and the department shall keep a separate record. Registration plates issued for state patrol vehicles, except unmarked patrol vehicles, shall bear two red stars on a yellow background, one before and one following the registration number on the plate, which registration number shall be the officer's badge number. Registration plates issued for county sheriff's patrol vehicles shall display one seven-pointed gold star followed by the letter "S" and the call number of the vehicle. However, the director of the department of administrative services or the director of transportation may order the issuance of regular registration plates for any exempted vehicle used by peace officers in the enforcement of the law, persons enforcing chapter 124 and other laws relating to controlled substances, persons in the department of justice, the alcoholic beverages division of the department of commerce, disease investigators of the Iowa department of public health, the department of inspections and appeals, and the department of revenue, who are regularly assigned to conduct investigations which cannot reasonably be conducted with a vehicle displaying "official" state registration plates, persons in the Iowa lottery authority whose regularly assigned duties relating to security or the carrying of lottery tickets cannot reasonably be conducted with a vehicle displaying "official" registration plates, ~~and~~ persons in the department of economic development who are regularly assigned duties relating to existing industry expansion or business attraction, and mental health professionals or health care professionals who provide off-site or in-home medical or mental health services to clients of publicly funded programs. For purposes of sale of exempted vehicles, the exempted governmental body, upon the sale of the exempted vehicle, may issue for in-transit purposes a pasteboard card bearing the words "Vehicle in Transit", the name of the official body from which the vehicle was purchased, together with the date of the purchase plainly marked in at least one-inch letters, and other information required by the department. The in-transit card is valid for use only within forty-eight hours after the purchase date as indicated on the bill of sale which shall be carried by the driver.

Approved April 6, 2006

CHAPTER 1023

INVESTMENT OF PUBLIC FUNDS

H.F. 537

AN ACT relating to the investment of public funds by the treasurer of state, state agencies, and political subdivisions including the investment of public funds not covered by federal deposit insurance in certificates of deposit.

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

Section 1. Section 12B.10, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The treasurer of state and the treasurer of each political subdivision shall at all times keep funds coming into their possession as public money in a vault or safe to be provided for that purpose or in one or more depositories approved pursuant to chapter 12C. However, the treasurer of state, state agencies authorized to invest public funds, and ~~the treasurer of each~~ political ~~subdivision~~ subdivisions shall invest, unless otherwise provided, any public funds not currently needed in investments authorized by this section.

Sec. 2. Section 12B.10, subsection 4, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Investments authorized under subsection 7.

Sec. 3. Section 12B.10, subsection 5, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Investments authorized under subsection 7.

Sec. 4. Section 12B.10, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 7. Notwithstanding sections 12C.2, 12C.4, 12C.6, 12C.6A, and any other provision of law relating to the deposits of public funds, if public funds are deposited in a depository, as defined in section 12C.1, any uninsured portion of the public funds invested through the depository may be invested in certificates of deposit arranged by the depository that are issued by one or more federally insured banks or savings associations regardless of location for the account of the public funds depositor if all of the following requirements are satisfied:

a. The full amount of the principal and any accrued interest of each certificate of deposit issued shall be covered by federal deposit insurance.

b. The depository, either directly or through an agent or subcustodian, shall act as custodian of the certificates of deposit.

c. The day the certificates of deposit are issued, the depository shall have received deposits in an amount eligible for federal deposit insurance from, and issued certificates of deposit to, customers of other financial institutions wherever located that are equal to or greater than the amount of public funds invested under this subsection by the public funds depositor through the depository.

NEW SUBSECTION. 8. As used in this section, "public funds" means the same as defined in section 12C.1, subsection 2.

Sec. 5. Section 12C.22, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The amount of the collateral required to be pledged by a bank shall at all times equal or exceed the total of the amount by which the public funds deposits in the bank exceeds the total capital of the bank. For purposes of this section, deposits that comply with section 12B.10, subsection 7, that are evidenced either by one or more certificates of deposit, or one or more orders for the next business day settlement and issuance of certificates of deposit, by a federally insured bank or savings association other than the depository, shall not be deemed public fund[1] deposits in the bank or savings association. For purposes of this chapter, unless the context otherwise requires, "total capital of the bank" means its tier one capital plus both of the following components of tier two capital:

Sec. 6. Section 12C.23A, subsection 3, paragraph d, Code 2005, is amended to read as follows:

d. If the loss of public funds is not covered by federal deposit insurance and the proceeds of the closed bank's assets that are liquidated within thirty days of the closing of the bank are not sufficient to cover the loss, then any further payments to cover the loss will come from the state sinking fund for public deposits in banks. If the balance in that sinking fund is inadequate to pay the entire loss, then the treasurer shall obtain the additional amount needed by making an assessment against other banks whose public funds deposits exceed federal deposit insurance coverage. A bank's assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors in the closed bank by a percentage that represents the assessed bank's proportional share of the total of uninsured public funds deposits held by all banks and all branches of out-of-state banks, based upon the average of the uninsured public funds of the assessed bank or branch of an out-of-state bank as of the end of the four calendar quarters prior to the date of closing of the closed bank and the average of the uninsured public funds in all banks and branches of out-of-state banks as of the end of the four calendar

[1] The word "funds" probably intended

quarters prior to the date of closing of the closed bank, excluding the amount of uninsured public funds held by the closed bank at the end of the four calendar quarters. Each bank shall pay its assessment to the treasurer of state within three business days after it receives notice of assessment. For purposes of this section, when calculating uninsured public funds, a bank shall include all deposits of customers of other financial institutions as permitted by section 12B.10, subsection 7.

Approved April 6, 2006

CHAPTER 1024

WAGE CLAIM REPRESENTATION IN RECEIVERSHIP
OR SEIZURE ACTIONS — LABOR COMMISSIONER

H.F. 2505

AN ACT authorizing the labor commissioner to represent laborers or employees seeking wage claims in pending receivership or seizure actions and providing an applicability date.

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

Section 1. NEW SECTION. 626.76 LABOR COMMISSIONER TO REPRESENT.
The labor commissioner, appointed pursuant to section 91.2, may, at the labor commissioner's discretion, represent laborers or employees seeking payment for labor or wage claims from the receiver, trustee, or assignee, or the court, or the person charged with the property, in accordance with and subject to the provisions of sections 626.69 and 626.71.

Sec. 2. APPLICABILITY. This Act is applicable to all labor or wage claims in receivership or seizure actions pending on or after the effective date of this Act.

Approved April 6, 2006

CHAPTER 1025

LABOR OR WAGE CLAIMS IN RECEIVERSHIP
OR SEIZURE ACTIONS — PRIORITY

H.F. 2507

AN ACT relating to priority of labor or wage claims over other debts when an employer's property is placed in receivership or otherwise seized by creditors.

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

Section 1. Section 626.69, Code 2005, is amended to read as follows:
626.69 LABOR OR WAGE CLAIMS PREFERRED.
When the property of any company, corporation, firm, or person shall be seized upon by any

process of any court, or placed in the hands of a receiver, trustee, or assignee, or ~~their property shall be~~ seized by the action of creditors, for the purpose of paying or securing the payment of the debts of such company, corporation, firm, or person, the debts, or wages as defined under section 91A.2, subsection 7, owing to all laborers or employees other than officers of such companies, for labor or work performed or services rendered within ~~the ninety days next~~ six months preceding the seizure or transfer of such property, ~~to an amount not exceeding one hundred dollars to each person,~~ shall be considered and treated as a preferred debt and paid in full, or if there ~~is not sufficient~~ are insufficient funds realized from such property to pay the same in full, then, after the payment of costs, ratably out of the ~~fund~~ funds remaining.

Sec. 2. Section 626.73, Code 2005, is amended to read as follows:

626.73 PRIORITY.

Claims of employees for labor or wages, if not contested, or if allowed after contest, shall have priority, unless otherwise stated in this chapter, over all claims against or liens upon such property, except prior mechanics' liens for labor in opening or developing coal mines as allowed by law.

Sec. 3. Section 680.7, subsection 3, Code 2005, is amended to read as follows:

3. Debts owing to employees for labor or work performed or services rendered as ~~defined by~~ provided in section 626.69.

Sec. 4. Section 680.8, Code 2005, is amended to read as follows:

680.8 NONAPPLICABILITY.

The provisions of section 680.7 shall not apply to the receivership of state banks, as defined in section 524.105, trust companies, or private banks, and in the receivership of such state banks and trust companies, or private banks, no such preference or priority shall be allowed as is provided in ~~said~~ the section except for labor or wage claims as provided by statute.

Approved April 6, 2006

CHAPTER 1026

CONDITIONAL STUDENT FISHING PERMITS

H.F. 2611

AN ACT authorizing the department of natural resources to issue a fishing permit to certain students.

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

Section 1. Section 483A.24, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 15. The department may issue a permit, subject to conditions established by the department, which authorizes a student sixteen years of age or older attending an Iowa public or accredited nonpublic school who is participating in the Iowa department of natural resources fish Iowa! basic spincasting module to fish without a license as part of a supervised school outing.

Approved April 6, 2006

CHAPTER 1027

DISPOSITION OF SEIZED CONTROLLED SUBSTANCES

H.F. 2696

AN ACT relating to the disposal of a controlled substance.

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

Section 1. NEW SECTION. 124.506A LARGE SEIZURE OF A CONTROLLED SUBSTANCE — EVIDENCE AND DISPOSAL.

1. Notwithstanding the provisions of section 124.506, if more than ten pounds of marijuana or more than one pound of any other controlled substance is seized in[1] violation of this chapter, the law enforcement agency responsible for retaining the seized controlled substance may destroy the seized controlled substance if the law enforcement agency retains at least ten pounds of the marijuana seized or at least one pound of any other controlled substance seized for evidence purposes.

2. Prior to the destruction of any controlled substance under this section, the law enforcement agency shall photograph the controlled substance to be destroyed with identifying case numbers or any other case identifiers and prepare a written report detailing any relevant information about the destruction of the controlled substance. At least thirty days prior to any destruction of a controlled substance, the law enforcement agency destroying the controlled substance shall notify in writing any person arrested in connection with the seizure, the attorney of the person if represented, and any other attorney of record including the prosecuting attorney, and the law enforcement agency that made the arrest if the agency is different than the law enforcement agency responsible for retaining the seized controlled substance, that the law enforcement agency is planning to photograph and destroy part of the controlled substance seized, and any person or agency notified may be present at the photographing of the controlled substance to be destroyed.

3. Any person or agency notified about the destruction of part of the controlled substance seized, or any other interested party, may file an application with the district court resisting the destruction of any of the controlled substance.

4. A rebuttable presumption is created that the portion of any controlled substance retained for representation purposes as evidence and all photographs and records made under this section and properly identified are admissible in any court proceeding for any purpose for which the destroyed controlled substance would have been admissible.

Approved April 6, 2006

[1] See chapter 1185, §119 herein

CHAPTER 1028

PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM — PURCHASE OF SERVICE CREDIT

S.F. 2199

AN ACT concerning the purchase of service under the Iowa department of public safety peace officers' retirement, accident, and disability system.

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

Section 1. NEW SECTION. 97A.10 PURCHASE OF ELIGIBLE SERVICE CREDIT.

1. For purposes of this section:

a. "Eligible qualified service" means as follows:

(1) Service with the department prior to July 1, 1994, in a position as a gaming enforcement officer, fire prevention inspector peace officer, or as an employee of the division of capitol police except clerical workers.

(2) Service as a member of a city fire retirement system or police retirement system operating under chapter 411 prior to January 1, 1992, for which service was not eligible to be transferred to this system pursuant to section 97A.17.

Eligible qualified service under this paragraph "a" does not include service if the receipt of credit for such service would result in the member receiving a retirement benefit under more than one retirement plan for the same period of service.

b. "Permissive service credit" means credit that will be recognized by the retirement system for purposes of calculating a member's benefit, for which the member did not previously receive service credit in the retirement system, and for which the member voluntarily contributes to the retirement system the amount required by the retirement system, not in excess of the amount necessary to fund the benefit attributable to such service.

2. An active member of the system may make contributions to the system to purchase up to the maximum amount of permissive service credit for eligible qualified service as determined by the system, pursuant to Internal Revenue Code section 415(n) and the requirements of this section. A member seeking to purchase permissive service credit pursuant to this section shall file a written application along with appropriate documentation with the department by July 1, 2007.

3. A member making contributions for a purchase of permissive service credit for eligible qualified service under this section shall make contributions in an amount equal to the actuarial cost of the permissive service credit purchase. For purposes of this subsection, the actuarial cost of the permissive service credit purchase is an amount determined by the system in accordance with actuarial tables, as reported to the system by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of permissive service credit.

Approved April 7, 2006

CHAPTER 1029

ADOPTION PETITIONS AND PETITIONERS

S.F. 2252

AN ACT relating to adoption petitions and proceedings including the information required to be included in an adoption petition.

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

Section 1. Section 600.5, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 7A. Any name by which the petitioner is known or has been known.

NEW SUBSECTION. 7B. The existence of any criminal conviction or deferred judgment for an offense other than a simple misdemeanor under a law of any state against the petitioner, and the existence of any founded child abuse report in which the petitioner is named.

Sec. 2. Section 600.8, subsection 7, Code 2005, is amended to read as follows:

7. Any investigation or report required under this section shall not apply when the person to be adopted is an adult or when the prospective adoption petitioner or adoption petitioner is a stepparent of the person to be adopted. However, in the case of a stepparent adoption, the juvenile court or court, upon the request of an interested person or on its own motion stating the reasons therefor of record, may order an investigation or report pursuant to this section. Additionally, if an adoption petitioner discloses a criminal conviction or deferred judgment for an offense other than a simple misdemeanor or founded child abuse report pursuant to section 600.5, the petitioner shall notify the court of the inclusion of this information in the petition prior to the final adoption hearing, and the court shall make a specific ruling regarding whether to waive any investigation or report required under subsection 1.

Sec. 3. Section 600.8, subsection 12, Code 2005, is amended to read as follows:

12. Any investigation and report required under subsection 1 ~~of this section~~ may be waived by the juvenile court or court if the adoption petitioner is related within the fourth degree of consanguinity to the person to be adopted. However, if an adoption petitioner discloses a criminal conviction or deferred judgment for an offense other than a simple misdemeanor or founded child abuse report pursuant to section 600.5, the petitioner shall notify the court of the inclusion of this information in the petition prior to the final adoption hearing, and the court shall make a specific ruling regarding whether to waive any investigation or report required under subsection 1.

Approved April 7, 2006

CHAPTER 1030

SUBSTANTIVE CODE CORRECTIONS

S.F. 2253

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 8A.222, subsection 4, Code 2005, is amended by striking the subsection.

Sec. 2. Section 8A.324, subsection 2, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

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~~ agency, but only for purposes of the personal property received from the department.

Sec. 3. Section 12.72, subsection 4, paragraph d, Code Supplement 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. 4. Section 15E.351, subsection 3, paragraph c, Code Supplement 2005, is amended to read as follows:

c. The business accelerator's professional staff with demonstrated ~~disciplines~~ experience in all aspects of business ~~experience~~ disciplines.

Sec. 5. Section 17A.18A, subsection 1, Code 2005, is amended to read as follows:

1. Notwithstanding any other provision of this chapter and to the extent consistent with the Constitution of the State of Iowa and of the United States, an agency may use emergency adjudicative proceedings in a situation involving an immediate danger to the public health, safety, or welfare requiring immediate agency action.

Sec. 6. Section 28.3, subsection 6, paragraph b, Code Supplement 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 ~~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. 7. Section 28.4, subsection 12, paragraph d, Code Supplement 2005, is amended to read as follows:

d. The Iowa empowerment board shall regularly make information available identifying community empowerment funding and funding distributed 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 public funding shall fully cooperate with one another 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.

Sec. 8. Section 28J.7, subsection 3, paragraphs a and b, Code Supplement 2005, are amended to read as follows:

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~~ port authority rules and maintain order.

b. Peace officers employed by a port authority shall meet all requirements ~~as~~ established for police officers ~~appointed~~ under ~~the civil service law of~~ chapter 400 and shall ~~participate in the retirement system established by~~ be considered police officers for the purposes of chapter 411.

Sec. 9. Section 29B.100, Code 2005, is amended to read as follows:

29B.100 CAPTURED OR ABANDONED PROPERTY.

1. All persons subject to this code shall secure all public property taken from the enemy for the service of the United States, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody or control.

2. Any person subject to this code ~~who~~ shall be punished as a court-martial may direct if the person does any of the following:

~~1.~~ a. Fails to carry out the duties prescribed herein~~;~~.

~~2.~~ b. Buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby the person receives or expects any profit, benefit or advantage to the person or another directly or indirectly connected with the person~~; and~~.

~~3.~~ c. Engages in looting or pillaging~~; shall be punished as a court-martial may direct~~.

Sec. 10. Section 35.10, Code Supplement 2005, is amended to read as follows:

35.10 ELIGIBILITY AND PAYMENT OF AID.

Eligibility for aid shall be determined upon application to the department of veterans affairs,

whose decision is final. The eligibility of eligible applicants shall be certified by the 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 department of veterans affairs may pay over the annual sum of ~~four~~ six 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 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. 11. Section 63.6, Code 2005, is amended to read as follows:

63.6 JUDGES.

All judges of courts of record shall qualify before taking office following appointment by taking and subscribing an oath to the effect that they will support the Constitution of the United States and ~~that~~ the Constitution of the ~~state~~ State of Iowa, and that, without fear, favor, affection, or hope of reward, they will, to the best of their knowledge and ability, administer justice according to the law, equally to the rich and the poor.

Sec. 12. Section 124.401, subsection 1, paragraphs a through c, Code 2005, are amended to read as follows:

a. Violation of this subsection, with respect to the following controlled substances, counterfeit substances, or simulated controlled substances is a class "B" felony, and notwithstanding section 902.9, subsection 2, shall be punished by confinement for no more than fifty years and a fine of not more than one million dollars:

(1) More than one kilogram of a mixture or substance containing a detectable amount of heroin.

(2) More than five hundred grams of a mixture or substance containing a detectable amount of any of the following:

(a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine ~~or~~ and their salts have been removed.

(b) Cocaine, its salts, optical and geometric isomers, ~~and~~ or salts of isomers.

(c) Ecgonine, its derivatives, their salts, isomers, ~~and~~ or salts of isomers.

(d) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph subdivisions (a) through (c).

(3) More than fifty grams of a mixture or substance described in subparagraph (2) which contains cocaine base.

(4) More than one hundred grams of phencyclidine (PCP) or one kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP).

(5) More than ten grams of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD).

(6) More than one thousand kilograms of a mixture or substance containing a detectable amount of marijuana.

(7) More than five kilograms of a mixture or substance containing a detectable amount of any of the following:

(a) Methamphetamine, its salts, isomers, or salts of isomers.

(b) Amphetamine, its salts, isomers, and salts of isomers.

(c) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph subdivisions (a) and (b).

b. Violation of this subsection with respect to the following controlled substances, counterfeit substances, or simulated controlled substances is a class "B" felony, and in addition to the

provisions of section 902.9, subsection 2, shall be punished by a fine of not less than five thousand dollars nor more than one hundred thousand dollars:

(1) More than one hundred grams but not more than one kilogram of a mixture or substance containing a detectable amount of heroin.

(2) More than one hundred grams but not more than five hundred grams of any of the following:

(a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed.

(b) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

(c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

(d) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph subdivisions (a) through (c).

(3) More than ten grams but not more than fifty grams of a mixture or substance described in subparagraph (2) which contains cocaine base.

(4) More than ten grams but not more than one hundred grams of phencyclidine (PCP) or more than one hundred grams but not more than one kilogram of a mixture or substance containing a detectable amount of phencyclidine (PCP).

(5) Not more than ten grams of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD).

(6) More than one hundred kilograms but not more than one thousand kilograms of marijuana.

(7) More than five grams but not more than five kilograms of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine, or any compound, mixture, or preparation which contains any quantity or detectable amount of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine.

(8) More than five grams but not more than five kilograms of amphetamine, its salts, isomers, or salts of isomers, or any compound, mixture, or preparation which contains any quantity or detectable amount of amphetamine, its salts, isomers, ~~and~~ or salts of isomers.

c. Violation of this subsection with respect to the following controlled substances, counterfeit substances, or simulated controlled substances is a class "C" felony, and in addition to the provisions of section 902.9, subsection 4, shall be punished by a fine of not less than one thousand dollars nor more than fifty thousand dollars:

(1) One hundred grams or less of a mixture or substance containing a detectable amount of heroin.

(2) One hundred grams or less of any of the following:

(a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine ~~or~~ and their salts have been removed.

(b) Cocaine, its salts, optical and geometric isomers, ~~and~~ or salts of isomers.

(c) Ecgonine, its derivatives, their salts, isomers, ~~and~~ or salts of isomers.

(d) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph subdivisions (a) through (c).

(3) Ten grams or less of a mixture or substance described in subparagraph (2) which contains cocaine base.

(4) Ten grams or less of phencyclidine (PCP) or one hundred grams or less of a mixture or substance containing a detectable amount of phencyclidine (PCP).

(5) More than fifty kilograms but not more than one hundred kilograms of marijuana.

(6) Five grams or less of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine, or any compound, mixture, or preparation which contains any quantity or detectable amount of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine.

(7) Five grams or less of amphetamine, its salts, isomers, or salts of isomers, or any compound, mixture, or preparation which contains any quantity or detectable amount of amphetamine, its salts, isomers, ~~and~~ or salts of isomers.

(8) Any other controlled substance, counterfeit substance, or simulated controlled substance classified in schedule I, II, or III.

Sec. 13. Section 124.401C, subsection 1, Code 2005, is amended to read as follows:

1. In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older and who either directly or by extraction from natural substances, or independently by means of chemical processes, or both, unlawfully manufactures methamphetamine, its salts, isomers, ~~and~~ or salts of its isomers in the presence of a minor shall be sentenced up to an additional term of confinement of five years. However, the additional term of confinement shall not be imposed on a person who has been convicted and sentenced for a child endangerment offense under section 726.6, subsection 1, paragraph "g", arising from the same facts.

Sec. 14. Section 142C.15, subsection 4, paragraph a, Code Supplement 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. 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, or develop~~,~~ and support a statewide organ and tissue donor registry.

Sec. 15. Section 152.7, unnumbered paragraph 2, Code Supplement 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. For purposes of licensure 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 an advanced practice registered 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, 2005. 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 respective compact, at the discretion of the compact administrator.

Sec. 16. Section 159.5, subsection 9, Code 2005, is amended to read as follows:

9. Inspect and supervise all ~~food~~ meat, poultry, or dairy producing or distributing establishments including the furniture, fixtures, utensils, machinery, and other equipment so as to prevent the production, preparation, packing, storage, or transportation of ~~food~~ meat, poultry, or dairy products in a manner detrimental to ~~its~~ the character or quality of those products.

Sec. 17. Section 181.13, subsection 1, Code 2005, is amended to read as follows:

1. All state assessments imposed under this chapter shall be paid to and collected by the council and deposited with the treasurer of state in a separate cattle promotion fund which shall be created by the treasurer of state. The department of administrative services shall transfer moneys from the fund to the council for deposit into an account established by the council in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the council. 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 the moneys collected, deposited, and transferred to the council, in accordance with the provisions of this chapter, the council shall first pay the costs of referendums held pursuant to this chapter, the costs of collection of such state assessments, and the expenses of its

agents. ~~Except as otherwise provided in section 181.19, at~~ At least ten percent of the remaining moneys shall be remitted to the association in proportions determined by the council, for use in a manner not inconsistent with section 181.7. The remaining moneys, with approval of a majority of the council, shall be expended as the council finds necessary to carry out the provisions and purposes of this chapter. However, in no event shall the total expenses exceed the total amount transferred from the fund for use by the council.

Sec. 18. Section 185.26, subsection 1, Code Supplement 2005, is amended to read as follows:

1. The state assessment collected by the board 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 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 to carry out the purposes of the board as provided in section 185.11. The ~~association~~ board shall strictly segregate moneys in the soybean checkoff account from all other moneys of the ~~association~~ board. Moneys in the soybean checkoff account shall be expended by the board exclusively for carrying out the purposes of the board as provided in section 185.11. The account shall be subject to audit by the auditor of state.

Sec. 19. Section 192.102, Code 2005, is amended to read as follows:

192.102 GRADE "A" PASTEURIZED MILK ORDINANCE.

The department shall adopt, by rule, the "Grade 'A' Pasteurized Milk Ordinance, ~~2003~~ 2005 Revision", including a subsequent revision of the ordinance. If the ordinance specifies that compliance with a provision of the ordinance's appendices is mandatory, the department shall also adopt that provision. The department shall not amend the ordinance, unless the department explains each amendment and reasons for the amendment in the Iowa administrative bulletin when the rules are required to be published pursuant to chapter 17A. The department shall administer this chapter consistent with the provisions of the ordinance.

Sec. 20. Section 202.1, subsection 4, Code 2005, is amended to read as follows:

4. "Contract livestock facility" means an animal feeding operation as defined in section 459.102, in which livestock or raw milk is produced according to a production contract executed pursuant to section 202.2 by a contract producer who holds a legal interest in the animal feeding operation. "Contract livestock facility" includes a confinement feeding operation as defined in section 459.102, an open feedlot operation as defined in section 459A.102, or an area which is used for the raising of crops or other vegetation and upon which livestock is fed for slaughter or is allowed to graze or feed.

Sec. 21. Section 202.1, subsection 11, Code 2005, is amended by striking the subsection.

Sec. 22. Section 229.19, Code 2005, is amended to read as follows:

229.19 ADVOCATES — DUTIES — COMPENSATION — STATE AND COUNTY LIABILITY.

1. The district court in each county with a population of under three hundred thousand inhabitants and the board of supervisors in each county with a population of three hundred thousand or more inhabitants shall appoint an individual who has demonstrated by prior activities

an informed concern for the welfare and rehabilitation of persons with mental illness, and who is not an officer or employee of the department of human services nor of any agency or facility providing care or treatment to persons with mental illness, to act as advocate representing the interests of patients involuntarily hospitalized by the court, in any matter relating to the patients' hospitalization or treatment under section 229.14 or 229.15. The court or, if the advocate is appointed by the county board of supervisors, the board shall assign the advocate appointed from a patient's county of legal settlement to represent the interests of the patient. If a patient has no county of legal settlement, the court or, if the advocate is appointed by the county board of supervisors, the board shall assign the advocate appointed from the county where the hospital or facility is located to represent the interests of the patient. The advocate's responsibility with respect to any patient shall begin at whatever time the attorney employed or appointed to represent that patient as respondent in hospitalization proceedings, conducted under sections 229.6 to 229.13, reports to the court that the attorney's services are no longer required and requests the court's approval to withdraw as counsel for that patient. However, if the patient is found to be seriously mentally impaired at the hospitalization hearing, the attorney representing the patient shall automatically be relieved of responsibility in the case and an advocate shall be assigned to the patient at the conclusion of the hearing unless the attorney indicates an intent to continue the attorney's services and the court so directs. If the court directs the attorney to remain on the case the attorney shall assume all the duties of an advocate. The clerk shall furnish the advocate with a copy of the court's order approving the withdrawal and shall inform the patient of the name of the patient's advocate. With regard to each patient whose interests the advocate is required to represent pursuant to this section, the advocate's duties shall include all of the following:

~~1.~~ a. To review each report submitted pursuant to sections 229.14 and 229.15.

~~2.~~ b. If the advocate is not an attorney, to advise the court at any time it appears that the services of an attorney are required to properly safeguard the patient's interests.

~~3.~~ c. To make the advocate readily accessible to communications from the patient and to originate communications with the patient within five days of the patient's commitment.

~~4.~~ d. To visit the patient within fifteen days of the patient's commitment and periodically thereafter.

~~5.~~ e. To communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section 229.25.

~~6.~~ f. To file with the court quarterly reports, and additional reports as the advocate feels necessary or as required by the court, in a form prescribed by the court. The reports shall state what actions the advocate has taken with respect to each patient and the amount of time spent.

2. The hospital or facility to which a patient is committed shall grant all reasonable requests of the advocate to visit the patient, to communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section 229.25. An advocate shall not disseminate information from a patient's medical records to any other person unless done for official purposes in connection with the advocate's duties pursuant to this chapter or when required by law.

3. The court or, if the advocate is appointed by the county board of supervisors, the board shall prescribe reasonable compensation for the services of the advocate. The compensation shall be based upon the reports filed by the advocate with the court. The advocate's compensation shall be paid by the county in which the court is located, either on order of the court or, if the advocate is appointed by the county board of supervisors, on the direction of the board. If the advocate is appointed by the court, the advocate is an employee of the state for purposes of chapter 669. If the advocate is appointed by the county board of supervisors, the advocate is an employee of the county for purposes of chapter 670. If the patient or the person who is legally liable for the patient's support is not indigent, the board shall recover the costs of compensating the advocate from that person. If that person has an income level as determined pursuant to section 815.9 greater than one hundred percent but not more than one hundred fifty percent of the poverty guidelines, at least one hundred dollars of the advocate's compensation shall be recovered in the manner prescribed by the county board of supervisors. If that

person has an income level as determined pursuant to section 815.9 greater than one hundred fifty percent of the poverty guidelines, at least two hundred dollars of the advocate's compensation shall be recovered in substantially the same manner prescribed by the county board of supervisors as provided in section ~~815.7~~ 815.9.

Sec. 23. Section 231B.10, subsection 1, paragraph g, Code Supplement 2005, is amended to read as follows:

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~~ having or ~~has~~ having 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~~ having been found to have failed to provide adequate protection or services for tenants to prevent abuse or neglect.

Sec. 24. Section 231C.10, subsection 1, paragraph g, Code Supplement 2005, is amended to read as follows:

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 five percent equity interest in the program, ~~who has~~ having or ~~has~~ having 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~~ having been found to have failed to provide adequate protection or services for tenants to prevent abuse or neglect.

Sec. 25. Section 231D.5, subsection 1, paragraph h, Code Supplement 2005, is amended to read as follows:

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~~ having or ~~has~~ having 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~~ having been found to have failed to provide adequate protection or services for participants to prevent abuse or neglect.

Sec. 26. Section 235B.2, subsection 5, paragraph b, subparagraph (3), Code Supplement 2005, is amended to read as follows:

(3) The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next of kin, attorney in fact, or guardian pursuant to the applicable procedures under chapter 125, 144A, 144B, 222, 229, or 633.

Sec. 27. Section 235B.3, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A person who, in the course of employment, examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse, shall report the suspected dependent adult abuse to the department ~~including~~. Persons required to report include all of the following:

Sec. 28. Section 235B.6, subsection 2, paragraph d, subparagraph (2), Code Supplement 2005, is amended to read as follows:

(2) A court or ~~administrative~~ agency hearing an appeal for correction of dependent adult abuse information as provided in section 235B.10.

Sec. 29. Section 249J.14, subsection 8, Code Supplement 2005, is amended to read as follows:

8. REPORTS. The department shall report on a quarterly basis to the medical assistance projections and assessment council established pursuant to section 249J.20 and the medical assistance advisory council created pursuant to section ~~249A.4, subsection 8~~ 249A.4B, 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. 30. Section 249J.18, subsection 2, Code Supplement 2005, is amended to read as follows:

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.20 and the medical assistance advisory council created pursuant to section ~~249A.4, subsection 8~~ 249A.4B, 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.

Sec. 31. Section 256.40, subsection 2, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

The purpose of the program shall be to build a seamless ~~system of~~ career, future workforce, and economic development system in Iowa to accomplish all of the following:

Sec. 32. Section 256B.15, subsection 9, Code 2005, is amended to read as follows:

9. The department of education and the department of human services shall adopt rules to implement this section ~~to be effective immediately upon filing with the administrative rules coordinator, or at a stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing, and publication~~.

Sec. 33. Section 258.1, Code 2005, is amended to read as follows:

258.1 FEDERAL ACT ACCEPTED.

The provisions of the Act of Congress ~~entitled "An Act to provide for the promotion of vocational education; to provide for co-operation with the states in the promotion of such education in agriculture and in the trades and industries; to provide for co-operation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure", approved February 23, 1917, [39 Stat. L. 929; 20 U.S.C., ch 2]~~ known as the Carl D. Perkins Vocational and Technical Education Act of 1998, codified at 20 U.S.C. § 2301 et seq., originally known as the Vocational Education Act of 1963, and enacted December 18, 1963, as part A of Pub. L. No. 88-210, 77 Stat. 403, and all amendments thereto and the benefit of all funds appropriated under said Act and all other Acts pertaining to vocational education, are accepted.

Sec. 34. Section 266.27, Code 2005, is amended to read as follows:

266.27 ACT ACCEPTED.

The assent of the ~~legislature~~ general assembly of the state of Iowa is hereby given to the provisions and requirements of the ~~congressional~~ Smith-Lever Act, 38 Stat. 372 – 374, approved May ~~22~~ 18,[1] ~~1928~~ 1914, ~~commonly known as the Capper-Ketcham~~ and any amendments to that Act. ~~[45 Stat. L. 711;~~, codified at 7 U.S.C. § 341 ~~et seq.]~~ – 349.

[1] See chapter 1185, §120 herein

Sec. 35. Section 321.177, subsection 10, Code 2005, is amended by striking the subsection.

Sec. 36. Section 321.218, subsection 3, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

The department, upon receiving the record of the conviction of a person under this section upon a charge of operating a motor vehicle while the license of the person is suspended or revoked, shall, except for licenses suspended under section 252J.8, 321.210, subsection 1, paragraph "c", or section 321.210A~~, 321.210B,~~ or 321.513, extend the period of suspension or revocation for an additional like period, and the department shall not issue a new driver's license to the person during the additional period.

Sec. 37. Section 321I.10, subsection 5, Code Supplement 2005, is amended to read as follows:

5. The state 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 state department of transportation may adopt rules to administer this subsection.

Sec. 38. Section 331.605, subsection 4, Code 2005, is amended to read as follows:

4. For the issuance of snowmobile registrations and user permits, the fees specified in ~~section~~ sections 321G.4 and 321G.4A.

Sec. 39. Section 423.1, subsection 30, Code Supplement 2005, is amended to read as follows:

30. "Nonresidential commercial operations" means industrial, commercial, mining, or agricultural operations, whether for profit or not, but does not include apartment complexes, manufactured home communities, or mobile home parks.

Sec. 40. Section 441.11, Code 2005, is amended to read as follows:

441.11 INCUMBENT DEPUTY ASSESSORS.

~~The director of revenue shall grant a restricted certificate to any deputy assessor holding office as of January 1, 1976.~~ A deputy assessor ~~possessing such a certificate~~ shall be considered eligible to remain in the deputy's present position provided continuing education requirements are met. To become eligible for another deputy assessor position, a deputy assessor presently holding office is required to obtain certification as provided for in sections 441.5 and 441.10. The number of credit hours required for certification as eligible for appointment as a deputy in a jurisdiction other than where the deputy is currently serving shall be prorated according to the completed portion of the deputy's six-year continuing education period.

Sec. 41. Section 453A.22, subsection 3, Code Supplement 2005, is amended to read as follows:

3. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the employee holds a valid certificate of completion of the tobacco compliance employee training program pursuant to section 453A.5 at the time of the violation. A retailer may assert only once in a four-year period the bar under ~~either~~ this subsection ~~or subsection 4~~ against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

Sec. 42. Section 455B.306, subsection 2, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

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 disposal at a 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:

Sec. 43. Section 455I.5, subsection 4, Code Supplement 2005, is amended to read as follows:

4. This chapter does not invalidate or render unenforceable any interest, whether designated as an environmental covenant or other interest, that was created prior to ~~the enactment of this chapter~~ July 1, 2005, or that is otherwise enforceable under the laws of this state.

Sec. 44. Section 455I.11, subsection 1, paragraph b, Code Supplement 2005, is amended to read as follows:

b. The agency or, if ~~it~~ the agency is not the agency with authority to determine or approve the environmental response project, the department of natural resources.

Sec. 45. Section 459A.103, subsection 7, paragraph b, Code Supplement 2005, is amended to read as follows:

b. If a drainage tile line to artificially lower the seasonal high-water table is installed as ~~required by this~~ provided in section 459A.302, the level to which the seasonal high-water table will be lowered will be the seasonal high-water table.

Sec. 46. Section 459A.208, subsection 4, Code Supplement 2005, is amended to read as follows:

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 published 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.~~

Sec. 47. Section 459A.208, subsection 6, Code Supplement 2005, is amended to read as follows:

6. A nutrient management plan must be authenticated by the owner of the ~~animal feeding~~ open feedlot operation as required by the department in accordance with section 459A.201.

Sec. 48. Section 465C.1, subsection 4, Code 2005, is amended to read as follows:

4. "Dedication" means the allocation of an area as a preserve by a public ~~administrative~~ agency or by a private owner by written stipulation in a form approved by the state advisory board for preserves.

Sec. 49. Section 465C.9, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The public ~~administrative~~ agency or private owner shall complete articles of dedication on forms approved by the board. When the articles of dedication have been approved by the governor the board shall record them with the county recorder for the county or counties in which the area is located.

Sec. 50. Section 465C.10, Code 2005, is amended to read as follows:

465C.10 WHEN DEDICATED AS A PRESERVE.

An area shall become a preserve when it has been approved by the board for dedication as a preserve, whether in public or private ownership, formally dedicated as a preserve within the system by a public ~~administrative~~ agency or private owner and designated by the governor as a preserve.

Sec. 51. Section 476.6, subsection 22, paragraph g, Code 2005, is amended by striking the paragraph.

Sec. 52. Section 501A.103, Code Supplement 2005, is amended to read as follows:

501A.103 REQUIREMENTS FOR SIGNATURES ON DOCUMENTS.

A document is signed when a person has ~~written~~ affixed the person's name 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.

Sec. 53. Section 501A.503, subsection 2, paragraph c, Code Supplement 2005, is amended to read as follows:

c. The secretary ~~shall~~ will issue an acknowledgment to the cooperative.

Sec. 54. Section 501A.603, subsection 6, Code Supplement 2005, is amended to read as follows:

6. PENALTIES FOR CONTRACT INTERFERENCE. A person who knowingly induces or attempts to induce any patron member or patron of a cooperative organized under this chapter to breach a marketing contract with the cooperative is guilty of a simple misdemeanor.

Sec. 55. Section 501A.703, subsection 4, Code Supplement 2005, is amended to read as follows:

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.

Sec. 56. Section 501A.715, subsection 2, paragraph a, subparagraph (1), subparagraph subdivision (d), Code Supplement 2005, is amended to read as follows:

(d) The person has not committed an act for which liability ~~cannot~~ can be eliminated or limited under section 501A.714.

Sec. 57. Section 501A.808, subsection 2, Code Supplement 2005, is amended to read as follows:

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 requires 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~~ 501A.806.

Sec. 58. Section 501A.903, subsection 6, paragraphs a and d, Code Supplement 2005, are amended to read as follows:

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.

d. Convert ~~into~~ membership interests ~~of~~ into any other class or any series of the same or another class.

Sec. 59. Section 501A.1005, subsection 2, Code Supplement 2005, is amended to read as follows:

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. 60. Section 501A.1006, subsections 6 and 7, Code Supplement 2005, are amended to read as follows:

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 net income on the same basis as a patron member.

Sec. 61. Section 502.404, subsection 5, Code 2005, is amended to read as follows:

5. LIMITS ON EMPLOYMENT OR ASSOCIATION. It is unlawful for an individual acting as an investment adviser representative, directly or indirectly, to conduct business in this state on behalf of an investment adviser or a federal covered investment adviser if the registration of the individual as an investment adviser representative is suspended or revoked or the individual is barred from employment or association with an investment adviser or a federal covered investment adviser by an order under this chapter, the securities and exchange commission, or a self-regulatory organization. Upon request from a federal covered investment adviser and for good cause, the administrator, by order issued, may waive, in whole or in part,

the application of the requirements of this subsection to the federal covered investment adviser representative.

Sec. 62. Section 514.2, Code Supplement 2005, is amended to read as follows:

514.2 INCORPORATION.

Persons desiring to form a nonprofit hospital service corporation, or a nonprofit medical service corporation, or a nonprofit pharmaceutical or optometric service corporation shall have been incorporated under the provisions of chapter 504, Code 1989, or shall incorporate under the provisions of current chapter 504~~, as supplemented and amended herein and any Acts amendatory thereof~~.

Sec. 63. Section 516E.10, subsection 3, Code Supplement 2005, is amended to read as follows:

3. BOYCOTT, COERCION, AND INTIMIDATION. A provider, service company, or third-party administrator shall not enter into an 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.

Sec. 64. Section 523I.201, subsection 1, Code Supplement 2005, is amended to read as follows:

1. This chapter shall be administered by the commissioner. The deputy administrator appointed pursuant to section ~~523A.801~~ 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 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.

Sec. 65. Section 523I.806, subsection 2, Code Supplement 2005, is amended to read as follows:

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~~ 633A, 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. 66. Section 546.10, subsection 1, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The interior design examining board established pursuant to chapter 544C.

Sec. 67. Section 547.1, Code Supplement 2005, is amended to read as follows:

547.1 USE OF TRADE NAME — VERIFIED STATEMENT REQUIRED.

A person 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 488, a corporation under chapter 490; 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 501A; or a nonprofit corporation under chapter 504.

Sec. 68. Section 551A.3, subsection 2, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

The disclosure document shall have a cover sheet which shall consist of a title printed in bold and a statement. The title and statement shall be in at least ten point type and shall appear as follows:

DISCLOSURE REQUIRED BY IOWA LAW

~~The registration of this~~ This business opportunity does not ~~constitute~~ have the approval, recommendation, or endorsement ~~by~~ of the state of Iowa. The information contained in this disclosure document has not been verified by this state. If you have any questions or concerns about this investment, seek professional advice before you sign a contract or make any payment. You are to be provided ten (10) business days to review this document before signing a contract or making any payment to the seller or the seller's representative.

Sec. 69. Section 554.3309, subsection 1, paragraph a, subparagraph (1), Code Supplement 2005, is amended to read as follows:

(1) was entitled to enforce the instrument when loss ~~or~~ of possession occurred, or

Sec. 70. Section 558A.1, subsection 4, paragraph a, Code Supplement 2005, is amended to read as follows:

a. A transfer made pursuant to a court order, including but not limited to a transfer under chapter 633 or 633A, the execution of a judgment, the foreclosure of a real estate mortgage pursuant to chapter 654, the forfeiture of a real estate contract under chapter 656, a transfer by a trustee in bankruptcy, a transfer by eminent domain, or a transfer resulting from a decree for specific performance.

Sec. 71. Section 598.21C, subsection 4, Code Supplement 2005, is amended to read as follows:

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~~ subsection 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.

Sec. 72. Section 598.21E, subsection 2, Code Supplement 2005, is amended to read as follows:

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~~ subsection 1, paragraph "c", 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.

Sec. 73. Section 598.21F, subsection 6, Code Supplement 2005, is amended to read as follows:

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~~ section.

Sec. 74. Section 602.1304, subsection 2, paragraph b, Code Supplement 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, subsection 7, the judicial branch pursuant to section 602.8108, subsection 8, and the road use tax fund 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 into the road use tax fund pursuant to section 602.8108, subsection 9, and after the required amount is allocated to the judicial branch pursuant to section 602.8108, subsection 8, 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. 75. Section 602.6306, subsection 2, Code Supplement 2005, is amended to read as follows:

2. District associate judges also have jurisdiction in civil actions for money judgment where the amount in controversy does not exceed ten thousand dollars; jurisdiction over involuntary commitment, treatment, or hospitalization proceedings under chapters 125 and 229; jurisdiction of indictable misdemeanors, class "D" felony violations, and other felony arraignments; jurisdiction to enter a temporary or emergency order of protection under chapter 236, and to make court appointments and set hearings in criminal matters; jurisdiction to enter orders in probate which do not require notice and hearing and to set hearings in actions under chapter

633 or 633A; and the jurisdiction provided in section 602.7101 when designated as a judge of the juvenile court. While presiding in these subject matters a district associate judge shall employ district judges' practice and procedure.

Sec. 76. Section 602.8108, subsection 10, Code Supplement 2005, is amended by striking the subsection.

Sec. 77. Section 633.264, Code Supplement 2005, is amended to read as follows:

633.264 DISPOSAL OF PROPERTY BY WILL.

Subject to the rights of the surviving spouse to take 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 an amount sufficient to pay the debts and charges against the person's estate.

Sec. 78. Section 633C.4, subsection 2, Code Supplement 2005, is amended to read as follows:

2. The trustee of a medical assistance income trust or a medical assistance special needs trust is a fiduciary for purposes of ~~this~~ chapter 633A and, in the exercise of the trustee's fiduciary duties, the state shall be considered a beneficiary of the trust. Regardless of the terms of the trust, the trustee shall not take any action that is not prudent in light of the state's interest in the trust.

Sec. 79. Section 679C.109, subsection 1, paragraph b, Code Supplement 2005, is amended to read as follows:

b. Disclose any such known fact to the mediation parties as soon as is ~~practical~~ practicable before accepting a mediation.

Sec. 80. NEW SECTION. 691.9 CRIMINALISTICS LABORATORY FUND.

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 section.

Sec. 81. Section 717E.2, subsection 2, Code 2005, is amended to read as follows:

2. A prize for participating in a fair ~~event~~.

Sec. 82. Section 815.11, Code Supplement 2005, is amended to read as follows:

815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

Costs incurred under chapter 229A, 665, 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 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, 633A, or 915 or other provisions of the Code or administrative rules are not payable from these funds.

Sec. 83. 2003 Iowa Acts, 1st Ex., chapter 2, section 93, is amended to read as follows:

SEC. 93. The divisions of this Act designated economic development appropriations, workforce-related issues, loan and credit guarantee fund, university-based research utilization program appropriation, endow Iowa tax credit, and rehabilitation project tax credits are repealed

effective June 30, 2010. This section does not apply to the section of the division of this Act designated workforce-related issues that enacts section 260C.18A.

Sec. 84. 2005 Iowa Acts, chapter 70, section 51, is amended to read as follows:

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. The section of this Act amending section 514E.8, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2004.

Sec. 85. Section 501A.715, subsection 6, paragraph a, subparagraphs (2) through (4), as enacted by 2005 Iowa Acts, chapter 135, section 49, are amended to read as follows:

(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.

Sec. 86. Sections 321.210B and 490.1705, Code 2005, are repealed.

Sec. 87. Chapter 217A, Code 2005, is repealed.

Sec. 88. The section of this Act amending section 152.7, is repealed effective July 1, 2008.

Sec. 89. RETROACTIVE APPLICABILITY. The following sections of this Act are retroactively applicable to January 1, 2005, and are applicable on and after that date:

1. The section of this Act amending section 455I.5, subsection 4.
2. The section of this Act amending 2005 Iowa Acts, chapter 135, section 49.

Approved April 7, 2006

CHAPTER 1031

COUNTY BOOKS AND RECORDS — MISCELLANEOUS CHANGES

S.F. 2264

AN ACT relating to the duties of county recorders and county auditors concerning instruments affecting real estate and certain other filings recorded by the county recorder.

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

Section 1. Section 331.602, subsection 5, Code Supplement 2005, is amended by striking the subsection.

Sec. 2. Section 331.603, subsection 3, Code 2005, is amended to read as follows:

3. The recorder may reproduce in miniature on a durable medium any instrument to be recorded. When a recorded instrument involves a release, ~~or~~ assignment, or other subsequent reference to an original document, the separate instrument filed acknowledging the release, ~~or~~ assignment, or other subsequent reference shall be reproduced. In lieu of marginal entries, the recorder shall ~~make notations on both the index and the record of the original instrument~~ cross-reference the release, assignment, or other subsequent reference with the record of the original document. When an official record is produced in miniature, a security copy shall be reproduced at the same time and kept outside of the courthouse.

Sec. 3. Section 331.606B, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Each document or instrument, other than a plat or survey or a drawing related to a plat or survey, that is presented for recording ~~and that contains any of~~ shall contain the following information ~~shall have that information~~ on the first page below the three-inch margin:

Sec. 4. Section 331.607, subsection 1, Code 2005, is amended to read as follows:

1. ~~A record for military discharges~~ Military personnel records as provided in section 331.608.

Sec. 5. Section 331.608, subsections 3 and 9, Code Supplement 2005, are amended to read as follows:

3. The recorder shall record without charge the commissions and warrants of veteran officers and noncommissioned officers~~,~~; orders citing a veteran for bravery and meritorious action~~, and~~; citations and bestowals of medals from the state, federal, or foreign governments; and any other documents needed to perfect a claim.

9. As used in this section, "veteran" means a veteran as defined in section 35.1, who enlisted or was inducted from the county, resided at any time in the county, or is buried in the county. For purposes of records maintained for claims filed under chapter 426A, "veteran" also means a veteran as defined in section 426A.11, subsection 4.

Sec. 6. Section 458A.22, Code 2005, is amended to read as follows:

458A.22 DUTY TO HAVE FORFEITED LEASE RELEASED — AFFIDAVIT OF NONCOMPLIANCE — NOTICE TO LANDOWNER — REMEDIES.

1. When any oil, gas, or metallic mineral lease given on land situated in Iowa and recorded, becomes forfeited by failure of the lessee to comply with its provisions or the Iowa law, the lessee shall, within sixty days after date of forfeiture of the lease, have the lease surrendered in writing, duly acknowledged, and placed on record in the county where the leased land is situated~~, or the lease may be released by a marginal release on margin of the record without cost to the owner of land described in the lease~~. If the lessee fails to execute and record a release of the recorded lease within the time provided for, the owner of the land may execute ~~and~~

~~file with the recorder of the counties in which the forfeited lease has been recorded~~ an affidavit of noncompliance in substantially the following form:

AFFIDAVIT OF NONCOMPLIANCE

State of Iowa)
County of . . . . .) ss.

. . . . . , being first duly sworn, upon oath deposes and says that the deponent is . . . . . as referred to in an (oil and gas) (metallic mineral) mining lease dated the . . . . . day of . . . . . (month), ... (year), which lease is recorded in Volume . . . . . , Page . . . . . , or as Instrument # . . . . . of the County Records of . . . . . County, ... , and which lease covers the following described lands: . . . . . .

And further, deponent says that on the . . . . . day of . . . . . (month), ... (year), under the terms of said lease, there should have been paid to the deponent or deposited to the deponent's credit in the . . . . . Bank of . . . . . the sum of . . . . . Dollars ($. . . . .), the payment of which was necessary in order to keep the above described lease in force and effect. Deponent hereby swears the above payment has never been made to the deponent or the deponent's representatives, in money or otherwise, nor has same been deposited to the deponent's credit in the above bank.

And further, deponent says that there has been no drilling or development of any nature or kind whatsoever done on the land covered by the lease referred to herein, as called for under the terms of said lease.

. . . . . .

Subscribed and sworn to before me, a Notary Public for the State of Iowa, this . . . . . day of . . . . . (month), ... (year)

. . . . . .
Notary Public

My commission expires . . . . . .

AFFIDAVIT OF THE BANKER

State of . . . . .)
County of . . . . .) ss.

I, ... , (Cashier) (President) of the . . . . . Bank of . . . . . , being first duly sworn, upon my oath declare that there has not been deposited to the credit of . . . . . in the . . . . . Bank of . . . . . , by . . . . . or any other party, any sum of money whatsoever, in payment of rental under the terms of the (oil and gas) (metallic mineral) mining lease referred to in this affidavit.

Witness my hand this . . . . . day of . . . . . (month), ... (year)

. . . . . .
(Cashier) (President) of . . . . . Bank

Subscribed and sworn to before me, a Notary Public for the State of Iowa on the . . . . . day of . . . . . (month), ... (year)

. . . . . .
Notary Public

My commission expires . . . . . .

2. The owner of the land shall retain the original affidavit and shall mail a copy of the affidavit by restricted certified mail, as defined in section 618.15, to the lessee. If the lessee ~~shall~~, within thirty days after receipt of the ~~filing of such~~ affidavit, ~~give~~ gives notice in writing, by restricted certified mail, to the ~~county recorder of the county where said~~ owner of the land ~~is located~~ that ~~said~~ the lease has not been forfeited and that ~~said~~ the lessee still claims that ~~said~~ the lease is in full force and effect, then the ~~said affidavit shall not be recorded but the county recorder shall notify the owner of the land of the action of the lessee, and the~~ owner of the land shall be entitled to the remedies provided by this chapter for the cancellation of such disputed lease.

3. If the lessee ~~shall~~ does not notify the ~~county recorder~~ owner of the land as ~~above~~ provided

in subsection 2, then the ~~county recorder~~ owner shall ~~record said~~ file the original affidavit for recording with the county recorder, and thereafter the record of the ~~said~~ lease shall not be notice to the public of the existence of ~~said~~ the lease or of any interest therein or rights thereunder, and ~~said~~ the record shall not be received in evidence in any court of the state on behalf of the lessee against the lessor, and ~~said~~ the lease shall stand forfeited.

Sec. 7. Section 558.41, subsection 4, Code 2005, is amended to read as follows:

4. TERMINATION OF LIFE ESTATE. Upon the termination of a life estate interest through the death of the holder of the life estate, any surviving holder or successor in interest shall prepare a change of title or affidavit for tax purposes and ~~delivery of the deed or change of title~~ shall deliver such instrument to the county recorder of the county in which each parcel of real estate is located.

Sec. 8. Section 558.49, subsection 3, Code 2005, is amended to read as follows:

3. The date and time when the instrument was filed with the recorder.

Sec. 9. Section 558.57, Code 2005, is amended to read as follows:

558.57 ENTRY ON AUDITOR'S TRANSFER BOOKS.

~~The~~ After the recorder ~~shall not record~~ has accepted for recording and indexed any deed, real estate installment contract, or other instrument unconditionally conveying real estate or altering a real estate contract by assigning the buyer's or seller's interest, changing the name of the buyer or seller, changing the legal description of the property, forfeiting or canceling the contract, or making other significant changes, ~~until~~ the auditor shall make the proper entries ~~have been made~~ upon the transfer books in the auditor's office~~, and endorsement made upon the deed, real estate installment contract, or other instrument properly dated and officially signed, in substantially the following form:~~ .

~~Entered upon transfer books and for taxation this . . . . . day of . . . . . (month), ... (year). My fee $. . . . . collected by recorder.~~

~~. . . . . Auditor.~~

Sec. 10. Section 558.58, subsection 1, Code 2005, is amended to read as follows:

1. At the time of filing a deed, real estate installment contract, or other instrument mentioned in section 558.57, the recorder shall collect ~~from the person filing the deed, real estate installment contract, or instrument~~, and note payment of, the recording fee ~~provided by law~~ and the auditor's transfer fee, as provided by law, except as provided in subsection 2. ~~The recorder shall deliver the deed, real estate installment contract, or instrument to the county auditor, after endorsing upon the instrument the following:~~

~~Filed for record, indexed, and delivered to the county auditor this . . day of . . . . (month), . . (year), at . . . . o'clock . .m.~~

~~Recorder's and auditor's fee $. . . . paid.~~

~~. . . . . Recorder.~~

After the recorder has accepted the instrument for recording, the instrument shall be indexed and then delivered to the auditor to be placed on the auditor's transfer books.

Sec. 11. Section 558.60, Code 2005, is amended to read as follows:

558.60 TRANSFER AND INDEX BOOKS.

The county auditor shall keep in the county auditor's office books for the transfer of real estate, which shall consist of a transfer book, index book, and plat book. As used in this context, "book" means the method of data storage and retrieval utilized by the county auditor.

The auditor shall index the real estate transfers by block and lot or by township, range, section, section quarter, and subdivision, as occasion may require. The transfer books shall show all of the following:

1. Each grantor.
2. Each grantee.
3. The date of the instrument.
4. The nature of the instrument.
5. The document reference number where the record of the instrument may be found.
6. The description of the real estate conveyed.

Sec. 12. Section 558.63, Code 2005, is amended to read as follows:

558.63 BOOK OF PLATS — HOW KEPT.

The auditor shall keep the book of plats ~~so as to show~~ showing the number of lot and block, or township and range, divided into sections and subdivisions as occasion may require, and shall designate thereon each piece of real estate~~,~~ and ~~mark in pencil~~ the name of the owner ~~thereon, in a legible manner; which~~. The plats shall be lettered or numbered so that they may be conveniently referred to ~~by the memoranda of~~ in the transfer book~~, and shall be drawn on the scale of not less than four inches to the mile~~.

Sec. 13. Section 561.4, Code 2005, is amended to read as follows:

561.4 SELECTING — PLATTING.

The owner, husband or wife, or a single person, may select the homestead and cause it to be platted, but a failure to do so shall not render the same liable when it otherwise would not be, and a selection by the owner shall control. When selected, it shall be designated by a legal description, or if impossible it shall be marked off by permanent, visible monuments, and the description shall give the direction and distance of the starting point from some corner of the dwelling, which description, with the plat, shall be filed and recorded by the recorder of the proper county ~~in the homestead book, which shall be, as nearly as may be, in the form of the record books for deeds, with an index kept~~ in the ~~same~~ manner provided in sections 558.49 and 558.52.

Sec. 14. Section 614.21, unnumbered paragraph 1, Code 2005, is amended to read as follows:

No action shall be maintained to foreclose or enforce any real estate mortgage, bond for deed, trust deed, or contract for the sale or conveyance of real estate, after twenty years from the date thereof, as shown by the record of such instrument, unless the record of such instrument shows that less than ten years have elapsed since the date of maturity of the indebtedness or part thereof, secured thereby, or since the right of action has accrued thereon, or unless the record shows an extension of the maturity of the instrument or of the debt or a part thereof, and that ten years from the expiration of the time of such extension have not yet expired. The date of maturity, when different than as appears by the record of the instrument, and the date of maturity of any extension of said indebtedness or part thereof, may be shown at any time prior to the expiration of the above periods of limitation by the holder of the debt or the owner or assignee of the instrument filing an extension agreement, duly acknowledged as the original instrument was required to be acknowledged, in the office of the recorder where the instrument is recorded~~, or by noting on the margin of the record of such instrument in the recorder's office an extension of the maturity of the instrument or of the debt secured, or any part thereof; each notation to be witnessed by the recorder and entered upon the index of mortgages in the name of the mortgagor and mortgagee~~.

Sec. 15. Section 614.35, Code 2005, is amended to read as follows:

614.35 RECORDING INTEREST.

To be effective and to be entitled to record, the notice above referred to shall contain an accurate and full description of all land affected by such notice which description shall be set forth in particular terms and not by general inclusions; but if ~~said~~ the claim is founded upon a recorded instrument, then the description in such notice may be the same as that contained in such recorded instrument. Such notice shall be filed for record in the office of the county re-

corder of the county or counties where the land described ~~therein~~ in the notice is situated. The recorder of each county shall accept all such notices presented to the recorder which describe land located in the county in which the recorder serves and shall enter and record full copies ~~thereof in the same way that deeds and other instruments are recorded~~ of the notices in the manner provided in sections 558.49 and 558.52, and each recorder shall be entitled to charge the same fees for the recording ~~thereof~~ of the notices as are charged for recording deeds. In indexing such notices in the recorder's office each recorder shall enter such notices under the grantee indexes of deeds in the names of the claimants appearing in such notices. ~~Such notices shall also be indexed under the description of the real estate involved in a book set apart for that purpose to be known as the "claimant's book."~~

Sec. 16. Sections 558.61, 558.62, and 558.64, Code 2005, are repealed.

Approved April 7, 2006

CHAPTER 1032

REGULATION OF WINE PRODUCTION,
LABELING, AND DISTRIBUTION

S.F. 2305

AN ACT concerning wine, including the allowable alcohol content of wine and inspection of certain wine permittees.

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

Section 1. Section 123.3, subsections 5 and 37, Code Supplement 2005, are amended to read as follows:

5. "Alcoholic liquor" or "intoxicating liquor" means the varieties of liquor defined in subsections 3 and 33 which contain more than five percent of alcohol by weight, beverages made as described in subsection 7 which beverages contain more than five percent of alcohol by weight but which are not wine as defined in subsection 37, and every other liquid or solid, patented or not, containing spirits and every beverage obtained by the process described in subsection 37 containing more than seventeen percent alcohol by weight or twenty-one and twenty-five hundredths percent of alcohol by volume, and susceptible of being consumed by a human being, for beverage purposes. Alcohol manufactured in this state for use as fuel pursuant to an experimental distilled spirits plant permit or its equivalent issued by the federal bureau of alcohol, tobacco and firearms is not an "alcoholic liquor".

37. "Wine" means any beverage containing more than five percent[1] but not more than seventeen percent of alcohol by weight or twenty-one and twenty-five hundredths percent of alcohol by volume obtained by the fermentation of the natural sugar contents of fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grain, cereal, molasses, or cactus.

Sec. 2. Section 123.173, subsection 2, Code 2005, is amended to read as follows:

2. A class "A" wine permit allows the holder to manufacture and sell, or sell at wholesale, in this state, wine as defined in section 123.3, subsection 37. The holder of a class "A" wine permit may manufacture in this state wine having an alcoholic content greater than seventeen

[1] See chapter 1185, §118 herein

percent by weight or twenty-one and twenty-five hundredths percent of alcohol by volume for shipment outside this state. All class "A" premises shall be located within the state. A class "B" or class "B" native wine permit allows the holder to sell wine at retail for consumption off the premises. A class "B" or class "B" native wine permittee who also holds a class "E" liquor control license may sell wine to class "A", class "B", and class "C" liquor control licensees for resale for consumption on the premises. Such wine sales shall be in quantities of less than one case of any wine brand but not more than one such sale shall be made to the same liquor control licensee in a twenty-four-hour period. A class "B" or class "B" native wine permittee shall not sell wine to other class "B", or class "B" native wine permittees. A class "C" native wine permit allows the holder to sell wine for consumption on or off the premises.

Sec. 3. Section 123.182, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The label on a bottle or other container in which wine is offered for sale in this state, which label represents the alcoholic content of the wine as being in excess of seventeen percent by weight or twenty-one and twenty-five hundredths percent of alcohol by volume, is conclusive evidence of the alcoholic content of that wine.

Sec. 4. Section 137F.1, subsection 9, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. A premises covered by a class "A" wine permit or a class "B" wine permit as provided in chapter 123.

Approved April 7, 2006

CHAPTER 1033

REGULATION OF MACHINES
USED TO VAPORIZE ALCOHOLIC BEVERAGES

H.F. 2333

AN ACT prohibiting a person or club holding a liquor control license or retail wine or beer permit from distributing or possessing machines used to vaporize an alcoholic beverage for consumption and making penalties applicable.

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

Section 1. Section 123.49, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. l. Sell, give, possess, or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

Approved April 7, 2006

CHAPTER 1034

DEPARTMENT OF PUBLIC SAFETY ORGANIZATION
AND PEACE OFFICER AUTHORITY

H.F. 2337

AN ACT relating to the use of a peace officer of the department of public safety in an industrial dispute and providing an effective date.

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

Section 1. Section 80.24, Code Supplement 2005, is amended to read as follows:

80.24 ~~MUNICIPAL AND~~ INDUSTRIAL DISPUTES.

A peace officer of the department shall not be used or called upon for service within any municipality ~~or in any~~ involving an industrial dispute unless a threat of imminent violence 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 where the threat of imminent violence exists if such request is approved by the governor.

Sec. 2. CODE EDITOR DIRECTIVE. The Code editor is directed to change the term "bureau of criminal identification" or "bureau" to "division of criminal investigation" or "division" wherever the term appears in the Code or in the Acts pending codification.

Sec. 3. EFFECTIVE DATE. The section of this Act amending section 80.24, being deemed of immediate importance, takes effect upon enactment.

Approved April 7, 2006

CHAPTER 1035

ETHICS AND CAMPAIGN DISCLOSURE BOARD
JURISDICTION AND PROCEDURE

H.F. 2512

AN ACT relating to the jurisdiction of the ethics and campaign disclosure board and including effective date and retroactive applicability provisions and subjecting violators to remedies and penalties.

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

Section 1. Section 68B.32, subsection 1, Code 2005, is amended to read as follows:

1. An Iowa ethics and campaign disclosure board is established as an independent agency. ~~Effective January 1, 1994, the~~ The board shall administer this chapter and set standards for, investigate complaints relating to, and monitor the ethics of officials, employees, lobbyists, and candidates for office in the executive branch of state government. The board shall ~~also~~ administer and set standards for, investigate complaints relating to, and monitor the campaign finance practices of candidates for public office. The board shall administer and establish standards for, investigate complaints relating to, and monitor the reporting of gifts, bequests,

and grants under section 8.7. The board shall consist of six members and shall be balanced as to political affiliation as provided in section 69.16. The members shall be appointed by the governor, subject to confirmation by the senate.

Sec. 2. Section 68B.32A, subsections 1, 2, 4, 5, and 6, Code Supplement 2005, are amended to read as follows:

1. Adopt rules pursuant to chapter 17A and conduct hearings under sections 68B.32B and 68B.32C and chapter 17A, as necessary to carry out the purposes of this chapter, ~~and~~ chapter 68A, and section 8.7.

2. Develop, prescribe, furnish, and distribute any forms necessary for the implementation of the procedures contained in this chapter, ~~and~~ chapter 68A, and section 8.7 for the filing of reports and statements by persons required to file the reports and statements under this chapter and chapter 68A.

The board may establish a process to assign signature codes to a person or committee for purposes of facilitating an electronic filing procedure. The assignment of signature codes shall be kept confidential, notwithstanding section 22.2.

4. Receive and file registration and reporting from lobbyists of the executive branch of state government, client disclosure from clients of lobbyists of the executive branch of state government, ~~and~~ personal financial disclosure information from officials and employees in the executive branch of state government who are required to file personal financial disclosure information under this chapter, and gift, bequest, and grant disclosure information from an agency pursuant to section 8.7. The board, upon its own motion, may initiate action and conduct a hearing relating to reporting requirements under this chapter or section 8.7.

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, and section 8.7. 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, and section 8.7 by distributing copies of educational materials to each agency of state government under the board's jurisdiction.

6. Assure that the statements and reports which have been filed in accordance with this chapter, ~~and~~ chapter 68A, and section 8.7 are available for public inspection and copying during the regular office hours of the office in which they are filed and not later than by the end of the day during which a report or statement was received. Rules adopted relating to public inspection and copying of statements and reports may include a charge for any copying and mailing of the reports and statements, shall provide for the mailing of copies upon the request of any person and upon prior receipt of payment of the costs by the board, and shall prohibit the use of the information copied from reports and statements for soliciting contributions or for any commercial purpose by any person other than statutory political committees.

Sec. 3. Section 68B.32A, subsection 8, Code Supplement 2005, is amended to read as follows:

8. Establish and impose penalties, and recommendations for punishment of persons who are subject to penalties of or punishment by the board or by other bodies, for the failure to comply with the requirements of this chapter, ~~or~~ chapter 68A, or section 8.7.

Sec. 4. Section 68B.32A, subsection 11, Code Supplement 2005, is amended to read as follows:

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, or section 8.7. 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 alleging a violation of this chapter, chapter 68A, section 8.7, or rules of the board that is based on the same facts and circumstances.

Sec. 5. Section 68B.32B, subsections 1, 4, 8, and 9, Code 2005, are amended to read as follows:

1. Any person may file a complaint alleging that a candidate, committee, person holding a state office in the executive branch of state government, employee of the executive branch of state government, or other person has committed a violation of chapter 68A or rules adopted by the board. Any person may file a complaint alleging that a person holding a state office in the executive branch of state government, an employee of the executive branch of state government, or a lobbyist or a client of a lobbyist of the executive branch of state government has committed a violation of this chapter or rules adopted by the board. Any person may file a complaint alleging that an agency has committed a violation of section 8.7 or rules adopted by the board. The board shall prescribe and provide forms for ~~this purpose~~ purposes of this subsection. A complaint must include the name and address of the complainant, a statement of the facts believed to be true that form the basis of the complaint, including the sources of information and approximate dates of the acts alleged, and a certification by the complainant under penalty of perjury that the facts stated to be true are true to the best of the complainant's knowledge.

4. Upon completion of legal review, the chairperson of the board shall be advised whether, in the opinion of the legal advisor, the complaint states an allegation which is legally sufficient. A legally sufficient allegation must allege all of the following:

a. Facts that would establish a violation of a provision of this chapter, chapter 68A, section 8.7, or rules adopted by the board.

b. Facts that would establish that the conduct providing the basis for the complaint occurred within three years of the complaint.

c. Facts that would establish that the subject of the complaint is a party subject to the jurisdiction of the board.

8. The purpose of an investigation by the board's staff is to determine whether there is probable cause to believe that there has been a violation of this chapter, chapter 68A, section 8.7, or of rules adopted by the board. To facilitate the conduct of investigations, the board may issue and seek enforcement of subpoenas requiring the attendance and testimony of witnesses and subpoenas requiring the production of books, papers, records, and other real evidence relating to the matter under investigation. Upon the request of the board, an appropriate county attorney or the attorney general shall assist the staff of the board in its investigation.

9. If the board determines on the basis of an investigation by board staff that there is probable cause to believe the existence of facts that would establish a violation of this chapter, chapter 68A, section 8.7, or of rules adopted by the board, the board may issue a statement of charges and notice of a contested case proceeding to the complainant and to the person who is the subject of the complaint, in the manner provided for the issuance of statements of charges under chapter 17A. If the board determines on the basis of an investigation by staff that there is no probable cause to believe that a violation has occurred, the board shall close the investigation, dismiss any related complaint, and the subject of the complaint shall be notified of the dismissal. If the investigation originated from a complaint filed by a person other than the board, the person making the complaint shall also be notified of the dismissal.

Sec. 6. Section 68B.32C, subsections 1 and 3, Code 2005, are amended to read as follows:

1. Contested case proceedings initiated as a result of the issuance of a statement of charges pursuant to section 68B.32B, subsection 9, shall be conducted in accordance with the requirements of chapter 17A. Clear and convincing evidence shall be required to support a finding that a person has violated this chapter, section 8.7, or any rules adopted by the board pursuant to this chapter. A preponderance of the evidence shall be required to support a finding that a person has violated chapter 68A or any rules adopted by the board pursuant to chapter 68A. The case in support of the statement of charges shall be presented at the hearing by one of the board's attorneys or staff unless, upon the request of the board, the charges are prosecuted by another legal counsel designated by the attorney general. A person making a complaint under

section 68B.32B, subsection 1, is not a party to contested case proceedings conducted relating to allegations contained in the complaint.

3. Upon a finding by the board that the party charged has violated this chapter, chapter 68A, section 8.7, or rules adopted by the board, the board may impose any penalty provided for by section 68B.32D. Upon a final decision of the board finding that the party charged has not violated this chapter or the rules of the board, the complaint shall be dismissed and the party charged and the original complainant, if any, shall be notified.

Sec. 7. Section 68B.32D, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The board, after a hearing and upon a finding that a violation of this chapter, chapter 68A, section 8.7, or rules adopted by the board has occurred, may do one or more of the following:

Sec. 8. Section 68B.32D, subsection 1, paragraphs c, d, and h, Code 2005, are amended to read as follows:

c. Issue an order requiring the violator to file any report, statement, or other information as required by this chapter, chapter 68A, section 8.7, or rules adopted by the board.

d. Publicly reprimand the violator for violations of this chapter, chapter 68A, section 8.7, or rules adopted by the board in writing and provide a copy of the reprimand to the violator's appointing authority.

h. Issue an order requiring the violator to pay a civil penalty of not more than two thousand dollars for each violation of this chapter, chapter 68A, section 8.7, or rules adopted by the board.

Sec. 9. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. Sections 2 and 4 of this Act, being deemed of immediate importance, take effect upon enactment and are retroactively applicable to July 1, 2005, and are applicable on and after that date.

Approved April 7, 2006

CHAPTER 1036

OPERATION OF ALL-TERRAIN VEHICLES ON HIGHWAYS

H.F. 2569

AN ACT relating to the operation of all-terrain vehicles on the highway for limited purposes.

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

Section 1. Section 321.234A, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The all-terrain vehicle is operated for the purpose of mowing, installing approved trail signs, or providing maintenance on a snowmobile or all-terrain vehicle trail designated by the department of natural resources.

Approved April 7, 2006

CHAPTER 1037

TERMINATIONS OF TENANCIES — NOTICE

H.F. 2695

AN ACT relating to landlords and tenants including notice requirements to terminate a periodic tenancy and service of a petition for forcible entry and detainer by publication.

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

Section 1. Section 562A.34, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The landlord or the tenant may terminate a tenancy having a term longer than month-to-month by a written notice given to the other at least thirty days prior to the end of the first or subsequent term of the tenancy specified in the notice.

Sec. 2. Section 648.10, Code 2005, is amended to read as follows:

648.10 SERVICE BY PUBLICATION.

Notwithstanding the requirements of section 648.5, service may be made by publishing such notice for one week in a newspaper of general circulation published in the county where the petition is filed, provided the petitioner files with the court an affidavit stating that an attempt at personal service ~~made by the sheriff~~ was unsuccessful because the defendant is avoiding service by concealment or otherwise, and that a copy of the petition and notice of hearing has been mailed to the defendant at the defendant's last known address or that the defendant's last known address is not known to the petitioner. Service under this section is complete seven days after publication. The court shall set a new hearing date if necessary to allow the defendant the three-day minimum notice required under section 648.5.

Approved April 7, 2006

CHAPTER 1038

SANITARY DISTRICT TRUSTEES — PER DIEM

S.F. 2087

AN ACT relating to an increase in per diem paid to trustees of sanitary districts.

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

Section 1. Section 358.12, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The trustees elected as provided in section 358.9 constitute a board of trustees for the district by which they are elected. The board of trustees is the corporate authority of the sanitary district and shall manage and control the affairs and property of the district. A majority of the board of trustees shall constitute a quorum, but a smaller number may adjourn from day to day. The board of trustees shall elect a president, a clerk, and a treasurer from its membership and may employ employees as necessary, who shall hold their employment during the pleasure of the board. The board shall prescribe the duties and fix the compensation of all em-

ployees of the sanitary district and the amount of bond to be filed by the treasurer of the district and by any employee for whom the board may require bond. The members of the board of trustees shall receive a per diem of ~~forty~~ one hundred dollars for attendance at a meeting of the board or while otherwise engaged in official duties, but the total per diem for each member shall not exceed two thousand four hundred dollars for a fiscal year. However, the board of trustees, by resolution, may establish for its members a lower rate of pay than is fixed by this section. The members of the board shall also be reimbursed for their travel and other necessary expenses incurred in performing their official duties. Travel expenses are reimbursable at the rate specified in section 70A.9.

Approved April 11, 2006

CHAPTER 1039

DEBT CANCELLATION COVERAGE — BANKS AND CREDIT UNIONS

S.F. 2275

AN ACT relating to debt cancellation coverage offered by banks and credit unions.

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

Section 1. Section 524.913, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding subsection 1, a state bank may offer voluntary debt cancellation coverage, whether insurance or debt waiver, to consumers. The amount charged for the coverage shall be included in the amount financed, as defined in section 537.1301. However, the charge for such coverage may be excluded from the finance charge under the federal Truth in Lending Act as defined in section 537.1302.

Sec. 2. Section 533.16, subsection 9, Code 2005, is amended to read as follows:

9. a. The provisions of the Iowa consumer credit code, chapter 537, shall apply to consumer loans made by a credit union, and a provision of that code shall supersede any conflicting provision of this chapter with respect to a consumer loan.

b. Notwithstanding paragraph "a", a credit union may offer voluntary debt cancellation coverage, whether insurance or debt waiver, to members. The amount charged for the coverage shall be included in the amount financed, as defined in section 537.1301. However, the charge for such coverage may be excluded from the finance charge under the federal Truth in Lending Act as defined in section 537.1302.

Approved April 11, 2006

CHAPTER 1040

CREDIT UNIONS — PUBLIC FUNDS, MEMBERSHIP, RECORDS

S.F. 2299

AN ACT relating to credit unions and other financial organizations by providing for public funds requirements, membership qualifications, and preservation of records.

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

Section 1. Section 12C.16, subsection 1, paragraph b, subparagraph (4), Code 2005, is amended to read as follows:

(4) To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America or the U.S. central credit union, a corporate central credit union organized under section 533.38, or a corporate credit union organized under 12 C.F.R. § 704, and the rating of ~~the U.S. central~~ any one of such credit ~~union~~ unions remains within the two highest classifications of prime established by at least one of the standard rating services approved by the superintendent of banking by rule pursuant to chapter 17A. The treasurer of state shall adopt rules pursuant to chapter 17A to implement this section.

Sec. 2. Section 12C.17, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. The securities shall be deposited with the federal reserve bank, the federal home loan bank of Des Moines, Iowa, or the U.S. central credit union, a corporate central credit union organized under section 533.38, or a corporate credit union organized under 12 C.F.R. § 704 pursuant to a bailment agreement or a pledge custody agreement.

Sec. 3. Section 12C.17, subsection 4, Code 2005, is amended to read as follows:

4. Upon written request from the appropriate public officer but not less than monthly, the federal home loan bank of Des Moines, Iowa, ~~or~~ the U.S. central credit union, a corporate central credit union organized under section 533.38, or a corporate credit union organized under 12 C.F.R. § 704 shall report a description, the par value and the market value of any pledged collateral by a credit union.

Sec. 4. Section 533.5, Code 2005, is amended to read as follows:

533.5 MEMBERSHIP.

The membership of a credit union consists of those persons in the common bond, duly admitted, who have paid any required one-time or periodic membership fee, or both, have subscribed to one or more shares, and have complied with the other requirements specified by the articles of incorporation and bylaws. ~~To continue membership, a member must comply with any changes in the par value of the share.~~ Credit union organization shall be available to groups of individuals who have a common bond of association such as, but not limited to, occupation, common employer, or residence within specified geographic boundaries. Changes in the common bond may be made by the board of directors. If adopted as a policy by the board of directors of a credit union, members who cease to meet qualifications of membership may retain their credit union membership and all membership privileges. Organizations, incorporated or otherwise, may be members.

Sec. 5. Section 533.26, Code 2005, is amended to read as follows:

533.26 PRESERVATION OF RECORDS.

1. The superintendent shall prescribe by rule the period of preservation of records or files for credit unions. A state credit union is not required to preserve its records for a period longer than eleven years after the first day of January of the year following the time of the making

or filing of such records. However, account records showing unpaid balances due to depositors shall not be destroyed.

2. A copy of an original may be kept in lieu of any original records.

a. For purposes of this section, a copy includes any duplicate, rerecording or reproduction of an original record from any photograph, photostat, microfilm, microcard, miniature or microphotograph, computer printout, electronically stored data or image, or other process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or reproduction of the original record.

b. A copy is deemed to be an original and shall be treated as an original record in a judicial or administrative proceeding for purposes of admissibility in evidence. A facsimile, exemplification, or certified copy of any such copy reproduced from a film record is deemed to be a facsimile, exemplification, or certified copy of the original.

Sec. 6. Section 533.27, unnumbered paragraph 1, Code 2005, is amended to read as follows:

~~No~~ With the exception of certain account records which shall not be destroyed pursuant to section 533.26, liability shall not accrue against any credit union destroying any such records after the expiration of the time provided in ~~sections~~ section 533.26 ~~to~~, this section, and section 533.29 ~~and in~~. In any cause or proceedings in which any such records or files may be called ~~in~~ into question or be demanded of the credit union or of any officer or employee ~~thereof~~ of the credit union, a showing that such records or files have been destroyed in accordance with the terms of ~~said~~ such sections shall be a sufficient excuse for the failure to produce them. Nothing herein shall require credit unions to retain any class of records or files for the period of limitations of actions provided herein; but any records, files, or class of records not deemed necessary for the conduct of the current business of credit unions, or future examinations thereof, or for defense in the event of litigation, may be destroyed within such period.

Approved April 11, 2006

CHAPTER 1041

INDIGENT DEFENSE AND JUVENILE COURT ACTIONS — COSTS AND FUNDING

S.F. 2304

AN ACT relating to indigent defense claims and the reimbursement of costs in juvenile cases paid by a county.

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

Section 1. Section 13B.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Claimant" means an attorney or other person seeking reimbursement of costs or fees payable from the appropriations under section 815.11.

Sec. 2. Section 13B.4, subsection 4, paragraph c, subparagraphs (3), (4), and (5), Code Supplement 2005, are amended to read as follows:

(3) Request additional information or return the claim to the ~~attorney~~ claimant, if the claim is incomplete.

(4) If any portion of the claim is excessive, notify the ~~attorney~~ claimant that the claim is excessive and will be reduced to an amount which is not excessive, and reduce and approve the balance of the claim.

(5) If any portion of the claim is not payable within the scope of appointment of the ~~attorney~~ claimant, notify the ~~attorney~~ claimant that a portion of the claim is not within the scope of appointment and is not payable, deny those portions of the claim that are not payable, and approve the balance of the claim.

Sec. 3. Section 13B.4, subsection 4, paragraph d, Code Supplement 2005, is amended to read as follows:

d. Notwithstanding chapter 17A, the ~~attorney~~ claimant may seek review of any action or intended action denying or reducing any claim by filing a motion with the court with jurisdiction over the original appointment for review.

(1) The motion must be filed within twenty days of any action taken by the state public defender.

(2) The motion shall be set for hearing by the court and the state public defender shall be provided with at least ten days' notice of the hearing. The state public defender shall not be required to file a resistance to the motion filed under this paragraph "d".

(3) The state public defender or the ~~attorney~~ claimant may participate by telephone. If the state public defender participates by telephone, the state public defender shall be responsible for initiating and paying for all telephone charges.

(4) The filing of a motion shall not delay the payment of the amount approved by the state public defender.

(5) If a claim or portion of the claim is denied, the action of the state public defender shall be affirmed unless the action conflicts with a statute or an administrative rule ~~or the law~~.

(6) If the claim is reduced for being excessive, the ~~attorney~~ claimant shall have the burden to establish by a preponderance of the evidence that the amount of compensation and expenses is reasonable and necessary ~~to competently represent the client~~.

(7) The decision of the court following a hearing on the motion is a final judgment appealable by the state public defender or the claimant.

~~(7)~~ (8) Any court order entered after the state public defender has taken action on a claim, which affects that claim, without first notifying the state public defender and permitting the state public defender an opportunity to be heard, is void.

Sec. 4. Section 13B.4, subsections 6 and 7, Code Supplement 2005, are amended to read as follows:

6. The state public defender is authorized to contract with county attorneys to provide collection services related to court-ordered indigent defense restitution ~~of court-appointed attorney fees or the expense of a public defender~~.

7. The state public defender shall not revise the allocations to the office of the state public defender and the allocations ~~for fees of court-appointed attorneys~~ for indigent defense of adults and juveniles, unless prior notice of the revisions is given ~~prior to their effective date~~ to the legislative services agency, the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system, and the cochairpersons and ranking members of the house and senate committees on appropriations.

Sec. 5. Section 232.141, subsection 2, Code 2005, is amended to read as follows:

2. All of the following juvenile court expenses are a charge upon the county in which the proceedings are held, to the extent provided in subsection 3:

a. ~~The fees and mileage of witnesses and the expenses of officers serving notices and subpoenas which are~~ Juvenile court expenses incurred by an attorney appointed by the court to serve as counsel to any party or to serve as a guardian ad litem for any child, including fees and expenses for foreign language interpreters, costs of depositions and transcripts, fees and mileage of witnesses, and the expenses of officers serving notices and subpoenas.

b. Reasonable compensation for an attorney appointed by the court to serve as counsel to any party or as guardian ad litem for any child in juvenile court.

c. Fees and expenses incurred by the juvenile court for foreign language interpreters for court proceedings.

Sec. 6. Section 232.141, subsection 3, paragraphs c and d, Code 2005, are amended to read as follows:

c. ~~Costs incurred for compensation of an attorney appointed by the court to serve as counsel to any party or as guardian ad litem for any child shall be paid in accordance with sections 13B.4 and 815.7~~ The county, on an annual basis, shall pay to the indigent defense fund created under section 815.11 the amount of the county's base cost as determined in accordance with this subsection.

d. Costs incurred under subsection 2 shall be paid by the state from the appropriations to the indigent defense fund under section 815.11 in accordance with this chapter, chapter 815, and the rules adopted by the state public defender. The county shall be required to reimburse the indigent defense fund for costs incurred by the state up to the county's base in this subsection.

Sec. 7. Section 622A.1, Code 2005, is amended to read as follows:

622A.1 DEFINITION.

As used in this chapter, "legal proceeding" means any action before any court, or any legal action preparatory to appearing before any court, whether civil, ~~or~~ criminal, or juvenile in nature; and any administrative proceeding before any state agency or governmental subdivision which is quasi-judicial in nature and which has direct legal implications to any person.

Sec. 8. Section 815.11, Code Supplement 2005, is amended to read as follows:

815.11 APPROPRIATIONS FOR INDIGENT DEFENSE — FUND CREATED.

Costs incurred under chapter 229A, 665, 822, or 908, or section 232.141, subsection 3, paragraph ~~"c"~~ "d", or section 598.23A, 600A.6B, 814.9, 814.10, 814.11, 815.4, 815.7, or 815.10 on behalf of an indigent shall be paid from ~~funds~~ moneys appropriated by the general assembly to the office of the state public defender in the department of inspections and appeals ~~for those purposes~~ and deposited in an account to be known as the indigent defense fund. 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~~ the fund. However, costs incurred in any administrative proceeding or in any other proceeding under chapter 598, 600, 600A, 633, 814, 815, or 915 or other provisions of the Code or administrative rules are not payable from ~~these funds~~ the fund.

Approved April 11, 2006

CHAPTER 1042

REGULATION OF DEBT MANAGEMENT, MORTGAGE, DELAYED DEPOSIT, AND LOAN SERVICES PROVIDERS

S.F. 2353

AN ACT relating to debt management, mortgage bankers and brokers, delayed deposit services, regulated loans, and industrial loans, and providing for fees and penalties.

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

DIVISION I
DEBT MANAGEMENT

Section 1. Section 533A.1, Code 2005, is amended to read as follows:

533A.1 DEFINITIONS.

As used in this chapter:

1. "Allowable cost" means an actual, identifiable third-party expense incurred by the licensee on behalf of a specific debtor, such as postage and long distance telephone charges, that may be itemized and charged against the debtor for payment.

2. "Creditor" means a person for whose benefit moneys are being collected and distributed by licensees.

~~2.~~ 3. "Debt management" means the planning and management of the financial affairs of a debtor and the receiving therefrom of money or evidences thereof for the purpose of distributing the same to the debtor's creditors in payment or partial payment of the debtor's obligations for a fee.

~~3.~~ 4. "Debtor" means any natural person.

5. "Donation" means money given by the debtor to a licensee as a gift for debt management and outside of the debt management contract.

6. "Fee" means the moneys paid by the debtor to the licensee as payment for debt management and shall not include money paid to the licensee or held by the licensee for distribution to a creditor, allowable costs, a distribution to the debtor as a refund, or a donation.

7. "Gratuitous debt-management service" means debt management without charging a fee.

~~4.~~ 8. "Licensee" means any ~~individual, partnership, unincorporated association, agency or corporation~~ person licensed under this chapter.

9. "Natural person" means an individual who is not an association, joint venture, or joint stock company, partnership, limited partnership, business corporation, nonprofit corporation, other business entity, or any group of individuals or business entities, however organized.

~~5.~~ 10. "Office" means each location by street number, building number, city, and state where any person engages in debt management.

11. "Person" means an individual, an association, joint venture or joint stock company, partnership, limited partnership, business corporation, nonprofit corporation, or any other group of individuals however organized.

~~6.~~ 12. "Superintendent" means the superintendent of banking.

Sec. 2. Section 533A.2, Code 2005, is amended to read as follows:

533A.2 LICENSES REQUIRED — EXCEPTIONS.

1. ~~No individual, partnership, unincorporated association, agency or corporation~~ A person shall not engage in the business of debt management in this state without a license ~~therefor~~ as provided for in this chapter~~, except that the~~ unless exempt under subsection 2. A person engages in the business of debt management in this state if the person solicits to provide, or enters into a contract with one or more debtors to provide debt management to a debtor who resides in this state.

2. The following persons, including employees of such persons, shall not be required to be licensed when engaged in the regular course of their respective businesses and professions:

a. Attorneys at law.

b. Banks, savings and loan associations, credit unions, mortgage bankers and mortgage brokers licensed or registered under chapter 535B, insurance companies and similar fiduciaries, regulated loan companies licensed under chapter 536, and industrial loan companies licensed under chapter 536A, authorized and admitted to transact business in this state and performing credit and financial adjusting in the regular course of their principal business, or while performing an escrow function.

c. Abstract companies, while performing an escrow function.

d. Employees of licensees under this chapter.

e. Judicial officers or others acting under court orders.

f. Nonprofit religious, fraternal or ~~co-operative~~ cooperative organizations~~, including credit unions,~~ offering to debtors gratuitous debt-management service.

g. Those persons~~, associations, or corporations~~ whose principal business is the origination of first mortgage loans on real estate for their own portfolios or for sale to institutional investors.

~~2.~~ 3. The application for ~~such~~ a license shall be in ~~writing, under oath, and in~~ the form prescribed by the superintendent. The application shall contain all of the following:

a. The name of the applicant~~; date of incorporation, if incorporated, and the~~.

b. If the applicant is not a natural person, the type of business entity of the applicant and the date the entity was organized.

c. The address where the business is to be conducted~~; and similar~~, including information as to any branch office of the applicant~~; the~~.

d. The name and resident address of the applicant's owner or partners, or, if a corporation, association, or agency, of the members, shareholders, directors, trustees, principal officers, managers, and agents~~, and such other pertinent information as the superintendent may require~~. ~~If the applicant is a partnership, a copy of the certificate of assumed name or articles of partnership shall be filed with the application.~~ If the applicant is not a ~~corporation~~ natural person, a copy of the ~~articles of incorporation~~ legal documents creating the applicant shall be filed with the application.

e. Other pertinent information as the superintendent may require, including a credit report.

~~3.~~ 4. Each application shall be accompanied by a bond to be approved by the superintendent ~~to~~ in favor of the people of the state of Iowa in the penal sum of ~~ten~~ twenty-five thousand dollars for each office, ~~providing, however, the superintendent may require such bond to be raised to a maximum sum of twenty-five thousand dollars,~~ and conditioned that the obligor will not violate any law pertaining to such business and upon the faithful accounting of all moneys collected upon accounts entrusted to such person engaged in debt management, and their employees and agents for the purpose of indemnifying debtors for loss resulting from conduct prohibited by this chapter. The aggregate liability of the surety to all debtors doing business with the office for which the bond is filed shall, in no event, exceed the penal sum of such bond. The surety on the bond shall have the right to cancel such bond upon giving thirty days' notice to the superintendent and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of ~~said~~ the cancellation. ~~No individual, partnership, unincorporated association, agency or corporation~~ A person shall not engage in the business of debt management until a good and sufficient bond is filed in accordance with the provisions of this chapter.

~~4.~~ 5. Each applicant shall furnish with the application a copy of the contract the applicant proposes to use between the applicant and the debtor, which shall contain a schedule of fees to be charged the debtor for the applicant's services.

~~5.~~ 6. At the time of making ~~such~~ the application the applicant shall pay to the superintendent the sum of two hundred fifty dollars as a license fee for each of the applicant's offices and an investigation fee in the sum of one hundred dollars. A separate application shall be made for each office maintained by the applicant.

Sec. 3. Section 533A.3, Code 2005, is amended to read as follows:

533A.3 INVESTIGATION — HEARING.

1. Upon the filing of each application and the payment of ~~such~~ the fees, the superintendent shall ~~fix a date and a time for a hearing upon such application, and shall make~~ conduct an investigation of the facts concerning the application and the requirements provided ~~for~~ in subsection 3 ~~of this section~~.

2. The superintendent shall grant or deny each application for a license within sixty days from the ~~filing thereof with~~ date that the application and the required fee are filed and paid, unless the period is extended by written agreement between the applicant and the superintendent.

3. ~~a. If the~~ The superintendent shall ~~find the~~ enter an order granting the application, and issue and deliver a license to the applicant if the superintendent finds that both of the following are satisfied:

a. The experience, financial responsibility, character, and general fitness of the applicant is ~~such~~ sufficient as to command the confidence of the public and to warrant belief that the business will be operated lawfully, honestly, fairly, and efficiently within the purposes of this chapter~~, and that the~~.

b. The applicant~~, or if the applicant is an unincorporated association, agency or partnership, then the individuals involved, or if the applicant is a corporation then the officers and directors thereof, have~~ has not been convicted of or pled guilty to a felony or ~~a~~ an indictable misdemeanor ~~involving moral turpitude~~ for financial gain, or ~~have~~ has not had a record of having defaulted in payment of money collected for others, including the discharge of such debts through bankruptcy proceedings~~, the superintendent shall thereupon enter an order granting such application and forthwith issue and deliver a license to the applicant~~. ~~The superintendent may require as part of the application a credit report and other information.~~

If the applicant is not a natural person, this subsection shall apply to the owners, partners, members, shareholders, officers, directors, and managers of the applicant.

~~b.~~ 4. If the applicant has, at the time of the application, a license for an office located within ten ~~statute~~ miles of the location of the office named in the application, ~~no~~ a license shall not be issued unless the superintendent finds that public convenience will be served by the issuance of ~~such~~ the license.

~~c.~~ 5. ~~No~~ A license shall not be transferable or assignable.

~~4.~~ 6. If the superintendent finds the applicant not qualified ~~by~~ under subsection 3 ~~of this section~~, the superintendent shall enter an order denying ~~such~~ the application and ~~forthwith~~ notify the applicant of the denial, returning the license fee. Within fifteen days after the entry of such order, the superintendent shall prepare written findings and shall ~~forthwith~~ deliver a copy ~~thereof~~ to the applicant.

Sec. 4. Section 533A.5, Code 2005, is amended to read as follows:

533A.5 RENEWAL.

1. ~~Each~~ To continue in the business of debt management, each licensee shall apply on or before ~~July~~ June 1 ~~may make application~~ to the superintendent for renewal of its license. The superintendent may assess a late fee of ten dollars per day for applications submitted and accepted for processing after June 1.

2. The renewal application shall be on the form prescribed by the superintendent and shall be accompanied by a fee of ~~one~~ two hundred fifty dollars~~, together with a bond as in the case of an original application~~. A separate renewal application shall be made for each office maintained by the applicant.

Sec. 5. NEW SECTION. 533A.5A CHANGE IN CONTROL — NAME OR ADDRESS.

1. The prior written approval of the superintendent is required whenever a change in the control of a licensee is proposed. For purposes of this section, "control" in the case of a corporation means direct or indirect ownership, or the right to control, ten percent or more of the voting shares of the corporation, or the ability of a person to elect a majority of the directors

or otherwise effect a change in policy. "Control" in the case of any other entity means the principals of the organization whether active or passive. The superintendent may require information deemed necessary to determine whether a new application is required. When requesting approval, the person shall submit a fee of one hundred dollars to the superintendent.

2. A licensee shall notify the superintendent and submit a fee of twenty-five dollars per license to the superintendent thirty days in advance of the effective date of any of the following:

a. A change in the name of the licensee.

b. A change in the address where the business is conducted.

Sec. 6. Section 533A.7, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. Conviction of a felony or of ~~a~~ an indictable misdemeanor ~~involving moral turpitude~~ for financial gain.

Sec. 7. Section 533A.9, Code 2005, is amended to read as follows:

533A.9 FEE AGREED IN ADVANCE.

The fee of the licensee charged to the debtor shall be agreed upon in advance and stated in the contract and provision for settlement in case of cancellation or prepayment shall also be clearly stated ~~herein~~ in the contract. The fee of the licensee charged to the debtor shall not exceed fifteen percent of any payment made by the debtor and distributed to the creditors pursuant to the contract. In case of total payment of the contract before the contract period has expired, the licensee shall be entitled only to a fee of no more than three percent of ~~such~~ the final payment.

Sec. 8. NEW SECTION. 533A.9A DONATIONS.

A donation shall not be charged to a debtor or creditor, deducted from a payment to a creditor, deducted from the debtor's account, or from payments made to the licensee pursuant to the debt management contract. If a licensee requests a donation from a debtor, the licensee must clearly indicate that any donation is voluntary and not a condition or requirement for providing debt management.

Sec. 9. Section 533A.10, Code 2005, is amended to read as follows:

533A.10 EXAMINATION OF LICENSEE.

1. The superintendent may examine the condition and affairs of ~~said~~ a licensee. In connection with any examination, the superintendent may examine on oath any licensee, and any director, officer, employee, customer, creditor, or stockholder of a licensee concerning the affairs and business of the licensee. The superintendent shall ascertain whether the licensee transacts its business in the manner prescribed by the law and ~~the~~ applicable rules ~~and regulations issued thereunder~~. The licensee shall pay the cost of the examination as determined by the superintendent~~, which fee shall not exceed the sum of one hundred dollars per day of examination~~ based on the actual cost of the operation of the finance bureau of the banking division of the department of commerce, including the proportionate share of the administrative expenses in the operation of the banking division attributable to the finance bureau, as determined by the superintendent, incurred in the discharge of duties imposed upon the superintendent by this chapter. Failure to pay the examination fee within thirty days of receipt of demand from the superintendent shall ~~automatically suspend the license until the fee is paid~~ subject the licensee to a late fee of up to five percent per day of the amount of the examination fee for each day the payment is delinquent.

2. In the investigation of alleged violations of this chapter, the superintendent may compel the attendance of any person or the production of any books, accounts, records and files ~~used therein~~, and may examine under oath all persons in attendance ~~pursuant thereto~~.

~~The superintendent is authorized to make and promulgate as prescribed by law regulations necessary to carry out the purposes of this chapter.~~

Sec. 10. NEW SECTION. 533A.12 RULES.

The superintendent may adopt administrative rules pursuant to chapter 17A to administer and enforce the provisions of this chapter.

Sec. 11. Section 533A.13, Code 2005, is amended to read as follows:

533A.13 LICENSE MANDATORY TO BUSINESS.

It shall be unlawful for ~~an individual, partnership, unincorporated association, agency or corporation~~ a person to engage in the business of debt management without first obtaining a license as required by this chapter. Any ~~individual, partnership, unincorporated association, agency, corporation or any other group of individuals, however organized,~~ person or any owner, partner, member, officer, director, employee, agent, or representative thereof who shall willfully or knowingly engage in the business of debt management without the license required by this chapter, shall be guilty of a serious misdemeanor.

DIVISION II
MORTGAGE BANKERS AND BROKERS

Sec. 12. Section 535B.1, subsection 2, Code Supplement 2005, is amended to read as follows:

~~2.~~ 5A. ~~"First mortgage~~ "Mortgage loan" means a loan of money secured by a ~~first~~ lien on residential real property and includes a refinancing of a contract of sale, an assumption of a prior mortgage loan, and a refinancing of a prior mortgage loan.

Sec. 13. Section 535B.1, subsection 4, Code 2005, as amended by 2005 Iowa Acts, chapter 83, section 2, 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. 14. Section 535B.1, subsection 5, Code 2005, as amended by 2005 Iowa Acts, chapter 83, section 3, 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. 15. Section 535B.4, subsection 7, Code 2005, is amended to read as follows:

7. Applications for renewals of licenses and individual registrations under this chapter must be filed with the administrator before June 1 of the year of expiration ~~and~~ on forms prescribed by the administrator. A renewal application must be accompanied by a fee of two hundred dollars for a license to transact business solely as a mortgage broker, and four hundred dollars for a license to transact business as a mortgage banker. The fee to renew an individual registration shall be the fee determined pursuant to 2005 Iowa Acts, chapter 83, section 6. The ad-

ministrator may assess a late fee of ten dollars per day for applications or registrations accepted for processing after June 1.

Sec. 16. Section 535B.4, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A licensee shall not conduct business under any other name than that given in the license. A fictitious name may be used, but a licensee shall conduct business only under one name at a time. However, the administrator may issue more than one license to the same person to conduct business under different names at the same time upon compliance for each such additional license with all of the provisions of this chapter governing an original issuance of a license.

Sec. 17. Section 535B.4A, subsection 2, as enacted by 2005 Iowa Acts, chapter 83, section 6, is amended to read as follows:

2. An individual registrant who registers pursuant to this section for the first time shall submit to a national criminal ~~background~~ history check through the federal bureau of investigation prior to being registered. The administrator may submit the registrant's fingerprints to the federal bureau of investigation by the department of public safety through the state criminal history repository for the purpose of a national criminal history check. The results of a criminal history check conducted pursuant to this subsection shall not be considered a public record under chapter 22. The administrator shall collect fees necessary to cover the costs associated with criminal ~~background~~ history checks conducted pursuant to this section.

Sec. 18. NEW SECTION. 535B.6A NOTICE AND APPROVAL REQUIRED.

1. A licensee shall submit a notice of name change and a twenty-five dollar fee for each license to the administrator thirty days prior to changing the name of the licensee.

2. The prior written approval is required whenever a change in control of a licensee or registrant is proposed. For purposes of this section, "control" means as defined in section 524.103. The administrator may require the licensee to provide any information deemed necessary by the administrator to determine whether a new application is required. At the time of requesting the approval, the licensee or registrant requesting the change of control shall pay to the administrator a fee of one hundred dollars.

Sec. 19. Section 535B.7, Code 2005, is amended to read as follows:

535B.7 ~~SUSPENSION OR REVOCATION OF LICENSE~~ DISCIPLINARY ACTION.

1. The administrator may, pursuant to chapter 17A, ~~suspend or revoke any license issued pursuant to this chapter~~ take disciplinary action against a licensee or individual registrant if the administrator finds any of the following:

a. The licensee or individual registrant has violated a provision of this chapter or a rule adopted under this chapter or any other state or federal law applicable to the conduct of its business including but not limited to chapters 535 and 535A.

b. A fact or condition exists which, if it had existed at the time of the original application for the license or individual registration, would have warranted the administrator to refuse originally to issue the license or individual registration.

c. The licensee is found upon investigation to be insolvent, in which case the license shall be revoked immediately.

d. The licensee or individual registrant has violated an order of the administrator.

2. The administrator may impose one or more of the following disciplinary actions against a licensee or individual registrant:

a. Revoke a license or individual registration.

b. Suspend a license or individual registration until further order of the administrator or for a specified period of time.

c. Impose a period of probation under specified conditions.

d. Impose civil penalties in an amount not to exceed five thousand dollars for each violation.

e. Issue a citation and warning respecting licensee or individual registrant behavior.

~~2.~~ 3. The administrator may order an emergency suspension of a licensee's license or an individual's registration pursuant to section 17A.18A. A written order containing the facts or conduct which warrants the emergency action shall be timely sent to the licensee or individual registrant by restricted certified mail. Upon issuance of the suspension order, the licensee or individual registrant must also be notified of the right to an evidentiary hearing. A suspension proceeding shall be promptly instituted and determined.

Except as provided in this section, a license or individual registration shall not be revoked or suspended except after notice and a hearing thereon in accordance with chapter 17A.

~~3.~~ 4. A licensee may surrender a license and an individual registrant may surrender an individual registration by delivering to the administrator written notice of surrender, but a surrender does not affect the licensee's or individual registrant's civil or criminal liability for acts committed before the surrender.

~~4.~~ 5. A revocation, suspension, or surrender of a license or individual registration does not impair or affect the obligation of a preexisting lawful contract between the licensee or individual registrant and any person, including a mortgagor.

Sec. 20. Section 535B.9, subsection 1, Code 2005, as amended by 2005 Iowa Acts, chapter 83, section 7, 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, together with evidence of whether the applicant is seeking to transact business as a mortgage broker or as a mortgage banker. The bond shall be in the amount of ~~twenty-five~~ fifty thousand dollars ~~for an applicant seeking to transact business solely as a mortgage broker, or 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. 21. Section 535B.10, Code Supplement 2005, is amended to read as follows:

535B.10 INVESTIGATIONS AND EXAMINATIONS.

1. Within one hundred twenty days after the end of a mortgage banker licensee's fiscal year, the mortgage banker licensee shall file financial statements which are ~~certified~~ audited by an independent certified public accounting firm.

2. For the purposes of discovering violations of this chapter or any related rules ~~adopted under this chapter~~ or for securing information lawfully required under this chapter, the administrator may at any time and as often as the administrator deems necessary, investigate the business and examine the books, accounts, records, and files used by a licensee or individual registrant. ~~However, if the financial statement required by subsection 1 shows that the licensee satisfies the minimum net worth requirement necessary to be an approved mortgagee by the United States department of housing and urban development pursuant to its guidelines, as amended, the licensee is not subject to an investigation or examination as described in this subsection.~~

~~3. Notwithstanding subsection 2, all licensees are subject to limited examination by the administrator to investigate complaints or alleged violations about the licensee made to the administrator. Such investigation or examination by the administrator shall be restricted to acquiring information from the licensee relevant to the alleged violations.~~

~~4.~~ 3. In conducting any examination under this section, the administrator may rely on current reports made by the licensee which have been prepared for the following federal agencies or federally related entities:

a. United States department of housing and urban development.

b. Federal housing administration.
c. Federal national mortgage association.
d. Government national mortgage association.
e. Federal home loan mortgage corporation.
f. Veterans administration.

~~5.~~ 4. With respect to mortgage lenders or mortgage bankers who are specifically exempted from this chapter but are subject to sections 535B.11, 535B.12, and 535B.13, the powers of examination and investigation concerning compliance with sections 535B.11, 535B.12, and 535B.13 shall be exercised by the official or agency to whose supervision the exempted person is subject. If the administrator receives a complaint or other information concerning noncompliance with this chapter by an exempted person, the administrator shall inform the official or agency having supervisory authority over that person.

~~6.~~ 5. a. The licensee shall pay the cost of the examination or investigation as determined by the administrator based on the actual cost of the operation of the finance bureau of the banking division of the department of commerce, including the proportionate share of administrative expenses in the operation of the banking division attributable to the finance bureau as determined by the administrator, incurred in the discharge of duties imposed upon the administrator by this chapter.

b. 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~~ Failure to pay the charge within thirty days shall subject the licensee to a late fee of up to five percent of the amount of the examination or investigation charge for each day the payment is delinquent.

6. a. All papers, documents, examination reports, and other writings relating to the supervision of licensees and registrants shall be kept confidential except as provided in this subsection, notwithstanding chapter 22.

b. The administrator may furnish information relating to the supervision of licensees and registrants to the federal agencies or federally related entities listed in subsection 3, the federal deposit insurance corporation, the federal reserve system, the office of the comptroller of the currency, the office of thrift supervision, the national credit union administration, the federal home loan bank, and financial institution regulatory authorities of other states, or to any official or supervising examiner of such regulatory authorities.

c. The administrator may release summary complaint information regarding a particular licensee so long as the information does not specifically identify the complainant.

d. The administrator may prepare and circulate reports reflecting financial information and examination results for all licensees on an aggregate basis, including other information considered pertinent to the purpose of each report for general statistical information.

e. The administrator may prepare and circulate reports provided by law.

f. The administrator may release the reports and correspondence in the course of an enforcement proceeding or a hearing held by the administrator.

g. 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. 22. Section 535B.11, subsection 6, Code 2005, is amended to read as follows:

6. If a person in connection with a ~~first~~ mortgage loan has possession of an abstract of title and fails to deliver the abstract to the borrower within twenty calendar days of the borrower's request made by certified mail return receipt requested in connection with a proposed sale of the property, then the borrower may authorize the preparation of a new abstract of title to the property and the person failing to deliver the original abstract shall pay to the borrower the reasonable costs of preparation. If the borrower brings an action against the person failing to deliver to recover ~~such~~ the payment and in the action recovers the payment, then the borrower shall also be entitled to recover attorney fees and court costs incurred in the action.

Sec. 23. Section 535B.11, subsection 7, unnumbered paragraph 1, Code 2005, is amended to read as follows:

When the servicing of a ~~first~~ mortgage loan is transferred, sold, purchased, or accepted by a licensee or registrant, the licensee or registrant who is transferring or selling the servicing shall issue to the mortgagor, within ~~five business~~ fifteen calendar days prior to the effective date of the transfer, a notice which shall include at a minimum:

Sec. 24. NEW SECTION. 535B.17 POWERS AND DUTIES OF THE ADMINISTRATOR — WAIVER AUTHORITY.

In addition to any other duties imposed upon the administrator by law, the administrator may participate in a multistate automated licensing system for mortgage bankers, mortgage brokers, and individual registrants. For this purpose, the administrator may establish by rule or order new requirements as necessary, including but not limited to requirements that license applicants and individual registrants submit to fingerprinting, criminal history checks, and pay fees therefor.

DIVISION III
DELAYED DEPOSIT SERVICES

Sec. 25. Section 533D.3, subsection 2, Code 2005, is amended to read as follows:

2. An applicant for a license shall submit an application~~, under oath,~~ to the superintendent on forms prescribed by the superintendent. The forms shall contain such information as the superintendent may prescribe.

Sec. 26. Section 533D.3, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. An application fee ~~in an amount prescribed by rule adopted by the superintendent~~ of one hundred dollars.

Sec. 27. Section 533D.3, subsection 6, Code 2005, is amended to read as follows:

6. a. A license issued pursuant to this chapter shall be conspicuously posted at the licensee's place of business. A license shall remain in effect until the next succeeding May 1, unless earlier suspended or revoked by the superintendent.

b. A license shall be renewed annually by filing with the superintendent on or before April 1 an application for renewal containing such information as the superintendent may require to indicate any material change in the information contained in the original application or succeeding renewal applications and a renewal fee of ~~one~~ two hundred fifty dollars.

c. The superintendent may assess a late fee of ten dollars per day for applications submitted and accepted for processing after April 1.

Sec. 28. Section 533D.6, subsection 1, Code 2005, is amended to read as follows:

1. The prior written approval of the superintendent is required for the continued operation of a delayed deposit services business whenever a change in control of a licensee is proposed. The person requesting such approval shall pay to the superintendent a fee of one hundred dollars. Control in the case of a corporation means direct or indirect ownership, or the right to control, ten percent or more of the voting shares of the corporation, or the ability of a person to elect a majority of the directors or otherwise effect a change in policy. Control in the case of any other entity means any change in the principals of the organization, whether active or passive. The superintendent may require information deemed necessary to determine whether a new application is required. Costs incurred by the superintendent in investigating a change of control request shall be paid by the person requesting such approval.

Sec. 29. Section 533D.7, subsection 3, Code 2005, is amended to read as follows:

3. A fee of ~~one hundred fifty~~ twenty-five dollars shall be paid to the superintendent for each

request made pursuant to subsection 1 or 2 for a change of location. For each new branch office established, a fee of two hundred fifty dollars shall be paid to the superintendent.

Sec. 30. NEW SECTION. 533D.7A NOTICE OF NAME CHANGE.

A licensee shall notify the superintendent thirty days in advance of the effective date of a change in the name of the licensee. With the notice of change, the licensee shall submit a fee of twenty-five dollars per license to the superintendent.

Sec. 31. Section 533D.9, subsection 2, Code 2005, is amended to read as follows:

2. A licensee shall give to the maker of the check, at the time any delayed deposit service transaction is made, or if there are two or more makers, to one of them, notice written in clear, understandable language disclosing all of the following:

a. The fee to be charged for the transaction.

b. The annual percentage rate ~~on the first hundred dollars on the face amount of the check which the fee represents, and the annual percentage rate on subsequent one hundred dollar increments which the fee represents, if different~~ as computed pursuant to the federal Truth in Lending Act.

c. The date on which the check will be deposited or presented for negotiation.

d. Any penalty, not to exceed fifteen dollars, which the licensee will charge if the check is not negotiable on the date agreed upon. A penalty to be charged pursuant to this section shall only be collected by the licensee once on a check no matter how long the check remains unpaid. A penalty to be charged pursuant to this section is a licensee's exclusive remedy and if a licensee charges a penalty pursuant to this section no other penalties under this chapter or any other provision apply.

Sec. 32. Section 533D.11, Code 2005, is amended to read as follows:

533D.11 EXAMINATION OF RECORDS BY SUPERINTENDENT.

1. The superintendent shall examine the books, accounts, and records of each licensee ~~annually. The costs of the superintendent incurred in an examination shall be paid by the licensee~~ at least once a year and as needed to secure information required pursuant to this chapter and to determine whether any violations of this chapter have occurred. The licensee shall pay the cost of the examination.

2. The superintendent may examine or investigate complaints or reports concerning alleged violations of this chapter or any rule adopted or order issued by the superintendent. The superintendent may order the actual cost of the examination or investigation to be paid by the person who is the subject of the examination or investigation, whether or not the alleged violator is licensed.

3. The superintendent shall determine the cost of the examination or investigation based upon the actual cost of the operation of the finance bureau of the banking division of the department of commerce, including the proportionate share of administrative expenses in the operation of the banking division attributable to the finance bureau as determined by the superintendent, incurred in the discharge of duties imposed upon the superintendent by this chapter.

4. Failure to pay the examination or investigation fee within thirty days of receipt of demand from the superintendent shall subject the licensee to a late fee of up to five percent of the amount of the examination or investigation fee for each day the payment is delinquent.

5. The superintendent may disclose information to representatives of other state or federal regulatory authorities. The superintendent may release summary complaint information so long as the information does not specifically identify the complainant. The superintendent may prepare and circulate reports reflecting financial information and examination results for all licensees on an aggregate basis, including other information considered pertinent to the purpose of each report for general statistical information. The superintendent may prepare and circulate reports provided by law. The superintendent may release the reports and correspondence in the course of an enforcement proceeding or a hearing held by the superinten-

dent. The superintendent may also provide this information to the attorney general for purposes of enforcing this chapter or the consumer fraud Act, section 714.16.

DIVISION IV
REGULATED LOANS

Sec. 33. Section 536.2, Code 2005, is amended to read as follows:

536.2 APPLICATION — FEES.

1. ~~Application~~ An application for ~~such~~ a license shall be ~~in writing, under oath, and~~ in the form prescribed by the superintendent, and shall contain ~~the~~ all of the following:

a. The name and the address~~, (~~both of the residence and place of business~~),~~ of the applicant~~,~~ ~~and if~~. If the applicant is not a ~~copartnership or association~~ natural person, the application shall include the name and address of every member ~~thereof, and if a corporation, of each officer and director thereof; also the~~, director, officer, manager, and trustee of the applicant.

b. The county and municipality with street and number, if any, of the place where the business of making loans under the provisions of this chapter is to be conducted~~, and such further~~

c. Other relevant information as the superintendent may require.

2. ~~Such~~ The applicant at the time of making ~~such~~ the application shall pay to the superintendent the sum of ~~fifty~~ one hundred dollars ~~if the liquid assets of the applicant are not in excess of twenty thousand dollars, and the sum of one hundred dollars if the liquid assets of the applicant are in excess of twenty thousand dollars,~~ as a fee for investigating the application and the additional sum of ~~one hundred twenty-five dollars if the liquid assets of the applicant are not in excess of twenty thousand dollars, and~~ two hundred fifty dollars ~~if the liquid assets of the applicant are in excess of twenty thousand dollars,~~ as an annual license fee.

3. Every applicant shall also prove, in form satisfactory to the superintendent, that the applicant has available for the operation of such business at the place of business specified in the application, liquid assets of at least five thousand dollars, or that the applicant has at least the said amount actually in use in the conduct of such business at such place of business.

Sec. 34. Section 536.7, Code 2005, is amended to read as follows:

536.7 SEPARATE LICENSE — CHANGE OF NAME OR PLACE OF BUSINESS.

1. ~~Not more than~~ Only one place of business where ~~such~~ loans are made shall be maintained under ~~the same~~ a license~~, but~~. However, the superintendent may issue more than one license to the same licensee upon compliance, for each such additional license, with all the provisions of this chapter governing an original issuance of a license.

~~Whenever a licensee shall change such place of business to another location the licensee shall at once give written notice thereof to the superintendent who shall attach to the license in writing the superintendent's record of the change and the date thereof, which shall be authority for the operation of such business under such license at such new place of business.~~

2. A licensee shall notify the superintendent and submit a fee of twenty-five dollars per license to the superintendent thirty days in advance of the effective date of any of the following:

a. A change in the name of the licensee.

b. A change in the address of the location where the business is conducted.

Sec. 35. NEW SECTION. 536.7A CHANGE IN CONTROL — APPROVAL.

The prior written approval of the superintendent is required whenever a change in control of the licensee is proposed. For purposes of this section, "control" means control as defined in section 524.103. The superintendent may require information deemed necessary to determine whether a new application is required. When requesting approval, the person shall submit a fee of one hundred dollars to the superintendent.

Sec. 36. Section 536.8, Code 2005, is amended to read as follows:

536.8 ANNUAL FEE — PAYMENT ~~— NEW BOND~~.

Every licensee shall annually, on or before ~~the fifteenth day of each~~ December 1, submit a

renewal application on forms prescribed by the superintendent and pay to the superintendent the sum as provided in section 536.2 as an annual license fee for the next succeeding calendar year ~~and shall at the same time file with the superintendent a new bond or renewal of the old bond in the same amount and of the same character as required by section 536.3~~. The superintendent may assess a late fee of ten dollars per day, per license for renewal applications received after December 1.

Sec. 37. Section 536.10, Code 2005, is amended to read as follows:

536.10 EXAMINATION OF BUSINESS — FEE.

1. For the purpose of discovering violations of this chapter or securing information lawfully required by the superintendent ~~hereunder~~, the superintendent may at any time, either personally or by ~~an individual or individuals duly designated by the superintendent~~ designee, investigate the loans and business and examine the books, accounts, records, and files ~~used therein~~, of every licensee and of every person engaged in the business described in section 536.1, whether such person shall act or claim to act as principal or agent, or under or without the authority of this chapter. ~~For that purpose the~~

a. The superintendent and the superintendent's ~~duly designated representatives~~ designee shall have and be given free access to the place of business, books, accounts, papers, records, files, safes, and vaults of all ~~such~~ persons examined.

b. The superintendent and ~~all individuals duly designated by the superintendent~~ the designee shall have authority to require the attendance of and to examine under oath all individuals ~~whomsoever~~ whose testimony the superintendent may require relative to ~~such~~ the loans or ~~such~~ the business.

2. The superintendent shall make an examination of the affairs, place of business, and records of each licensed place of business at least once each year.

3. A licensee subject to examination, supervision, and regulation by the superintendent~~,~~ shall pay to the superintendent an examination fee, based on the actual cost of the operation of the regulated loan bureau of the banking division of the department of commerce, and the proportionate share of administrative expenses in the operation of the banking division attributable to the regulated loan bureau as determined by the superintendent ~~of banking~~. The fee shall apply equally to all licenses and shall not be changed more frequently than annually ~~and when changed,~~. A fee change shall be effective on January 1 of the year following the year in which the change is approved.

4. Upon completion of each examination required or allowed by this chapter, the examiner ~~shall render a bill for such fee, in triplicate, and~~ shall deliver one copy of the bill for the examination to the licensee and two copies to the superintendent. Failure to pay the fee to the superintendent within ~~ten~~ thirty days after the date of the close of ~~each such~~ the examination shall subject the licensee to an additional fee of five percent of the amount of ~~such~~ the fee for each day the payment is delinquent.

5. Except as otherwise provided by this chapter, all papers, documents, examination reports, and other writing relating to the supervision of licensees are not public records and are not subject to disclosure under chapter 22. The superintendent may disclose information to representatives of other state or federal regulatory authorities. The superintendent may release summary complaint information so long as the information does not specifically identify the complainant. The superintendent may prepare and circulate reports reflecting financial information and examination results for all licensees on an aggregate basis, including other information considered pertinent to the purpose of each report for general statistical information. The superintendent may prepare and circulate reports provided by law. The superintendent may release the reports and correspondence in the course of an enforcement proceeding or a hearing held by the superintendent. The superintendent may also provide this information to the attorney general for purposes of enforcing this chapter or the consumer fraud Act, section 714.16.

Sec. 38. Section 536.13, Code Supplement 2005, is amended to read as follows:

536.13 ~~BANKING COUNCIL~~ SUPERINTENDENT — REPORT — CLASSIFICATION — RULES — PENALTY — CONSUMER CREDIT CODE.

1. The ~~state banking council~~ superintendent may investigate the conditions and find the facts with reference to the business of making regulated loans, as described in section 536.1 and after making the investigation, report in writing its findings to the next regular session of the general assembly, and upon the basis of the facts:

a. Classify regulated loans by a rule according to a system of differentiation which will reasonably distinguish the classes of loans for the purposes of this chapter.

b. Determine and fix by a rule the maximum rate of interest or charges upon each class of regulated loans which will induce efficiently managed commercial capital to enter the business in sufficient amounts to make available adequate credit facilities to individuals. The maximum rate of interest or charge shall be stated by the ~~council~~ superintendent as an annual percentage rate calculated according to the actuarial method and applied to the unpaid balances of the amount financed.

2. Except as provided in subsection 7, the ~~council~~ superintendent may redetermine and refix by rule, in accordance with subsection 1, any maximum rate of interest or charges previously fixed by it, but the changed maximum rates shall not affect pre-existing loan contracts lawfully entered into between a licensee and a borrower. All rules which the ~~council~~ superintendent may make respecting rates of interest or charges shall state the effective date of the rules, which shall not be earlier than thirty days after notice to each licensee by mailing the notice to each licensed place of business.

3. Before fixing any classification of regulated loans or any maximum rate of interest or charges, or changing a classification or rate under authority of this section, the ~~council~~ superintendent shall give reasonable notice of ~~its~~ the superintendent's intention to consider doing so to all licensees and a reasonable opportunity to be heard and to introduce evidence with respect to the change or classification.

4. Beginning July 4, 1965, and until such time as a different rate is fixed by the ~~council~~ superintendent, the maximum rate of interest or charges upon the class or classes of regulated loans is ~~three~~ as follows:

a. Three percent per month on any part of the unpaid principal balance of the loan not exceeding one hundred fifty dollars ~~and two~~.

b. Two percent per month on any part of the loan in excess of one hundred fifty dollars, but not exceeding three hundred dollars~~, and one~~.

c. One and one-half percent per month on any part of the unpaid principal balance of the loan in excess of three hundred dollars, but not exceeding seven hundred dollars~~, and one~~.

d. One percent per month on any part of the unpaid principal balance of the loan in excess of seven hundred dollars.

5. A licensee under this chapter may lend any sum of money not exceeding twenty-five thousand dollars in amount and may charge, contract for, and receive on the loan interest or charges at a rate not exceeding the maximum rate of interest or charges determined and fixed by the ~~council~~ superintendent under authority of this section or pursuant to subsection 7 for those amounts in excess of ten thousand dollars.

6. If any interest or charge on a loan regulated by this chapter in excess of those permitted by this chapter is charged, contracted for, or received, the contract of loan is void as to interest and charges and the licensee has no right to collect or receive any interest or charges. In addition, the licensee shall forfeit the right to collect the lesser of two thousand dollars of principal of the loan or the total amount of the principal of the loan.

7. a. The ~~council~~ superintendent may establish the maximum rate of interest or charges as permitted under this chapter for those loans ~~whose~~ with an unpaid principal balance ~~is~~ of ten thousand dollars or less. For those loans ~~whose~~ with an unpaid principal balance ~~is~~ of over ten thousand dollars, the maximum rate of interest or charges which a licensee may charge shall be the greater of the rate permitted by chapter 535 or the rate authorized for supervised financial organizations by chapter 537.

b. The Iowa consumer credit code, chapter 537, applies to a consumer loan in which the licensee participates or engages, and a violation of the Iowa consumer credit code, chapter 537, is a violation of this chapter.

c. Article 2, parts 3, 5, and 6 of chapter 537, and article 3 of chapter 537, sections 537.3203, 537.3206, 537.3209, 537.3304, 537.3305, and 537.3306 apply to any credit transaction, as defined in section 537.1301 in which a licensee participates or engages, and any violation of those parts or sections is a violation of this chapter. For the purpose of applying the Iowa consumer credit code, chapter 537, to those credit transactions, "consumer loan" includes a loan for a business purpose.

d. A provision of the Iowa consumer credit code, chapter 537, applicable to loans regulated by this chapter supersedes a conflicting provision of this chapter.

Sec. 39. Section 536.16, subsection 1, Code 2005, is amended to read as follows:

1. Section 536.2 to the extent it ~~requires payment of an annual license fee in excess of two hundred fifty dollars and~~ requires a person to prove the person has any dollar amount of liquid assets or the use of any dollar amount in the conduct of the person's business at the licensed place of business.

Sec. 40. Section 536.23, Code 2005, is amended to read as follows:

536.23 JUDICIAL REVIEW.

Judicial review of the actions of the superintendent ~~or the state banking council~~ may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

Sec. 41. Section 536.28, subsection 3, Code Supplement 2005, is amended by striking the subsection.

Sec. 42. Section 536.25, Code 2005, is repealed.

DIVISION V
INDUSTRIAL LOANS

Sec. 43. Section 536A.7, Code 2005, is amended to read as follows:

536A.7 APPLICATION FOR LICENSE.

1. ~~Applications~~ The application for ~~licenses~~ a license to engage in the business of operating an industrial loan ~~companies~~ company shall be ~~in writing on such forms~~ in the form as may be prescribed by the superintendent. The application shall give all of the following information:

a. The name of the corporation~~, the~~.

b. The location where the business is to be conducted, including the street address of the place of business~~, the~~.

c. The names and addresses of the officers and directors of the corporation ~~and such other~~.

d. Other relevant information as the superintendent shall require.

2. At the time of making ~~such~~ the application the applicant shall pay to the superintendent the sum of ~~fifty~~ one hundred dollars to cover the cost of the investigation of the applicant. The applicant shall also pay to the superintendent the sum of two hundred fifty dollars as an annual license fee for the period ending December 31 ~~next~~ following the application~~; provided that if the license is granted after June 30 in any year, the license fee for the remainder of that year shall be one hundred twenty-five dollars and any license fee paid by the applicant in excess of that amount shall be refunded by the superintendent~~.

Sec. 44. Section 536A.12, Code 2005, is amended to read as follows:

536A.12 CONTINUING LICENSE — ANNUAL FEE — CHANGE OF LOCATION — CHANGE OF CONTROL.

1. Each ~~such~~ license remains in full force and effect until surrendered, revoked, or suspended, or until there is a change of control ~~on or after January 1, 1996~~.

2. A licensee, on or before ~~the second day of January~~ December 1, shall pay to the superintendent the sum of two hundred fifty dollars as an annual license fee for the succeeding calendar year. The licensee shall submit the annual license fee with a renewal application in the form prescribed by the superintendent. The superintendent may assess a late fee of ten dollars per day per license for applications received after December 1.

3. When a licensee changes its name or place of business from one location to another in the same city, ~~it shall at once give written notice to the superintendent who shall attach to the license in writing the superintendent's record of the change and the date of the change, which is authority for the operation of the business under that license at the new place of business~~ the licensee shall notify the superintendent thirty days in advance of the effective date of the change. A licensee shall pay a fee of twenty-five dollars per license to the superintendent with the notification of change.

~~2.~~ 4. a. A person who proposes to purchase or otherwise acquire, directly or indirectly, any of the outstanding shares of an industrial loan company which would result in a change of control of the industrial loan company, shall first apply in writing to the superintendent for a certificate of approval for the proposed change of control.

b. At the time of making the application, the applicant shall pay to the superintendent one hundred dollars to cover the cost of the investigation of the applicant.

c. The superintendent shall grant the certificate if the superintendent is satisfied ~~that~~ of both of the following:

(1) The person who proposes to obtain control of the industrial loan company is qualified by character, experience, and financial responsibility to control and operate the industrial loan company in a sound and legal manner~~, and that the~~.

(2) The interests of the thrift certificate holders, creditors, and shareholders of the industrial loan company, and of the public generally, ~~shall~~ will not be jeopardized by the proposed change of control.

d. If a board member of the industrial loan company has reason to believe any of the requirements of this subsection have not been ~~complied with~~ met, the board member shall promptly report the facts in writing ~~such facts~~ to the superintendent.

e. If there is any doubt as to whether a change in the ownership of the outstanding shares is sufficient to result in control of the industrial loan company, or to effect a change in the control of the industrial loan company, ~~such~~ the doubt shall be resolved in favor of reporting the facts to the superintendent.

~~3.~~ 5. a. For purposes of this section, "control" means control as defined in section 524.103. However, a change of control does not occur when a majority shareholder of an industrial loan company transfers the shareholder's shares of the industrial loan company to a revocable trust, so long as the transferor retains the power to revoke the trust and take possession of ~~such~~ the shares.

b. Notwithstanding the provisions of paragraph "a", a change of control is deemed to occur two years after the death of the majority shareholder, whether the shareholder's shares of the industrial loan company are held in a revocable trust or otherwise.

Sec. 45. Section 536A.15, Code 2005, is amended to read as follows:

536A.15 EXAMINATION OF LICENSEES.

1. The superintendent or the superintendent's ~~duly authorized representative~~ designee shall, at least once each year without previous notice, examine the books, accounts, and records of each licensee engaged in the industrial loan business as defined by this chapter. A licensee issuing senior debt to the general public shall be audited at the expense of the licensee by a certified public accountant licensed to practice in the state of Iowa. A licensee not issuing senior debt to the general public may provide an audited statement of the licensee's parent corporation which includes the Iowa licensee. After receiving such an audit or audited statement, the superintendent may make further examination of the licensee as the superintendent deems necessary. A record of each examination shall be kept in the superintendent's office. ~~The examinations and reports, and other information connected with them, shall be kept confidential in the office of the superintendent and shall not be subject to publication or disclosure to others except as in this chapter provided.~~

2. Except as otherwise provided by this chapter, all papers, documents, examination reports, and other writing relating to the supervision of licensees are not public records and are not subject to disclosure under chapter 22. The superintendent may disclose information to representatives of other state or federal regulatory authorities. The superintendent may release summary complaint information so long as the information does not specifically identify the complainant. The superintendent may prepare and circulate reports reflecting financial information and examination results for all licensees on an aggregate basis, including other information considered pertinent to the purpose of each report for general statistical information. The superintendent may prepare and circulate reports provided by law. The superintendent may release the reports and correspondence in the course of an enforcement proceeding or a hearing held by the superintendent. The superintendent may also provide this information to the attorney general for purposes of enforcing this chapter or the consumer fraud Act, section 714.16.

3. Any evidence of criminal acts committed by officers, directors, or employees of an industrial loan company shall be reported by the superintendent to the proper authorities.

4. The licensee shall be charged and shall pay the actual costs of the examination as determined by the superintendent based on the actual cost of the operation of the finance bureau of the banking division of the department of commerce including the proportionate share of administrative expenses in the operation of the banking division attributable to the finance bureau as determined by the superintendent incurred in the discharge of the duties imposed upon the superintendent by this chapter. Failure to pay the examination fee within thirty days of receipt of demand from the superintendent shall subject the licensee to a late fee of five percent of the amount of the examination fee for each day the payment is delinquent.

Sec. 46. Section 536A.25, subsections 1 and 3, Code 2005, are amended to read as follows:

1. a. An industrial loan company licensed under this chapter that sells debt instruments to the general public in the form of thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes, or similar evidences of indebtedness shall not make a loan of money or property to or guarantee the obligations of its directors or officers; or loan to any borrower, other than a subsidiary or affiliated corporation, more than twenty percent of its total capital, surplus, and undivided profits.

b. A licensee shall not make a loan under any other name or at any other place of business than that named in the license.

3. Investments by an industrial loan company licensed under this chapter that sells debt instruments to the general public in the form of thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes, or similar evidences of indebtedness are subject to the provisions of section 524.901 as applied to state banks.

Sec. 47. Section 536A.30, Code 2005, is amended to read as follows:

536A.30 NONRESIDENT LICENSEES — FACE-TO-FACE SOLICITATION.

Notwithstanding other provisions of this chapter to the contrary, a person ~~which~~ that neither has an office physically located in this state nor engages in face-to-face solicitation in this state, if authorized by another state to make loans in that state at a rate of finance charge in excess of the rate provided in chapter 535, shall not be subject to the following provisions of this chapter:

1. ~~Section 536A.7, to the extent it requires payment of an annual license fee in excess of two hundred fifty dollars.~~

~~2.~~ Section 536A.8.

~~3.~~ 2. Section 536A.10, subsections 2, 3, and 4.

~~4. Section 536A.12, to the extent it requires a licensee to pay an annual license fee which, when combined with that required in section 536A.7, is in excess of two hundred fifty dollars.~~

~~5.~~ 3. Section 536A.15, to the extent it requires the superintendent to make an examination and audit of the books, accounts and records of the licensee on a periodic basis.

Approved April 11, 2006

CHAPTER 1043

CONDITIONAL FISHING PERMITS FOR CERTAIN SUPERVISED GROUPS

H.F. 2171

AN ACT allowing fishing without a license for certain persons who fish in a supervised group.

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

Section 1. Section 483A.24, subsection 12, Code Supplement 2005, is amended to read as follows:

12. The department may issue a permit, subject to conditions established by the department, which authorizes patients of a substance abuse facility, residents of health care facilities licensed under chapter 135C, tenants of elder group homes licensed under chapter 231B, tenants of assisted living program facilities licensed under chapter 231C, participants who attend adult day services programs licensed under chapter 231D, participants in services funded under a federal home and community-based services waiver implemented under the medical assistance program as defined in chapter 249A, and persons cared for in juvenile shelter care homes as provided for in chapter 232 to fish without a license as a supervised group. A person supervising a group pursuant to this subsection may fish with the group pursuant to the permit and is not required to obtain a fishing license.

Approved April 11, 2006

CHAPTER 1044

FREE TEXTBOOKS FOR SCHOOL DISTRICT PUPILS — BALLOT ISSUE PETITION

H.F. 2462

AN ACT relating to the number of eligible electors' signatures necessary in a school district to propose at a regular election the question of providing free textbooks for the use of the school district's pupils.

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

Section 1. Section 301.24, Code 2005, is amended to read as follows:

301.24 PETITION — ELECTION.

Whenever a petition signed by one hundred eligible electors residing in the school district or a number of eligible electors residing in the school district equal ~~in number~~ to at least ten percent of the ~~registered~~ number of voters in the last preceding regular school ~~district, to be determined by the school board of any school district, shall be~~ election, whichever is greater, is filed with the secretary thirty days or more before the regular election, asking that the question of providing free textbooks for the use of pupils in the ~~public schools thereof~~ school district's attendance centers be submitted to the voters at the next regular election, the secretary shall cause notice of such proposition to be given in the notice of such election.

Approved April 11, 2006

CHAPTER 1045

VIRAL HEPATITIS PROGRAM — STUDY

H.F. 2493

AN ACT providing for the establishment of a viral hepatitis program and study.

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

Section 1. NEW SECTION. 135.20A VIRAL HEPATITIS PROGRAM — VACCINATIONS AND TESTING — STUDY.

1. If sufficient funds are appropriated by the general assembly, the department shall establish and administer a viral hepatitis program. The goal of the program shall be to distribute information to citizens of this state who are at an increased risk for exposure to viral hepatitis regarding the higher incidence of hepatitis C exposure and infection among these populations, the dangers presented by the disease, and contacts for additional information and referrals. The program shall also make available hepatitis A and hepatitis B vaccinations, and hepatitis C testing.

2. The department shall establish by rule a list of individuals by category who are at increased risk for viral hepatitis exposure. The list shall be consistent with recommendations developed by the centers for disease control, and shall be developed in consultation with the Iowa viral hepatitis task force. The department shall also establish by rule what information is to be distributed and the form and manner of distribution. The rules shall also establish a vaccination and testing program, to be coordinated by the department through local health departments and clinics.

3. The department shall conduct a study to provide an epidemiological profile of hepatitis C and to assess its current and future impact on the state. The department shall submit a report to the members of the general assembly by January 1, 2008, regarding the results of the study, and shall include a status report regarding the development and distribution of viral hepatitis information, and the results of the vaccination and testing program.

Approved April 11, 2006

CHAPTER 1046

FAMILY INVESTMENT PROGRAM —
FINANCIAL EDUCATION COMPONENT

H.F. 2509

AN ACT relating to financial education for applicants for and participants in the family investment program.

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

Section 1. Section 239B.17, subsection 2, paragraph d, Code 2005, is amended to read as follows:

d. Incentives, opportunities, services, and other benefits to aid applicants and participants, which may include but is[1] not limited to financial education.

Approved April 11, 2006

[1] According to enrolled Act; the word "are" probably intended

CHAPTER 1047

EDUCATION — IOWA STUDIES

S.F. 2320

AN ACT relating to the development of an Iowa studies professional development plan and the establishment of an Iowa studies committee.

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

Section 1. NEW SECTION. 303.17 IOWA STUDIES — FINDINGS — CURRICULUM — COMMITTEE.

1. The general assembly finds that Iowa students should have an appreciation for Iowa through the study of Iowa's history and government, and Iowa citizens' long and distinguished record of civic responsibility. A fundamental need exists to provide Iowa's students with learning opportunities that assist the students in succeeding in society and confer upon them the ability to make their own valuable contributions to Iowa's history.

2. The department of cultural affairs shall develop an Iowa studies professional development plan that includes professional development materials and training measures to provide Iowa's teachers with effective ways to infuse Iowa studies into their classrooms. The materials developed shall include an active and innovative Iowa studies learning curriculum that may be integrated into the social studies requirements for Iowa's secondary school students at the discretion of each board of directors of a school district or the authorities in charge of each accredited nonpublic school. The curriculum shall include lesson plans covering Iowa history, civics, government, and heritage studies. The curriculum developed shall contain enough content for the creation of a course of at least one-half unit of credit.

3. a. The director of the department of cultural affairs shall establish an Iowa studies committee to do the following:

(1) Work to inform Iowa's school districts, accredited nonpublic schools, and area education agencies of the Iowa studies professional development plan, including how to effectively utilize the curriculum developed pursuant to subsection 2.

(2) Develop partnerships with organizations such as nonprofit history or humanities organizations, civic organizations, libraries, and the business community to support and promote Iowa studies statewide.

(3) Establish evaluation criteria for the Iowa studies professional development plan, including but not limited to teacher and student evaluation and curriculum and plan effectiveness, which may include a survey of student participation in civic activities and involvement in the election process.

(4) Develop a strategy and plan to allow for the implementation of the Iowa studies professional development plan and curriculum in a limited number of schools and area education agencies across the state. Participation by a school or area education agency shall be voluntary. However, a school or area education agency selected to participate in the plan shall agree to participate in the evaluation component conducted by the Iowa studies committee pursuant to subsection 4.

b. The Iowa studies committee membership shall be comprised of the following:

(1) The director of the department of cultural affairs or the director's designee.

(2) The director of the department of education or the director's designee.

(3) The secretary of state or the secretary's designee.

(4) The state librarian or the state librarian's designee.

(5) Additional persons knowledgeable in Iowa studies, who shall be appointed by the director of the department of cultural affairs and who shall include but not be limited to the following:

(a) An employee of an area education agency.

(b) An individual employed as an Iowa social studies teacher at a public school.

(c) A faculty member of an institution of higher education governed by the state board of regents.
(d) An individual employed by a community college.
(e) A faculty member of an accredited private institution as defined in section 261.9.
(f) A member of the Iowa council of social studies.
(g) A curriculum specialist for a kindergarten through grade twelve public school district.
(h) An employee of the public broadcasting division of the department of education.
4. The Iowa studies committee shall do all of the following:
a. Conduct an evaluation of the Iowa studies professional development plan using the evaluation criteria established by the committee.
b. Submit, for school years ending on or before June 30, 2009, an annual status report on the utilization of the Iowa studies professional development plan in Iowa's school districts and accredited nonpublic schools to the chairpersons and ranking members of the senate and house committees on education by January 15. The annual report shall include the number of schools utilizing the plan.
c. Submit its findings and recommendations in a final report based upon the evaluation data compiled in accordance with subsection 3 to the chairpersons and ranking members of the senate and house committees on education by January 15, 2010.
5. This section is repealed effective July 1, 2010.

Approved April 12, 2006

CHAPTER 1048

INFORMATION USED TO SECURE ARREST WARRANTS — ACCESS

S.F. 2327

AN ACT relating to access to confidential information used to secure an arrest warrant.

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

Section 1. Section 804.29, Code 2005, is amended to read as follows:
804.29 CONFIDENTIALITY.
All information filed with the court for the purpose of securing a warrant for an arrest, including but not limited to a citation and affidavits, shall be a confidential record until such time as a peace officer has made the arrest and has made the officer's return on the warrant. During the period of time that information is confidential, it shall be sealed by the court and the information contained therein shall not be disseminated to any person other than a peace officer, employee of a county attorney's office, magistrate, or another court employee, in the course of official duties.

Approved April 12, 2006

CHAPTER 1049

CHILD ADVOCACY BOARD MEMBERSHIP

S.F. 2343

AN ACT revising the membership requirements for the child advocacy board.

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

Section 1. Section 237.16, subsection 1, Code 2005, is amended to read as follows:

1. The child advocacy board is created within the department of inspections and appeals. The state board consists of nine members appointed by the governor, subject to confirmation by the senate and directly responsible to the governor. One member shall be an active court appointed special advocate volunteer, one member shall be an active member of a local citizen foster care review board, and one member shall be a judicial branch employee or judicial officer appointed from nominees submitted by the judicial branch. The appointment is for a term of four years that begins and ends as provided in section 69.19. Vacancies on the state board shall be filled in the same manner as original appointments are made.

Approved April 12, 2006

CHAPTER 1050

SMALL EMPLOYER GROUP HEALTH INSURANCE — UNIFORM APPLICATION FORM

S.F. 2344

AN ACT requiring development of a uniform application form for small employer group health insurance coverage.

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

Section 1. UNIFORM APPLICATION FOR SMALL EMPLOYER GROUP HEALTH INSURANCE COVERAGE — RECOMMENDATIONS — REPORT.

1. The commissioner of insurance shall work with small employer carriers to develop a uniform application form to assist employers in applying for health insurance coverage offered by such carriers.

2. The commissioner shall report recommendations to the general assembly by December 31, 2006, for development of a uniform application form to be implemented for use by all small employer carriers by December 31, 2007.

3. For the purposes of this section, a "small employer carrier" is a carrier as defined in section 513B.2 that offers health benefit plans covering the employees of a small employer as defined in section 513B.2.

Approved April 12, 2006

CHAPTER 1051

STATE BOARD OF REGENTS — AUTHORITY AND ADMINISTRATION

S.F. 2358

AN ACT relating to the administrative duties of the state board of regents.

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

Section 1. Section 15H.3, subsection 1, paragraph e, Code Supplement 2005, is amended to read as follows:

e. The executive ~~secretary~~ director of the state board of regents, or the executive ~~secretary's~~ director's designee.

Sec. 2. Section 261.1, subsection 1, Code 2005, is amended to read as follows:

1. A member of the state board of regents to be named by the board, or the ~~secretary thereof~~ executive director of the board if so appointed by the board, who shall serve for a four-year term or until the expiration of the member's term of office. Such member shall convene the organizational meeting of the commission.

Sec. 3. Section 262.7, subsection 1, Code 2005, is amended to read as follows:

1. The state university of Iowa, including the university of Iowa hospitals and clinics.

Sec. 4. Section 262.8, Code 2005, is amended to read as follows:

262.8 MEETINGS.

The board shall meet four times a year. Special meetings may be called by the board, by the president of the board, or by the ~~secretary~~ executive director of the board upon written request of any five members thereof.

Sec. 5. Section 262.11, Code 2005, is amended to read as follows:

262.11 RECORD — ACTS AFFECTING PROPERTY.

All acts of the board relating to the management, purchase, disposition, or use of lands and other property of said institutions shall be entered of record, which shall show the members present, and how each voted upon each proposition. The board may, in its discretion, delegate to each university the authority to approve leases.

Sec. 6. Section 262.34A, Code 2005, is amended to read as follows:

262.34A BID REQUESTS AND TARGETED SMALL BUSINESS PROCUREMENT.

1. The state board of regents shall request bids and proposals for materials, products, supplies, provisions, and other needed articles to be purchased at public expense, from Iowa state industries as defined in section 904.802, subsection 2, when the articles are available in the requested quantity and at comparable prices and quality.

2. Notwithstanding section 73.16, subsection 2, the board may issue electronic bid notices for distribution to the targeted small business internet site through internet links to each of the regents institutions.

3. Notwithstanding section 73.17, the board shall notify the director of the department of economic development of regents institutions' targeted small business purchases on an annual basis.

Sec. 7. Section 262.58, Code 2005, is amended to read as follows:

262.58 RATES AND TERMS OF BONDS OR NOTES.

Such bonds or notes may bear such date or dates, may bear interest at such rate or rates, payable semiannually, may mature at such time or times, may be in such form, carry such registration privileges, may be payable at such place or places, may be subject to such terms of redemption prior to maturity with or without premium, if so stated on the face thereof, and may

contain such terms and covenants all as may be provided by the resolution of the board authorizing the issuance of the bonds or notes. In addition to the estimated cost of construction, the cost of the project shall be deemed to include interest upon the bonds or notes during construction and for six months after the estimated completion date, the compensation of a fiscal agent or adviser, and engineering, administrative and legal expenses. Such bonds or notes shall be executed by the president of the state board of regents and attested by the ~~secretary thereof~~ executive director of the state board of regents and the coupons thereto attached shall be executed with the original or facsimile signatures of said president and ~~secretary~~ executive director. Any bonds or notes bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes, notwithstanding that before delivery thereof any or all such persons whose signatures appear thereon shall have ceased to be such officers. Each such bond or note shall state upon its face the name of the institution on behalf of which it is issued, that it is payable solely and only from the net rents, profits and income derived from the operation of residence halls or dormitories, including dining and other incidental facilities, at such institution as hereinbefore provided, and that it does not constitute a charge against the state of Iowa within the meaning or application of any constitutional or statutory limitation or provision. The issuance of such bonds or notes shall be recorded in the office of the treasurer of the institution on behalf of which the same are issued, and a certificate by such treasurer to this effect shall be printed on the back of each such bond or note.

Sec. 8. Section 262A.6, Code 2005, is amended to read as follows:

262A.6 FORM AND CONDITION OF BONDS.

Such bonds may bear such date or dates, may bear interest at such rate or rates, payable semiannually, may mature at such time or times, may be in such form and denominations, may carry such registration privileges, may be payable at such place or places, may be subject to such terms of redemption prior to maturity with or without premium, if so stated on the face thereof, and may contain such terms and covenants, including the establishment of reserves, all as may be provided by the resolution of the board authorizing the issuance of the bonds. In addition to the estimated cost of construction, including site costs, the cost of the project may include interest upon the bonds during construction and for six months after the estimated completion date, the compensation of a fiscal agent or adviser, engineering, architectural, administrative and legal expenses and provision for contingencies. Such bonds shall be executed by the president of the state board of regents and attested by the executive ~~secretary~~ director, secretary or other official thereof performing the duties of ~~secretary~~ executive director, and the coupons thereto attached shall be executed with the original or facsimile signatures of said president, executive ~~secretary~~ director, secretary or other official; provided, however, that the facsimile signature of either of such officers executing such bonds may be imprinted on the face of the bonds in lieu of the manual signature of such officer, but at least one of the signatures appearing on the face of each bond shall be a manual signature. Any bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes, notwithstanding that before delivery thereof any or all such persons whose signatures appear thereon shall have ceased to be such officers. Each such bond shall state upon its face the name of the institution on behalf of which it is issued, that it is payable solely and only from the student fees and charges and institutional income received by such institution as hereinbefore provided, and that it does not constitute a debt of or charge against the state of Iowa within the meaning or application of any constitutional or statutory limitation or provision. The issuance of such bonds shall be recorded in the office of the treasurer of the institution on behalf of which the same are issued, and a certificate by such treasurer to this effect shall be printed on the back of each such bond.

Sec. 9. Section 263A.4, Code 2005, is amended to read as follows:

263A.4 BONDS OR NOTES PROVISIONS.

Such bonds or notes may bear such date or dates, may bear interest at such rate or rates, payable semiannually, may mature at such time or times, may be in such form and denomina-

tions, carry such registration privileges, may be payable at such place or places, may be subject to such terms of redemption prior to maturity with or without premium, if so stated on the face thereof, and may contain such terms and covenants, including the establishment of reserves, all as may be provided by the resolution of the board authorizing the issuance of the bonds or notes. In addition to the estimated cost of construction, including site costs, the cost of the project may include interest upon the bonds or notes during construction and for six months after the estimated completion date, the compensation of a fiscal agent or adviser, engineering, architectural, administrative, and legal expenses and provision for contingencies. Such bonds or notes shall be executed by the president of the state board of regents and attested by the executive ~~secretary~~ director, secretary, or other official thereof performing the duties of ~~secretary~~ executive director, and the coupons thereto attached shall be executed with the original or facsimile signatures of said president, executive ~~secretary~~ director, secretary, or other official; provided, however, that the facsimile signature of either of such officers executing such bonds may be imprinted on the face of the bonds in lieu of the manual signature of such officer, but at least one of the signatures appearing on the face of each bond shall be a manual signature. Any bonds or notes bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes, notwithstanding that before delivery thereof any or all such persons whose signatures appear thereon shall have ceased to be such officers. Each such bond or note shall state upon its face the name of the institution on behalf of which it is issued, that it is payable solely and only from hospital income received by such institution as provided in this chapter, and that it does not constitute a debt of or charge against the state of Iowa within the meaning or application of any constitutional or statutory limitation or provision. The issuance of such bonds or notes shall be recorded in the office of the treasurer of the institution, and a certificate by such treasurer to this effect shall be printed on the back of each such bond or note.

Sec. 10. Section 262.29, Code 2005, is repealed.

Approved April 12, 2006

CHAPTER 1052

FILING FEE FOR PRAECIPE

H.F. 2522

AN ACT relating to the assessment of a fee when filing a praecipe.

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

Section 1. Section 602.8105, subsection 2, paragraph e, Code Supplement 2005, is amended to read as follows:

e. For filing a praecipe to issue execution under chapter 626, twenty-five dollars. The fee shall be recoverable by the creditor against whom the execution is issued. A fee payable by a political subdivision of the state under this paragraph shall be collected by the clerk of the district court as provided in section 602.8109.

Approved April 12, 2006

CHAPTER 1053

LIQUIDATED DEBTS OWED LABOR COMMISSIONER AND LICENSE, COMMISSION, REGISTRATION, CERTIFICATE, OR PERMIT ISSUANCE

H.F. 2586

AN ACT relating to the collection of liquidated debts owed to and various authorizations issued by the labor commissioner.

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

Section 1. Section 91.4, subsection 9, Code 2005, is amended to read as follows:

9. The commissioner may establish rules pursuant to chapter 17A to assess and collect interest on fees, penalties, and other amounts due the division. The commissioner may delay, or[1] following written notice, deny the issuance of a license, commission, registration, certificate, or permit authorized under chapter 88A, 89, 89A, 90A, 91C, or 94A if the applicant for the license, commission, registration, certificate, or permit owes a liquidated debt to the commissioner.

Approved April 12, 2006

CHAPTER 1054

CONFIDENTIAL PUBLIC RECORDS — GOVERNMENT SECURITY PROCEDURES OR EMERGENCY PREPAREDNESS INFORMATION

H.F. 2590

AN ACT providing for the confidentiality of information concerning security procedures or emergency preparedness information developed and maintained by a government body.

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

Section 1. Section 22.7, subsections 44 and 46, Code Supplement 2005, are amended by striking the subsections.

Sec. 2. Section 22.7, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 52. Information concerning security procedures or emergency preparedness information developed and maintained by a government body for the protection of governmental employees, visitors to the government body, persons in the care, custody, or under the control of the government body, or property under the jurisdiction of the government body, if disclosure could reasonably be expected to jeopardize such employees, visitors, persons, or property.

Such information includes but is not limited to information directly related to vulnerability assessments; information contained in records relating to security measures such as security and response plans, security codes and combinations, passwords, restricted area passes, keys, and security or response procedures; emergency response protocols; and information con-

[1] See chapter 1185, §117 herein

tained in records that if disclosed would significantly increase the vulnerability of critical physical systems or infrastructures of a government body to attack. This subsection shall only apply to information held by a government body that has adopted a rule or policy identifying the specific records or class of records to which this subsection applies and which is contained in such a record.

Approved April 12, 2006

CHAPTER 1055

REGULATION OF REAL ESTATE BROKERS,
SALESPERSONS, AND TRANSFERS

H.F. 2632

AN ACT relating to real estate, including real estate broker and salesperson licensing and real estate disclosures.

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

Section 1. Section 543B.5, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. "Listing" is an agreement between a property owner and another person in which that person holds or advertises the property to the public as being available for sale or lease.

Sec. 2. Section 543B.7, subsection 1, Code Supplement 2005, is amended to read as follows:

1. A person who, as owner, spouse of an owner, general partner of a limited partnership, lessor, or prospective purchaser who does not make repeated and successive transactions of a like character, or through another engaged by such person on a regular full-time basis, buys, sells, manages, or otherwise performs any act with reference to property owned, rented, leased, or to be acquired by such person.

Sec. 3. Section 543B.15, subsection 4, Code Supplement 2005, is amended to read as follows:

4. An applicant for a real estate broker's or salesperson's license who has had a professional license of any kind revoked or suspended or who has had any other form of discipline imposed, in this or any other jurisdiction may be denied a license by the commission on the grounds of the revocation, suspension, or other discipline.

Sec. 4. Section 543B.49, Code 2005, is amended to read as follows:

543B.49 INJUNCTIVE RELIEF.

1. In addition to the penalty and complaint provisions of sections 543B.43, 543B.44, and 543B.48, an injunction may be granted through an action in district court to prohibit a person from engaging in an activity which violates the provisions of section 543B.1. The court shall grant a permanent or temporary injunction if it appears to the court that a violation has occurred or is imminently threatened. The plaintiff is not required to show that the violation or threatened violation would greatly or irreparably injure the plaintiff. No bond shall be required of the plaintiff unless the court determines that a bond is necessary in the public in-

terest. The action for injunctive relief may be brought by an affected person. For the purposes of this section, "affected person" means any person directly impacted by the actions of a person suspected of violating the provisions of section 543B.1, including but not limited to the commission created in section 543B.8, a person who has utilized the services of a person suspected of violating the provisions of section 543B.1, or a private association composed primarily of members practicing a profession for which licensure is required pursuant to this chapter.

2. If successful in obtaining injunctive relief, the affected person shall be entitled to actual costs and attorney fees~~, unless the person suspected of violating a provision of section 543B.1 prevails in any application for permanent injunctive relief~~. For the purposes of this section, "actual costs" means those costs other than attorney fees which were actually incurred in connection with the action, including but not limited to court and witness fees, investigative expenses, travel expenses, legal research expenses, and other related fees and expenses.

Sec. 5. Section 558A.1, subsection 4, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. A transfer by a power of attorney.

Approved April 12, 2006

CHAPTER 1056

DRAINAGE AND LEVEE DISTRICTS — IMPROVEMENTS — BID PROCEDURE

H.F. 2635

AN ACT relating to drainage and levee districts by providing for the publication of notice and the letting of bids.

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

Section 1. Section 468.34, Code 2005, is amended to read as follows:

468.34 ADVERTISEMENT FOR BIDS.

The board shall publish notice once each week for two consecutive weeks in a newspaper published in the county where the improvement is located, and publish additional advertisement and publication elsewhere as the board may direct. The notice shall state the time and place of letting the work of construction of the improvement, specifying the approximate amount of work to be done in each numbered section of the district, the time fixed for the commencement, and the time of the completion of the work, that bids will be received on the entire work and in sections or divisions of it, and that a bidder will be required to deposit with the bid cash, a certified check on and certified by a bank in Iowa, or a certified share draft from a credit union in Iowa payable to the auditor or the auditor's order, at the auditor's office, in an amount equal to ten percent of the bid, in no case to exceed ten thousand dollars. ~~If the estimated cost of the improvement exceeds fifteen thousand dollars, the board may make additional publication for two consecutive weeks in a contractors' journal of general circulation, giving only the type of proposed construction or repairs, estimated amount, date of letting, amount of bidder's bond, and name and address of the county auditor.~~ All notices shall fix the date to which bids will be received and upon which the work will be let. However, when the estimated cost of the improvement is less than ~~ten~~ fifteen thousand dollars, the board may let the contract for the construction without taking bids and without publishing notice.

Sec. 2. Section 468.66, Code 2005, is amended to read as follows:

468.66 BIDS REQUIRED.

In case the board shall finally determine that any such changes as defined in section 468.62 shall be made involving an expenditure of ~~ten~~ fifteen thousand dollars or more, the work shall be let by bids in the same manner as is provided for the original construction of such improvements.

Approved April 12, 2006

CHAPTER 1057

AGRICULTURAL DRAINAGE WELLS AND WATER QUALITY PRACTICES

H.F. 2679

AN ACT relating to agricultural drainage wells by providing for the implementation of water quality practices as an alternative to constructing alternative drainage systems.

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

Section 1. Section 460.303, Code 2005, is amended to read as follows:

460.303 AGRICULTURAL DRAINAGE ~~WELLS — ALTERNATIVE DRAINAGE SYSTEM~~ WELL WATER QUALITY ASSISTANCE FUND.

1. An ~~alternative drainage system~~ agricultural drainage well water quality assistance fund is created in the state treasury under the control of the soil conservation division. The fund is composed of moneys appropriated by the general assembly, and moneys available to and obtained or accepted by the division or the state soil conservation committee established pursuant to section 161A.4, from the United States or private sources for placement in the fund.

2. Moneys in the fund are subject to an annual audit by the auditor of state. ~~The fund is subject to warrants written by the director of the department of administrative services, drawn upon the written requisition of the division.~~

3. The fund shall be used to support ~~the alternative drainage system~~ an agricultural drainage well water quality assistance program as provided in section 460.304. Moneys shall be used to provide financial incentives under the program, and to defray expenses by the division in administering the program. However, not more than one percent of the money in the fund is available to defray administrative expenses. The division may adopt rules pursuant to chapter 17A to administer this section.

4. The division shall not in any manner directly or indirectly pledge the credit of the state.

5. Section 8.33 shall not apply to moneys in the fund. Notwithstanding section 12C.7, moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this section.

Sec. 2. Section 460.304, subsections 1 and 2, Code 2005, are amended to read as follows:

1. The soil conservation division shall establish an ~~alternative drainage system~~ agricultural drainage well water quality assistance program as provided by rules which shall be adopted by the division pursuant to chapter 17A. The program shall be supported from moneys deposited in the ~~alternative drainage system~~ agricultural drainage well water quality assistance fund created pursuant to section 460.303.

2. To the extent that moneys are available to support the program, the division shall ~~provide~~ expend moneys from the fund to do the following:

a. Provide cost-share moneys to persons closing agricultural drainage wells ~~located within designated agricultural drainage well areas, and constructing alternative drainage systems which are part of a drainage district~~ in accordance with the priority system established pursuant to section 460.302. In conjunction with closing agricultural wells, the division shall award cost-share moneys to carry out the following projects:

(1) Construct alternative drainage systems.

(2) Establish water quality practices other than constructing alternative drainage systems, including but not limited to converting land to wetlands.

The amount of moneys allocated in cost-share payments to a person qualifying under the program shall not exceed seventy-five percent of the estimated cost of ~~installing~~ carrying out the ~~alternative drainage system~~ project or seventy-five percent of the actual cost of ~~installing~~ carrying out the ~~alternative drainage system~~ project, whichever is less.

b. Contract with persons to obtain technical assessments in agricultural drainage well areas, including but not limited to areas having a predominance of shallow bedrock or karst terrain as the division determines is necessary to carry out a project.

Approved April 12, 2006

CHAPTER 1058

DISORDERLY CONDUCT — FUNERALS OR MEMORIAL SERVICES

H.F. 2365

AN ACT relating to committing disorderly conduct near a funeral, memorial service, funeral procession, or burial, providing penalties, and providing an effective date.

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

Section 1. NEW SECTION. 723.5 DISORDERLY CONDUCT — FUNERAL OR MEMORIAL SERVICE.

1. A person shall not do any of the following within five hundred feet of the building or other location where a funeral or memorial service is being conducted, or within five hundred feet of a funeral procession or burial:

a. Make loud and raucous noise which causes unreasonable distress to the persons attending the funeral or memorial service, or participating in the funeral procession.

b. Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.

c. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

2. This section applies to conduct within sixty minutes preceding, during, and within sixty minutes after a funeral, memorial service, funeral procession, or burial.

3. A person who commits a violation of this section commits:

a. A simple misdemeanor for a first offense.

b. A serious misdemeanor for a second offense.

c. A class "D" felony for a third or subsequent offense.

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

Approved April 17, 2006

CHAPTER 1059

MENTAL HEALTH CARE AT STATE PSYCHIATRIC HOSPITAL

S.F. 2341

AN ACT relating to county processing of orders for observation, evaluation, and treatment of public patients at the state psychiatric hospital at the state university of Iowa.

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

Section 1. Section 225.10, Code 2005, is amended to read as follows:

225.10 VOLUNTARY PUBLIC PATIENTS.

Persons suffering from mental diseases may be admitted to the state psychiatric hospital as voluntary public patients as follows: Any physician authorized to practice medicine, osteopathy, or osteopathic medicine in the state of Iowa may file information with ~~any district court of the state or with any judge thereof~~ the board of supervisors of the person's county of residence or the board's designee, stating that the physician has examined the person ~~named therein~~ and finds that the person is suffering from some abnormal mental condition that can probably be remedied by observation, treatment, and hospital care; that the physician believes it would be appropriate for the person to enter the state psychiatric hospital for that purpose and that the person is willing to do so; and that neither the person nor those legally responsible for the person are able to provide the means for ~~such~~ the observation, treatment, and hospital care.

Sec. 2. Section 225.12, Code 2005, is amended to read as follows:

225.12 VOLUNTARY PUBLIC PATIENT — PHYSICIAN'S REPORT.

A physician filing information under section 225.10 shall include a written report to the ~~judge~~ county board of supervisors or the board's designee, giving ~~such~~ a history of the case as will be likely to aid in the observation, treatment, and hospital care of the person named in the information and describing the ~~same~~ history in detail.

Sec. 3. Section 225.13, Code 2005, is amended to read as follows:

225.13 FINANCIAL CONDITION.

~~It shall be the duty of the judge to have a thorough investigation made by the county attorney of the county of residence of the person named in the information regarding~~ The county board of supervisors or the board's designee is responsible for investigating the financial condition of ~~that~~ a person being admitted to the state psychiatric hospital and of those legally responsible for the ~~person~~ person's support.

Sec. 4. Section 225.14, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

225.14 PATIENT COSTS.

If it is determined through the financial condition investigation made pursuant to section 225.13 that a person is a committed or voluntary private patient, the person or those legally responsible for the person's support are liable for expenses as provided in section 225.22. The costs of a committed or voluntary public patient shall be paid by the state as provided in section 225.28.

Sec. 5. Section 225.16, Code 2005, is amended to read as follows:

225.16 VOLUNTARY PUBLIC PATIENTS — ADMISSION.

1. If the ~~judge of the district court, or the clerk of the court, as aforesaid,~~ county board of supervisors or the board's designee finds from the physician's information which was filed under the provisions of section 225.10~~,~~ that it would be appropriate for the person to ~~enter~~ be admitted to the state psychiatric hospital, and the report of the county ~~attorney~~ board of supervi-

sors or the board's designee made pursuant to section 225.13 shows that ~~neither~~ the person ~~nor~~ and those who are legally responsible for the person~~,~~ are not able to pay the expenses ~~thereof~~ incurred at the hospital, or are able to pay only a part of the expenses, the ~~judge or clerk~~ person shall be considered to be a voluntary public patient and the board of supervisors shall ~~enter an order directing~~ direct that the ~~said~~ person shall be sent to the state psychiatric hospital at the state ~~University~~ university of Iowa for observation, treatment, and hospital care ~~as a voluntary public patient~~.

2. When the ~~said~~ patient arrives at the hospital, the patient shall ~~receive the same treatment as is provided~~ be cared for in the same manner as is provided for committed public patients in section 225.15.

Sec. 6. Section 225.17, Code 2005, is amended to read as follows:

225.17 COMMITTED PRIVATE PATIENT — TREATMENT.

1. If the judge of the district court finds ~~upon the review and determination made under the provisions of section 225.14~~ pursuant to section 225.11 that the respondent is an appropriate subject for placement at the state psychiatric hospital, and that the respondent, or those legally responsible for the respondent, are able to pay the expenses associated with the placement, the judge shall enter an order directing that the respondent shall be sent to the state psychiatric hospital at the state university of Iowa for observation, treatment, and hospital care as a committed private patient.

2. When the respondent arrives at the hospital, the respondent shall receive the same treatment as is provided for committed public patients in section 225.15, in compliance with sections 229.13 to 229.16. However, observation, treatment, and hospital care under this section of a respondent whose expenses are payable in whole or in part by a county shall only be provided as determined through the central point of coordination process.

Sec. 7. Section 225.18, Code 2005, is amended to read as follows:

225.18 ATTENDANTS.

The ~~court or clerk~~ county board of supervisors or the board's designee may appoint a person to accompany the committed public patient or the voluntary public patient or the committed private patient from the place where the patient may be to the state psychiatric hospital ~~of the state university at Iowa City~~, or to accompany the patient from the hospital to a place as may be designated by the ~~court or clerk~~ county. If a patient is moved pursuant to this section, at least one attendant shall be of the same ~~sex~~ gender as the patient.

Sec. 8. Section 225.19, Code 2005, is amended to read as follows:

225.19 COMPENSATION FOR ATTENDANT.

~~Any person~~ An individual appointed by the ~~court or judge or clerk~~ county board of supervisors or the board's designee to accompany ~~said~~ a person to or from the hospital or to make an investigation and report on any question involved in the ~~complaint, other than the physician making the examination,~~ matter shall receive ~~the sum of~~ three dollars per day for the time actually spent in making ~~such~~ the investigation ~~(except in cases where the person appointed therefor receives a fixed salary or compensation)~~ and actual necessary expenses incurred in making ~~such~~ the investigation or trip. This section does not apply to an appointee who receives fixed compensation or a salary.

Sec. 9. Section 225.21, Code 2005, is amended to read as follows:

225.21 VOUCHERS.

The person making claim to compensation under section 225.19 shall ~~present to the court or judge an itemized sworn statement of the claim, and when the claim for compensation has been approved by the court or judge or clerk, it shall be filed~~ file the claim in the office of the county auditor ~~and shall be allowed~~. The claim is subject to review and approval by the board of supervisors or the board's designee.

Sec. 10. Section 225.23, Code 2005, is amended to read as follows:

225.23 COLLECTION FOR TREATMENT.

If the bills for ~~such~~ a committed or voluntary private patient are paid by the state, ~~it shall be the duty of~~ the state psychiatric hospital ~~to~~ shall file a certified copy of the claim ~~which has been so paid,~~ for the bills with the auditor of the ~~proper~~ patient's county~~, who~~ of residence. The county of residence shall proceed to collect the ~~same by action, if necessary,~~ claim in the name of the state psychiatric hospital, and when collected pay the ~~same~~ amount collected to the director of the department of administrative services. The hospital shall also, at the same time, forward a duplicate of the ~~account~~ claim to the director of the department of administrative services.

Sec. 11. Section 225.24, Code 2005, is amended to read as follows:

225.24 COLLECTION OF PRELIMINARY EXPENSE.

Unless ~~said~~ a committed private patient or those legally responsible for the ~~patient~~ patient's support offer to ~~make such settlement~~ settle the amount of the claims, ~~it shall also be~~ the ~~duty of the~~ county auditor of the ~~proper~~ person's county ~~as aforesaid to proceed to~~ of residence shall collect, by action if necessary, ~~in the name of the said county,~~ the amount of all claims for per diem and expenses that have been approved by the ~~said court or judge~~ county board of supervisors or the board's designee and paid by the ~~county treasurer of said~~ county as provided ~~for~~ under ~~the provisions of~~ section 225.21~~, and when~~. Any amount collected ~~to pay the same into the~~ shall be credited to the county treasury.

Sec. 12. Section 225.25, Code 2005, is amended to read as follows:

225.25 COMMITMENT OF PRIVATE PATIENT AS PUBLIC.

If ~~any~~ a patient ~~be admitted~~ is committed to the state psychiatric hospital as a private patient and ~~thereafter an order of commitment of the patient as a public patient be made by the court or judge or clerk having jurisdiction thereof~~ after admission it is determined through an investigation made pursuant to section 225.13 that the person is a public patient, the expense of keeping and maintaining the patient from the date of the filing of the information upon which the order is made shall be paid by the state.

Sec. 13. Section 225.30, Code 2005, is amended to read as follows:

225.30 BLANKS — AUDIT.

The medical faculty of the university of Iowa college of medicine shall prepare blanks containing such questions and requiring such information as may be necessary and proper to be obtained by the physician who examines a person or respondent whose referral to the state psychiatric hospital is contemplated. A judge may request that a physician who examines a respondent as required by section 229.10 complete such blanks in duplicate in the course of the examination. A physician who proposes to file information under section 225.10 shall obtain and complete such blanks in duplicate and file them with the information. The blanks shall be printed by the state and a supply ~~thereof~~ of the blanks shall be ~~sent to the clerk of each district court of the state~~ made available to counties. The director of the department of administrative services shall audit, allow, and pay the cost of the blanks as other bills for public printing are allowed and paid.

Sec. 14. Section 225.20, Code 2005, is repealed.

Approved April 20, 2006

CHAPTER 1060

DISTRICT ASSOCIATE JUDGES AND MAGISTRATES
— NUMBER AND APPOINTMENT

S.F. 2342

AN ACT relating to the appointment of district associate judges and magistrates.

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

Section 1. Section 602.6301, Code 2005, is amended to read as follows:

602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE JUDGES.

There shall be one district associate judge in counties having a population of more than thirty-five thousand and less than eighty thousand; two in counties having a population of eighty thousand or more and less than one hundred twenty-five thousand; three in counties having a population of one hundred twenty-five thousand or more and less than ~~two~~ one hundred seventy thousand; four in counties having a population of ~~two~~ one hundred seventy thousand or more and less than two hundred ~~thirty-five~~ fifteen thousand; five in counties having a population of two hundred ~~thirty-five~~ fifteen thousand or more and less than two hundred ~~seventy~~ sixty thousand; six in counties having a population of two hundred ~~seventy~~ sixty thousand or more and less than three hundred five thousand; and seven in counties having a population of three hundred five thousand or more and less than three hundred fifty thousand; eight in counties having a population of three hundred fifty thousand or more and less than three hundred ninety-five thousand; nine in counties having a population of three hundred ninety-five thousand or more and less than four hundred forty thousand; ten in counties having a population of four hundred forty thousand or more and less than four hundred eighty-five thousand; and one additional judge for every population increment of thirty-five thousand which is over four hundred eighty-five thousand in such counties. However, a county shall not lose a district associate judgeship solely because of a reduction in the county's population. If the formula provided in this section results in the allocation of an additional district associate judgeship to a county, implementation of the allocation shall be subject to prior approval of the supreme court and availability of funds to the judicial branch. A district associate judge appointed pursuant to section 602.6302 or 602.6307 shall not be counted for purposes of this section and the reduction of a district associate judge pursuant to section 602.6303 also shall not be counted for purposes of this section.

Sec. 2. NEW SECTION. 602.6303 APPOINTMENT OF MAGISTRATES IN LIEU OF DISTRICT ASSOCIATE JUDGE.

1. The chief judge of the judicial district may designate by order of substitution that three magistrates be appointed pursuant to this section in lieu of the appointment of a district associate judge under section 602.6304, subject to the following limitations:

a. The substitution shall not result in the judicial district receiving more magistrates than are authorized under the magistrate formula in section 602.6401.

b. The substitution shall be approved by the supreme court.

c. A majority of district judges in that judicial election district, or in the case of an appointment involving more than one judicial election district in the same judicial district, a majority of the district judges in each judicial election district, must vote in favor of the substitution and find that the substitution will provide more timely and efficient performance of judicial business within that judicial election district.

2. An order of substitution shall not take effect unless a copy of the order is received by the chairperson of the county magistrate appointing commission or commissions no later than May 31 of the year in which the substitution is to take effect. The order shall designate the county of appointment for each magistrate. A copy of the order shall also be sent to the state court administrator.

3. For a county in which a substitution order is in effect, the number of district associate judges actually appointed pursuant to section 602.6304 shall be reduced by one for each substitution order in effect.

4. Except as provided in subsections 1 through 3, a substitution shall not increase or decrease the number of district associate judges authorized by this article.

5. If a majority of the district judges in a judicial election district determine that a substitution is no longer desirable, then all three magistrate positions shall be terminated. However, a reversion pursuant to this subsection shall not take effect until the terms of the three magistrates expire. Upon the termination of the magistrate positions created under this section, an appointment shall be made to reestablish the term of office for a district associate judge as provided in sections 602.6304 and 602.6305.

Sec. 3. NEW SECTION. 602.6307 APPOINTMENT OF DISTRICT ASSOCIATE JUDGE IN LIEU OF FULL-TIME ASSOCIATE JUVENILE JUDGE.

1. The chief judge of a judicial district may designate by order of substitution that a district associate judge be appointed pursuant to this section in lieu of a full-time associate juvenile judge appointed under section 602.7103B, subject to the following limitations:

a. An existing full-time juvenile court judgeship has become vacant or is anticipated to become vacant within one hundred twenty days of an order of substitution.

b. The supreme court approves the substitution upon a determination that the substitution will provide a more timely and efficient performance of judicial business within that judicial election district without diminishing the efficiency and performance of the juvenile court.

2. If a district associate judge is substituted for a full-time associate juvenile judge pursuant to this section, the judicial district shall make every effort to grant the juvenile court docket priority over other dockets including granting the highest scheduling priority to juvenile court proceedings involving child custody, termination of parental rights, and child in need of assistance cases.

3. If the chief judge determines the substitution order is no longer desirable, then the order shall be terminated. However, a reversion pursuant to this subsection, irrespective of cause, shall not take effect until the substitute district associate judge fails to be retained in office at a judicial election or otherwise leaves office, whether voluntarily or involuntarily, and the office becomes vacant.

Sec. 4. Section 602.6401, subsection 1, Code Supplement 2005, is amended to read as follows:

1. Two hundred six magistrates shall be apportioned among the counties as provided in this section. Magistrates appointed pursuant to section 602.6303 or 602.6402 shall not be counted for purposes of this section.

Sec. 5. Section 602.6403, subsection 1, Code 2005, is amended to read as follows:

1. By June 1 of each year in which magistrates' terms expire, the county magistrate appointing commission shall appoint, except as otherwise provided in section 602.6302, the number of magistrates apportioned to the county by the state court administrator under section 602.6401, the number of magistrates required pursuant to substitution orders in effect under section 602.6303, and may appoint an additional magistrate when allowed by section 602.6402. The commission shall not appoint more magistrates than are authorized for the county by this article.

Approved April 20, 2006

CHAPTER 1061

WINE AND BEER COIL CLEANING SERVICES

S.F. 2368

AN ACT concerning alcoholic beverage control relating to manufacturers providing free cleaning services to retailers.

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

Section 1. Section 123.186, Code 2005, is amended to read as follows:

123.186 FEDERAL REGULATIONS ADOPTED AS RULES.

1. The division shall adopt as rules the substance of the federal regulations 27 C.F.R. pt. 6, 27 C.F.R. pt. 8, 27 C.F.R. pt. 10, and 27 C.F.R. pt. 11 as they relate to transactions between wholesalers and retailers.

2. The division shall adopt as rules the substance of 27 C.F.R. § 6.88, to permit a manufacturer of alcoholic beverages, wine, or beer, or agent of such manufacturer, to provide to a retailer without charge wine and beer coil cleaning services, including carbon dioxide filters and other necessary accessories to properly clean the coil and affix carbon dioxide filters. The rules shall provide that the manufacturer shall be responsible for paying the costs of any filters provided.

Approved April 20, 2006

CHAPTER 1062

COOPERATIVE ASSOCIATIONS — CONVERSION

S.F. 2378

AN ACT providing for the conversion of cooperative associations, and providing for an effective date.

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

Section 1. Section 499.43A, Code 2005, is amended to read as follows:

499.43A EXISTING COOPERATIVES ORGANIZED UNDER CHAPTER 497 OR 498 — CONVERSION OPTION.

1. As used in this section, "cooperative association" means any of the following:

a. An association organized under chapter 497, regardless of whether it is referred to as an "association", "company", "corporation", "exchange", "society", or "union" as provided in that chapter.

b. A cooperative association organized under chapter 498, regardless of whether it is referred to as an "association", "exchange", "society", or "union" as provided in that chapter.

2. A cooperative association ~~organized under chapter 498~~ may elect to be governed by and to comply with the provisions of this chapter. The election shall be governed by the following procedures:

~~1.~~ a. The board of directors and members must adopt a resolution reciting that the cooperative association elects to be governed by and to comply with this chapter. The cooperative association, to the extent necessary, shall change its name to comply with the provisions of this chapter. The resolution shall be adopted according to the same procedures as provided in section 499.41. Upon the adoption of the resolution, the cooperative association shall execute an

instrument on forms prescribed by the secretary of state. The instrument must be signed by the president and secretary and verified by one of the officers signing the instrument. The instrument shall include all of the following:

~~a.~~ (1) The name of the cooperative association, before and after this election.

~~b.~~ (2) A description of each resolution adopted by the cooperative association pursuant to this section, including the date each resolution was adopted.

~~2.~~ b. The instrument shall be filed with the secretary of state. The cooperative association shall amend its articles of incorporation pursuant to section 499.41 to comply with the provisions of this chapter. The secretary of state shall not file the instrument unless the cooperative association organized under chapter 497 is in compliance with the provisions of chapter 497 at the time of filing. The secretary of state shall not file the instrument unless the cooperative association organized under chapter 498 is in compliance with the provisions of chapter 498 at the time of filing. A cooperative association shall file a biennial report which is due pursuant to section 499.49.

3. Upon filing the instrument with the secretary as required in this section, all of the following shall apply:

a. The cooperative association shall be deemed to be organized under this chapter and the provisions of this chapter shall apply to the cooperative association.

b. The secretary of state shall issue a certificate to the cooperative association acknowledging that it is deemed to be organized under this chapter.

~~3.~~ 4. The application of this chapter to the cooperative association does not affect any of the following:

a. For a cooperative association organized under chapter 497, a right accrued or established, or liability or penalty incurred, pursuant to chapter 497 prior to the filing of the instrument with the secretary of state as required in this section.

b. For a cooperative association organized under chapter 498, a right accrued or established, or liability or penalty incurred~~,~~ pursuant to chapter 498~~,~~ prior to the filing of the instrument with the secretary of state as required in this section.

Sec. 2. Section 499.43, Code 2005, is repealed.

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

Approved April 20, 2006

CHAPTER 1063

SOLID WASTE MANAGEMENT — COMBUSTION

S.F. 2381

AN ACT relating to combustion of solid waste with energy recovery.

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

Section 1. Section 455B.301A, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. ~~Other approved techniques of solid waste management including, but not limited to, combustion~~ Combustion with energy recovery~~,~~.

d. Other approved techniques of solid waste management including but not limited to combustion for waste disposal~~,~~ and disposal in sanitary landfills.

Sec. 2. Section 455D.3, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Notwithstanding section 455D.1, subsection 6, facilities which employ combustion of solid waste with energy recovery and refuse-derived fuel, which are included in an approved comprehensive plan, ~~and which were in operation prior to July 1, 1989,~~ may include these processes in the definition of recycling for the purpose of meeting the state goal if at least thirty-five percent of the waste reduction goal, required to be met by July 1, 2000, pursuant to this section, is met through volume reduction at the source and recycling and reuse, as established pursuant to section 455B.301A, subsection 1, paragraphs "a" and "b".

Approved April 20, 2006

CHAPTER 1064

SENIOR CROSSBOW DEER HUNTING LICENSES

H.F. 590

AN ACT providing for special senior crossbow deer hunting licenses.

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

Section 1. NEW SECTION. 483A.8A SENIOR CROSSBOW DEER HUNTING LICENSES.

A person who is a resident and who is seventy years of age or older may be issued one special senior statewide antlerless deer only crossbow deer hunting license to hunt deer during bow season as established by rule by the commission. A person who obtains a license to hunt deer under this section is not required to pay the wildlife habitat fee but shall be otherwise qualified to hunt deer in this state and shall have a resident hunting license.

A person may obtain a license under this section in addition to a statewide antlered or any sex deer hunting bow season license. Season dates, shooting hours, limits, license quotas, and other regulations for this license shall be the same as set forth by the commission by rule for bow season deer hunts.

Approved April 20, 2006

CHAPTER 1065

COUNTY BOARDS OF SUPERVISORS — VACANCIES

H.F. 2240

AN ACT relating to county board of supervisor vacancies.

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

Section 1. Section 69.14A, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A vacancy on the board of supervisors shall be filled by one of the ~~two~~ following procedures:

Sec. 2. Section 69.14A, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. For a vacancy declared by the board pursuant to section 331.214, subsection 2, by special election held to fill the office if the remaining balance of the unexpired term is two and one-half years or more. The committee of county officers designated to fill the vacancy in section 69.8 shall order the special election at the earliest practicable date, but giving at least thirty-two days' notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county. The office shall be listed on the ballot, as "For Board of Supervisors, To Fill Vacancy". The person elected at the special election shall serve the balance of the unexpired term.

Sec. 3. Section 331.214, Code 2005, is amended to read as follows:

331.214 VACANCY OF SUPERVISOR'S OFFICE.

1. ~~In addition to the~~ The circumstances which constitute a vacancy in office under section 69.2~~, the absence of a supervisor from the county for sixty consecutive days~~ shall be treated as a resignation of the office. At its next meeting after the sixty-day absence, the board, by resolution adopted and included in its minutes, shall declare the absent supervisor's seat vacant.

2. a. If the physical or mental status of a supervisor is in question, the board shall decide whether a vacancy exists. The board shall comply with the notice and hearing requirements of section 69.2, subsection 2. After a hearing, the board, by resolution adopted and included in its minutes, may declare the supervisor's seat vacant if the board determines either of the following:

(1) That the supervisor is physically or mentally incapable of performing the duties of office and there is reasonable cause to believe that the supervisor will not be able to perform the duties of office for the remainder of the supervisor's term. To make this determination, the board shall appoint a physician and the family of the supervisor shall appoint a physician to examine the supervisor. For purposes of this subsection, "family" means the parent, spouse, or child of the supervisor. If the family does not appoint a physician, the board shall appoint two physicians to examine the supervisor. The board shall receive the report of the physicians as evidence at the hearing. The board may only declare the supervisor's seat vacant if both physicians concur that the supervisor is physically or mentally incapable of performing the duties of office and there is reasonable cause to believe that the supervisor will not be able to perform the duties of office for the remainder of the supervisor's term. However, if the physicians concur that the supervisor is mentally incapable of performing the duties of office, the board shall not declare the supervisor's seat vacant for one year from the date of the hearing if the supervisor is receiving treatment for the mental incapacity.

(2) That the supervisor refuses or is unavailable for the examination required in subparagraph (1).

b. A supervisor whose seat is declared vacant under this subsection may appeal the board's decision to the district court.

c. If the board declares a vacancy under this subsection and the remaining balance of the supervisor's unexpired term is two and one-half years or more, a special election shall be held to fill the office as provided in section 69.14A, subsection 1, paragraph "c".

Approved April 20, 2006

CHAPTER 1066

MENTAL RETARDATION SERVICES COSTS — STATE CASES

H.F. 2492

AN ACT relating to the costs of services provided to persons with mental retardation whose service costs are a state responsibility.

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

Section 1. Section 249A.12, Code Supplement 2005, is amended by adding the following new subsection:[1]

NEW SUBSECTION. 8. If a person with mental retardation has no legal settlement or the legal settlement is unknown so that the person is deemed to be a state case and the services associated with the mental retardation can be covered under a medical assistance program home and community-based services waiver or other medical assistance program provision, the department may transfer moneys to cover the nonfederal share of the medical assistance program costs from an appropriation made for state cases in a particular fiscal year to an appropriation made for the medical assistance program in that same fiscal year. The department shall act expeditiously to obtain federal approval for additional waiver slots to cover such state cases beginning at the earliest possible time in the fiscal year, if such approval is necessary.

Approved April 20, 2006

CHAPTER 1067

IDENTITY THEFT PASSPORTS

H.F. 2506

AN ACT relating to the issuance of identity theft passports by the attorney general.

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

Section 1. NEW SECTION. 715A.9A IDENTITY THEFT PASSPORT.

1. The attorney general, in cooperation with any law enforcement agency, may issue an identity theft passport to a person who meets both of the following requirements:

a. Is a victim of identity theft in this state as described in section 715A.8.

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[1] See chapter 1115, §15 herein

b. Has filed a police report with any law enforcement agency citing that the person is a victim of identity theft.

2. A victim who has filed a report of identity theft with a law enforcement agency may apply for an identity theft passport through the law enforcement agency. The law enforcement agency shall send a copy of the police report and the application to the attorney general, who shall process the application and supporting report and may issue the victim an identity theft passport in the form of a card or certificate.

3. A victim of identity theft issued an identity theft passport may present the passport to any of the following:

a. A law enforcement agency, to help prevent the victim's arrest or detention for an offense committed by someone other than the victim who is using the victim's identity.

b. A creditor of the victim, to aid in the creditor's investigation and establishment of whether fraudulent charges were made against accounts in the victim's name or whether accounts were opened using the victim's identity.

4. A law enforcement agency or creditor may accept an identity theft passport issued pursuant to this section and presented by a victim at the discretion of the law enforcement agency or creditor. A law enforcement agency or creditor may consider the surrounding circumstances and available information regarding the offense of identity theft pertaining to the victim.

5. An application made with the attorney general under subsection 2, including any supporting documentation, shall be confidential and shall not be a public record subject to disclosure under chapter 22.

6. The attorney general shall adopt rules necessary to implement this section, which shall include a procedure by which the attorney general shall assure that an identity theft passport applicant has an identity theft claim that is legitimate and adequately substantiated.

Approved April 20, 2006

CHAPTER 1068

TRANSPORTATION —
ADMINISTRATION AND MISCELLANEOUS REGULATIONS

H.F. 2525

AN ACT relating to policies and duties of the state department of transportation, including placement of official signs on primary highways, inspection of bridges, administrative duties, motor vehicle registration and titling, driver licensing, licensing and regulation of vehicle-related businesses, vehicle braking requirements, vehicle length restrictions, proof of financial responsibility requirements, and persons with disabilities parking permits, and including effective dates.

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

DIVISION I
HIGHWAYS

Section 1. Section 306C.11, subsection 4, Code 2005, is amended to read as follows:

4. Official and directional signs and notices which shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historic attractions, and recreational attractions ~~and municipal recognition signs, which~~. The signs and notices shall conform with

rules promulgated by the department, provided that such rules shall be consistent with national standards promulgated pursuant to 23 U.S.C. § 131(c).

Sec. 2. Section 306C.12, Code 2005, is amended to read as follows:

306C.12 NONE VISIBLE FROM HIGHWAY.

An advertising device shall not be constructed or reconstructed beyond the adjacent area in unincorporated areas of the state if it is visible from the main-traveled way of any interstate or primary highway except for advertising devices permitted in section 306C.11, subsections 1 and 2~~, and municipal recognition signs erected by any city~~. Any advertising device permitted beyond an adjacent area in unincorporated areas of the state shall be subject to the applicable permit provisions of section 306C.18.

Sec. 3. Section 306C.18, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The owner of every advertising device regulated by this chapter, except signs and advertising devices excepted by section 306C.11, subsections 1, 2, and 5, and official signs erected by public officers or agencies, shall be required to make application to the department for a permit.

Sec. 4. NEW SECTION. 314.18 RESPONSIBILITY FOR BRIDGE INSPECTION.

The department, counties, cities, and other public entities shall be responsible for the safety inspection and evaluation of all highway bridges under their jurisdiction which are located on public roads, in accordance with the national bridge inspection standards. These responsibilities include inspection policies and procedures, inspections, reports, load ratings, quality control and quality assurance, maintaining a bridge inventory, and other requirements of the national bridge inspection standards.

DIVISION II
DEPARTMENT ADMINISTRATION

Sec. 5. Section 307.12, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. Present the department's proposed budget to the commission prior to December 31 of each year.

DIVISION III
MOTOR VEHICLE REGULATION

Sec. 6. Section 321.1, subsection 40, paragraphs b and c, Code Supplement 2005, are amended to read as follows:

b. "Motorized bicycle" ~~or "motor bicycle"~~ means a motor vehicle having a saddle or a seat for the use of a rider, ~~and~~ designed to travel on not more than three wheels in contact with the ground, ~~with an engine having a displacement no greater than fifty cubic centimeters~~ and not capable of operating at a speed in excess of thirty miles per hour on level ground unassisted by human power.

c. "Bicycle" means ~~a~~ either of the following:

(1) A device having two wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.

(2) A device having two or three wheels with fully operable pedals and an electric motor of less than seven hundred fifty watts (one horsepower), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden, is less than twenty miles per hour.

Sec. 7. Section 321.1, subsection 86, Code Supplement 2005, is amended by striking the subsection.

Sec. 8. Section 321.18, subsection 8, Code 2005, is amended to read as follows:

8. Any mobile home or manufactured home and any temporary undercarriage used solely for transporting manufactured homes, modular homes, or other portable buildings used or intended to be used for human occupancy.

Sec. 9. Section 321.20, subsection 1, Code Supplement 2005, is amended to read as follows:

1. The full legal name; social security number or Iowa driver's license number or Iowa nonoperator's identification card number; date of birth; bona fide residence; and mailing address of the owner and of the lessee if the vehicle is being leased. If the owner or lessee is a firm, association, or corporation, the application shall contain the bona fide business address and federal employer identification number of the owner or lessee. Up to three owners' names may be listed on the application. If the vehicle is a leased vehicle, the application shall state whether the notice of registration renewal shall be sent to the lessor or to the lessee and whether the lessor or the lessee shall receive the registration fee refund, if any. Information relating to the lessee of a vehicle shall not be required on an application for registration and a certificate of title for a vehicle with a gross vehicle weight rating of ten thousand pounds or more.

Sec. 10. Section 321.30, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 15. Unless otherwise provided for in this chapter, the department or the county treasurer shall refuse registration and issuance of a certificate of title unless the vehicle bears a manufacturer's label pursuant to 49 C.F.R. pt. 567 certifying that the vehicle meets federal motor vehicle safety standards.

Sec. 11. Section 321.42, subsection 1, Code Supplement 2005, is amended to read as follows:

1. If a registration card, plate, or pair of plates is lost or becomes illegible, the owner shall immediately apply for replacement. The fee for a replacement registration card shall be three dollars. The fee for a replacement plate or pair of plates shall be five dollars. When the owner has furnished information required by the department and paid the proper fee, a duplicate, substitute, or new registration card, plate, or pair of plates may be issued. The county treasurer or the department may waive the fee for a replacement plate if the plate is lost during a documented accident.

Sec. 12. Section 321.46, subsection 5, Code Supplement 2005, is amended to read as follows:

5. The seller or transferor may file an affidavit on forms prescribed and provided by the department with the county treasurer of the county where the vehicle is registered certifying the sale or transfer of ownership of the vehicle and the assignment and delivery of the certificate of title for the vehicle. Upon receipt of the affidavit, the county treasurer shall file the affidavit with the copy of the registration receipt for the vehicle on file in the treasurer's office and on that day the treasurer shall ~~forward copies of the affidavit to the department and to the county treasurer of the county of residence of the purchaser or transferee~~ note receipt of the affidavit in the vehicle registration and titling system. Upon filing the affidavit, it shall be presumed that the seller or transferor has assigned and delivered the certificate of title for the vehicle. For a leased vehicle, the lessor licensed pursuant to chapter 321F or the lessee may file an affidavit as provided in this subsection certifying that the lease has expired or been terminated and the date that the leased vehicle was surrendered to the lessor.

Sec. 13. Section 321.46, subsection 7, Code Supplement 2005, is amended to read as follows:

7. If a motor vehicle is leased and the lessee purchases the vehicle upon termination of the lease, the lessor shall, upon claim by the lessee with the lessor within ~~fifteen~~ thirty days of the purchase, assign the registration fee credit and registration plates for the leased motor vehicle to the lessee. Credit shall be applied as provided in subsection 3.

Sec. 14. Section 321.52, subsection 4, paragraphs b and d, Code Supplement 2005, are amended to read as follows:

b. When a wrecked or salvage vehicle has been repaired, the owner may apply for a regular certificate of title by paying the appropriate fees and surrendering the salvage certificate of title and a properly executed salvage theft examination certificate. A motor vehicle with a gross vehicle weight rating of thirty thousand pounds or more is not subject to the salvage theft examination otherwise required under paragraph "c", and the owner of such vehicle is not required to submit a salvage theft examination certificate. The county treasurer shall issue a regular certificate of title which shall bear a designation stamped or printed on the face of the title and stamped and printed on the registration receipt indicating that the vehicle was previously titled on a salvage certificate of title in a form approved by the department. This designation shall be included on every Iowa certificate of title and registration receipt issued thereafter for the vehicle. The stamped designation shall be in black and shall be in letters no bigger than sixteen point type and located on the center of the right side of the registration receipt. However, if ownership of a stolen vehicle has been transferred to an insurer organized under the laws of this state or admitted to do business in this state, or if the transfer was the result of a settlement with the owner of the vehicle arising from damage to or the unrecovered theft of the vehicle, and if the insurer certifies to the county treasurer on a form approved by the department that the insurance company has received one or more written estimates which state that the retail cost of repairs including labor, parts, and other materials of all damage to the vehicle is less than three thousand dollars, the county treasurer shall issue to the insurance company the regular certificate of title and registration receipt without this designation.

d. For purposes of this subsection, ~~a~~ "wrecked or salvage vehicle" means a damaged motor vehicle subject to registration ~~and having a gross vehicle weight rating of less than thirty thousand pounds,~~ for which the cost of repair exceeds fifty percent of the fair market value of the vehicle, as determined in accordance with rules adopted by the department, before it became damaged.

Sec. 15. Section 321.57, subsection 1, Code 2005, is amended to read as follows:

1. A dealer owning any vehicle of a type otherwise required to be registered under this chapter may operate or move the vehicle upon the highways solely for purposes of transporting, testing, demonstrating, or selling the vehicle without registering the vehicle, upon condition that the vehicle display in the manner prescribed in sections 321.37 and 321.38 a special plate issued to the owner as provided in sections 321.58 ~~to~~ through 321.62. ~~Additionally, a new car dealer or a used car~~ A dealer may operate or move upon the highways a ~~new or used car or trailer~~ vehicle owned by the dealer for either private or business purposes without registering it if the ~~new or used car or trailer~~ vehicle is in the dealer's inventory and is continuously offered for sale at retail, and there is displayed on it a special plate issued to the dealer as provided in sections 321.58 ~~to~~ through 321.62. A dealer may operate or move upon the highways an unregistered vehicle owned by a lessor licensed pursuant to chapter 321F solely for the purpose of delivering the vehicle to the owner or transporting the vehicle to or from an auction if there is displayed on the vehicle a special plate issued to the dealer as provided in sections 321.58 through 321.62.

Sec. 16. Section 321.109, subsection 1, Code Supplement 2005, is amended to read as follows:

1. a. The annual fee for all motor vehicles including vehicles designated by manufacturers as station wagons, and 1993 and subsequent model years for multipurpose vehicles, except motor trucks, motor homes, ambulances, hearses, motorcycles, ~~motor~~ motorized bicycles, and 1992 and older model years for multipurpose vehicles, shall be equal to one percent of the value as fixed by the department plus forty cents for each one hundred pounds or fraction thereof of weight of vehicle, as fixed by the department. The weight of a motor vehicle, fixed by the department for registration purposes, shall include the weight of a battery, heater, bumpers, spare tire, and wheel. Provided, however, that for any new vehicle purchased in this state by

a nonresident for removal to the nonresident's state of residence the purchaser may make application to the county treasurer in the county of purchase for a transit plate for which a fee of ten dollars shall be paid. And provided, however, that for any used vehicle held by a registered dealer and not currently registered in this state, or for any vehicle held by an individual and currently registered in this state, when purchased in this state by a nonresident for removal to the nonresident's state of residence, the purchaser may make application to the county treasurer in the county of purchase for a transit plate for which a fee of three dollars shall be paid. The county treasurer shall issue a nontransferable certificate of registration for which no refund shall be allowed; and the transit plates shall be void thirty days after issuance. Such purchaser may apply for a certificate of title by surrendering the manufacturer's or importer's certificate or certificate of title, duly assigned as provided in this chapter. In this event, the treasurer in the county of purchase shall, when satisfied with the genuineness and regularity of the application, and upon payment of a fee of ten dollars, issue a certificate of title in the name and address of the nonresident purchaser delivering the ~~same~~ title to the ~~person entitled to the title as provided in this chapter~~ owner. If there is a security interest noted on the title, the county treasurer shall mail to the secured party an acknowledgment of the notation of the security interest. The county treasurer shall not release a security interest that has been noted on a title issued to a nonresident purchaser as provided in this paragraph. The application requirements of section 321.20 apply to a title issued as provided in this subsection, except that a natural person who applies for a certificate of title shall provide either the person's social security number, passport number, or driver's license number, whether the license was issued by this state, another state, or another country. The provisions of this subsection relating to multipurpose vehicles are effective January 1, 1993, for all 1993 and subsequent model years. The annual registration fee for multipurpose vehicles that are 1992 model years and older shall be in accordance with section 321.124.

b. The annual registration fee for a multipurpose vehicle with permanently installed equipment manufactured for and necessary to assist a person with a disability who is either the owner or a member of the owner's household in entry and exit of the vehicle or for a multipurpose vehicle if the vehicle's owner or a member of the vehicle owner's household uses a wheelchair as the only means of mobility shall be sixty dollars. For purposes of this ~~unnumbered~~ paragraph, "uses a wheelchair" does not include use of a wheelchair due to a temporary injury or medical condition.

Sec. 17. Section 321.115, subsection 2, Code 2005, is amended to read as follows:

2. The sale of a motor vehicle twenty years old or older which is primarily of value as a collector's item and not as transportation is not subject to chapter 322 and any person may sell such a vehicle at retail ~~or wholesale~~ without a license as required under chapter 322.

Sec. 18. Section 321.126, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. If the vehicle was leased and an affidavit was filed by the lessor or the lessee as provided in section 321.46, the lessor or the lessee, as applicable, may make a claim for a refund with the county treasurer of the county where the vehicle was registered within six months of the vehicle's surrender to the lessor. The refund shall be paid to either the lessor or the lessee, as specified on the application for title and registration pursuant to section 321.20.

Sec. 19. Section 321.176A, subsection 1, Code Supplement 2005, is amended to read as follows:

1. A farmer or a person working for a farmer while operating a commercial motor vehicle ~~owned~~ controlled by the farmer within one hundred fifty air miles of the farmer's farm to transport the farmer's own agricultural products, farm machinery, or farm supplies to or from the farm. The exemption provided in this subsection shall apply to farmers who assist each other through an exchange of services and shall include operation of a commercial motor vehicle between the farms of the farmers who are exchanging services.

Sec. 20. Section 321.180, subsection 1, paragraph a, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A person who is at least eighteen years of age and who, except for the person's lack of instruction in operating a motor vehicle, would be qualified to obtain a driver's license, shall, upon meeting the requirements of section 321.186 other than a driving demonstration, and upon paying the required fee, be issued an instruction permit by the department. Subject to the limitations in this subsection, an instruction permit entitles the permittee, while having the permit in the permittee's immediate possession, to operate a motor vehicle, other than a commercial motor vehicle or as a chauffeur or a motor vehicle with a gross vehicle weight rating of sixteen thousand one or more pounds, upon the highways for a period not to exceed ~~two~~ four years from the licensee's birthday anniversary in the year of issuance. If the applicant for an instruction permit holds a driver's license issued in this state valid for the operation of a motorized bicycle or a motorcycle, the instruction permit shall be valid for such operation without the need of an accompanying person.

Sec. 21. Section 321.180, subsection 2, Code 2005, is amended to read as follows:

2. A person who holds a class A, B, C, or D driver's license, upon meeting each of the following requirements, shall be eligible to apply for a commercial driver's instruction permit valid for the operation of a commercial motor vehicle, except a vehicle transporting hazardous materials requiring placarding, when the permittee is accompanied by a person properly licensed to operate a commercial motor vehicle and actually occupying a seat beside the permittee. An applicant must be at least eighteen years of age and qualified to obtain a valid commercial driver's license including the requirements of section 321.188 other than the knowledge examination and driving skills tests. The commercial driver's instruction permit shall be valid for a period not to exceed six months. A commercial driver's instruction permit may be renewed only once in any two-year period. If the applicant for a commercial driver's instruction permit holds a driver's license issued in this state valid for the operation of a commercial or noncommercial vehicle, the commercial driver's instruction permit shall be valid for such operation without the need of an accompanying person.

Sec. 22. Section 321.180B, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The department may issue an instruction permit to an applicant between the ages of fourteen and eighteen years if the applicant meets the requirements of sections 321.184 and 321.186, other than a driving demonstration, and pays the required fee. An instruction permit issued under this section shall be valid for a period not to exceed ~~two~~ four years from the licensee's birthday anniversary in the year of issuance. A motorcycle instruction permit issued under this section is not renewable.

Sec. 23. Section 321.180B, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The department may issue an intermediate driver's license to a person sixteen or seventeen years of age who possesses an instruction permit issued under subsection 1 or a comparable instruction permit issued by another state for a minimum of six months immediately preceding application, and who presents an affidavit signed by a parent or guardian on a form to be provided by the department that the permittee has accumulated a total of twenty hours of street or highway driving of which two hours were conducted after sunset and before sunrise and the street or highway driving was with the permittee's parent, guardian, instructor, a person certified by the department, or a person at least twenty-five years of age who had written permission from a parent or guardian to accompany the permittee, and whose driving privileges have not been suspended, revoked, or barred under this chapter or chapter 321J during, and who has been accident and ~~conviction~~ violation free continuously for, the six-month period immediately preceding the application for an intermediate license. An applicant for an intermediate license must meet the requirements of section 321.186, including satisfactory comple-

tion of driver education as required in section 321.178, and payment of the required license fee before an intermediate license will be issued. A person issued an intermediate license must limit the number of passengers in the motor vehicle when the intermediate licensee is operating the motor vehicle to the number of passenger safety belts.

Sec. 24. Section 321.180B, subsections 3 and 4, Code 2005, are amended to read as follows:

3. REMEDIAL DRIVER IMPROVEMENT ACTION ~~OR~~ — SUSPENSION OF PERMIT, ~~OR~~ INTERMEDIATE LICENSE, OR FULL LICENSE. A person who has been issued an instruction permit, ~~or~~ an intermediate license, or a full driver's license under this section, upon conviction of a moving traffic violation or involvement in a motor vehicle accident which occurred during the term of the instruction permit or intermediate license, shall be subject to remedial driver improvement action or suspension of the permit or current license. A person possessing an instruction permit who has been convicted of a moving traffic violation or has been involved in an accident shall not be issued an intermediate license until the person has completed the remedial driver improvement action and has been accident and ~~conviction~~ violation free continuously for the six-month period immediately preceding the application for the intermediate license. A person possessing an intermediate license who has been convicted of a moving traffic violation or has been involved in an accident shall not be issued a full driver's license until the person has completed the remedial driver improvement action and has been accident and ~~conviction~~ violation free continuously for the twelve-month period immediately preceding the application for a full driver's license.

4. FULL DRIVER'S LICENSE. A full driver's license may be issued to a person seventeen years of age who possesses an intermediate license issued under subsection 2 or a comparable intermediate license issued by another state for a minimum of twelve months immediately preceding application, and who presents an affidavit signed by a parent or guardian on a form to be provided by the department that the intermediate licensee has accumulated a total of ten hours of street or highway driving of which two hours were conducted after sunset and before sunrise and the street or highway driving was with the licensee's parent, guardian, instructor, a person certified by the department, or a person at least twenty-five years of age who had written permission from a parent or guardian to accompany the licensee, whose driving privileges have not been suspended, revoked, or barred under this chapter or chapter 321J during, and who has been accident and ~~conviction~~ violation free continuously for, the twelve-month period immediately preceding the application for a full driver's license, and who has paid the required fee.

Sec. 25. Section 321.188, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Identify all states where the applicant has been licensed to drive any type of motor vehicle during the previous ten years.

Sec. 26. Section 321.189, subsection 2, paragraph c, Code 2005, is amended to read as follows:

c. The department shall assign an applicant for a driver's license a distinguishing driver's license number other than the applicant's social security number~~, unless the applicant requests that the applicant's social security number be so assigned~~.

Sec. 27. Section 321.190, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. The department shall, upon application and payment of the required fee, issue to an applicant a nonoperator's identification card. To be valid the card shall bear a distinguishing number other than a social security number assigned to the card holder, the full name, date of birth, sex, residence address, a physical description and a colored photograph of the card holder, the usual signature of the card holder, and such other information as the department may require by rule. An applicant for a nonoperator's identification card shall apply for the card in the man-

ner provided in section 321.182, subsections 1 through 3. The card shall be issued to the applicant at the time of application pursuant to procedures established by rule. An applicant for a nonoperator's identification card who is required by 50 U.S.C. app. § 451 et seq. to register with the United States selective service system shall be registered by the department with the selective service system as provided in section 321.183.

Sec. 28. Section 321.208, subsection 2, paragraph d, Code Supplement 2005, is amended to read as follows:

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.

Sec. 29. Section 321.430, subsection 3, Code 2005, is amended to read as follows:

3. Every trailer, ~~or~~ semitrailer, or travel trailer of a gross weight of three thousand pounds or more~~, and every trailer coach or travel trailer of a gross weight of three thousand pounds or more intended for use for human habitation, when operated on the highways of this state,~~ shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle~~, and so designed as to be applied by the driver of the towing motor vehicle from its cab,~~ when operated on the highways of this state. Every trailer, semitrailer, or travel trailer with a gross weight of three thousand pounds or more shall be equipped with a separate, auxiliary means of applying the brakes on the trailer, semitrailer, or travel trailer from the cab of the towing vehicle, or with self-actuating brakes, and shall also be equipped with a weight equalizing hitch with a sway control. ~~Every semitrailer, travel trailer, or trailer coach of a gross weight of three thousand pounds or more shall be equipped with a separate, auxiliary means of applying the brakes on the semitrailer, travel trailer, or trailer coach from the cab of the towing vehicle.~~ Trailers or semitrailers with a truck or truck tractor need only comply with the brake requirements.

Sec. 30. Section 321.457, subsection 1, Code Supplement 2005, is amended to read as follows:

1. A combination of four vehicles is not allowed on the highways of this state, except for power units saddle mounted on other power units which shall be restricted to a maximum overall length of ~~seventy-five~~ ninety-seven feet.

Sec. 31. Section 321.457, subsection 2, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. Notwithstanding any other provision of this chapter, and to the extent allowed under federal law, the maximum length of a towaway trailer transporter combination operated on the highways of this state is eighty-five feet. For purposes of this paragraph, "towaway trailer transporter combination" means a combination of vehicles consisting of a towing vehicle and two unladen trailers or unladen semitrailers in which the trailers or semitrailers constitute inventory property of the manufacturer intended for sale and which are being transported from a trailer manufacturer to a trailer distributor or authorized trailer dealer.

Sec. 32. Section 321A.5, subsection 1, Code 2005, is amended to read as follows:

1. The department shall, immediately or within sixty days after the receipt of a report of a motor vehicle accident within this state which has resulted in bodily injury or death or damage to the property of any one person in ~~excess~~ the amount of one thousand dollars or more, suspend the license of each operator and all registrations of each owner of a motor vehicle in any manner involved in the accident, and if the operator is a nonresident the privilege of operating a motor vehicle within this state, and if the owner is a nonresident the privilege of the use within this state of any motor vehicle owned by the owner, unless the operator or owner or both shall deposit security in a sum which shall be sufficient in the judgment of the department to satisfy any judgment or judgments for damages resulting from the accident as may be recov-

ered against the operator or owner; provided notice of the suspension shall be sent by the department to the operator and owner not less than ten days prior to the effective date of the suspension and shall state the amount required as security.

Sec. 33. Section 321L.2, subsection 1, paragraph a, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

A resident of the state with a disability desiring a persons with disabilities parking permit shall apply to the department upon an application form furnished by the department providing the applicant's full legal name, address, date of birth, and social security number or Iowa driver's license number or Iowa nonoperator's identification card number, and shall also provide a statement from a physician licensed under chapter 148, 149, 150, or 150A, a physician assistant licensed under chapter 148C, an advanced registered nurse practitioner licensed under chapter 152, or a chiropractor licensed under chapter 151, or a physician, physician assistant, nurse practitioner, or chiropractor licensed to practice in a contiguous state, written on the physician's, physician assistant's, nurse practitioner's, or chiropractor's stationery, stating the nature of the applicant's disability and such additional information as required by rules adopted by the department under section 321L.8. If the person is applying for a temporary persons with disabilities parking permit, the physician's, physician assistant's, nurse practitioner's, or chiropractor's statement shall state the period of time during which the person is expected to be disabled and the period of time for which the permit should be issued, not to exceed six months.

Sec. 34. Section 322.3, subsection 14, paragraph d, Code 2005, is amended to read as follows:

d. A manufacturer of motor homes, as defined in section 321.1, ~~or a manufacturer of school buses, as defined in section 321.1,~~ from owning an interest in, operating, or controlling a motor vehicle dealer of the motor homes ~~or school buses~~ manufactured by that manufacturer or from being licensed as a motor vehicle dealer only of the motor homes ~~or school buses~~ manufactured by that manufacturer.

Sec. 35. Section 322.5, subsection 2, paragraph b, Code Supplement 2005, is amended to read as follows:

b. An application for a temporary permit under this subsection shall be made upon a form provided by the department and shall be accompanied by a ten dollar permit fee. The department may issue a temporary permit for a period not to exceed fourteen days. The department may issue multiple consecutive temporary permits.

Sec. 36. Section 322.27A, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A person shall not engage in business as a wholesaler of new motor vehicles in this state without a license as provided in this chapter.

Sec. 37. Section 322.29, subsection 2, paragraph c, Code 2005, is amended by striking the paragraph.

Sec. 38. Section 322B.3, subsection 4, Code 2005, is amended to read as follows:

4. PERMITS FOR FAIRS, SHOWS, AND EXHIBITIONS. Manufactured or mobile home retailers, in addition to selling homes at their principal place of business and lots, may, upon receipt of a temporary permit approved by the department, display and offer new manufactured homes for sale and negotiate sales of new manufactured homes at fairs, shows, and exhibitions. Application for temporary permits shall be made upon forms provided by the department and shall be accompanied by a ten dollar permit fee. Temporary permits shall be issued for a period not to exceed fourteen days. The department may issue multiple consecutive temporary permits.

Sec. 39. Section 322C.3, subsection 9, Code 2005, is amended to read as follows:

9. A travel trailer dealer may display new travel trailers at fairs, shows, and exhibitions on any day of the week as provided in this subsection. Travel trailer dealers, in addition to selling travel trailers at their principal place of business and lots, may, upon receipt of a temporary permit approved by the department, display and offer new travel trailers for sale and negotiate sales of new travel trailers at fairs, shows, and exhibitions. Application for temporary permits shall be made upon forms provided by the department and shall be accompanied by a ten dollar permit fee. Temporary permits shall be issued for a period not to exceed fourteen days. The department may issue multiple consecutive temporary permits.

Sec. 40. Section 326.2, subsection 14, Code 2005, is amended to read as follows:

14. The words "vehicle," "motor vehicle," "motor truck," "truck tractor," "road tractor," "trailer," "semitrailer," ~~"trailer coach,"~~ "combination" or "combination of vehicles," "gross weight," "person," "owner," "nonresident," "street" or "highway," and "auxiliary axle" shall have the meanings ascribed in section 321.1.

Sec. 41. EFFECTIVE DATE. The section of this division that amends section 321.1, subsection 40; the section that enacts section 321.30, subsection 15; and the provision changing the term "motor bicycles" to "motorized bicycles" in the section that amends section 321.109, subsection 1, being deemed of immediate importance, take effect upon enactment.

DIVISION IV
VEHICLE BUSINESS LICENSING

Sec. 42. Section 321.58, Code 2005, is amended to read as follows:

321.58 APPLICATION.

All dealers, transporters, new motor vehicle wholesalers licensed under chapter 322, and manufactured or mobile home retailers licensed under chapter 322B, upon payment of a fee of seventy dollars for ~~two years, one hundred forty dollars for four years, or two hundred ten dollars for six years~~ a two-year period or part thereof, may make application to the department upon the appropriate form for a certificate containing a general distinguishing number and for one or more special plates as appropriate to various types of vehicles subject to registration. The applicant shall also submit proof of the applicant's status as a bona fide transporter, new motor vehicle wholesaler licensed under chapter 322, manufactured or mobile home retailer licensed under chapter 322B, or dealer, as reasonably required by the department. Dealers in new vehicles shall furnish satisfactory evidence of a valid franchise with the manufacturer of the vehicles authorizing the dealership.

Sec. 43. Section 321.60, Code 2005, is amended to read as follows:

321.60 ISSUANCE OF SPECIAL PLATES.

The department shall also issue special plates as applied for, which shall display the general distinguishing number assigned to the applicant. Each plate so issued shall also contain a number or symbol identifying the plate and distinguishing it from every other plate bearing the same general distinguishing number. The fee for each special plate is forty dollars for ~~two years, eighty dollars for four years, or one hundred twenty dollars for six years~~ a two-year period or part thereof.

~~Special plates may be validated in the same manner as regular registration plates under this chapter.~~

Sec. 44. Section 321.61, Code 2005, is amended to read as follows:

321.61 EXPIRATION OF SPECIAL PLATES.

A special plate shall expire at midnight on ~~the last day of the last month of the dealer's license expiration period, and upon application and payment of the fee the department shall validate the special plate in the same manner as regular registration plates~~ December 31 of even-

numbered years. A person shall not be considered to be driving a vehicle with an expired registration for one month following the expiration date of the special plate.

Sec. 45. Section 321F.4, Code 2005, is amended to read as follows:

321F.4 FEES AND EXPIRATION.

1. The license fe~~e~~ for a license to engage in the business of leasing vehicles in this state is thirty dollars for a two-year ~~license, sixty dollars for a four-year license, and ninety dollars for a six-year license~~ period or part thereof, to be paid at the time the application for a license is filed. If the application is denied, the amount of the fee shall be refunded to the applicant.

2. A license ~~is valid for two years, four years, or six years and~~ expires on ~~the last day of the last month of the two-year, four-year, or six-year period, as applicable~~ December 31 of even-numbered years. A licensee shall have the month of expiration and the month after the month of expiration to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee.

Sec. 46. Section 321H.4, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Application for a license as an authorized vehicle recycler shall be made to the department on forms provided by the department. The application shall be accompanied by a fee of seventy dollars for a two-year ~~license, one hundred forty dollars for a four-year license, or two hundred ten dollars for a six-year license~~ period or part thereof. The license shall be approved or disapproved within thirty days after application for the license. A license ~~is valid for two years, four years, or six years and~~ expires on ~~the last day of the last month of the two-year, four-year, or six-year period, as applicable~~ December 31 of even-numbered years. A licensee shall have the month of expiration and the month after the month of expiration to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee. A separate license shall be obtained for each county in which an applicant conducts operations.

Sec. 47. Section 322.5, subsection 1, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

The license fee for a motor vehicle dealer for a two-year period or part thereof is the sum of seventy dollars ~~for a two-year license, one hundred forty dollars for a four-year license, or two hundred ten dollars for a six-year license~~ for the licensee's principal place of business in each city or township and an additional twenty dollars for ~~two years, forty dollars for four years, or sixty dollars for six years~~ a two-year period or part thereof for each car lot which is in the city or township in which the principal place of business is located and which is not adjacent to that place, to be paid to the department at the time a license is applied for. In case the application is denied, the department shall refund the amount of the fee to the applicant. For the purposes of this section "adjacent" means that the principal place of business and each additional lot are adjoining parcels of property.

Sec. 48. Section 322.7, subsection 3, Code 2005, is amended to read as follows:

3. The license of a motor vehicle dealer is valid for a two-year~~, four-year, or six-year time~~ period and expires, unless revoked or suspended, on ~~the last day of the last month of the two-year, four-year, or six-year period, as applicable~~ December 31 of even-numbered years.

Sec. 49. Section 322.29, subsection 1, Code 2005, is amended to read as follows:

1. Application for license shall be made to the department by a manufacturer, distributor, or wholesaler, in a form and containing information as the department requires and shall be accompanied by the required license fee. The license shall be granted or refused within thirty days after application~~, and shall expire,~~. A license expires, unless sooner revoked or suspended, on December 31 of ~~the calendar year for which it is granted~~ even-numbered years.

A licensee shall have the month of ~~December of the calendar year for which the license was granted and the following month of January~~ expiration and the month after the month of expiration to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee.

Sec. 50. Section 322.29, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

License fees for each ~~calendar year,~~ two-year period or part thereof~~, shall be~~ are as follows ~~effective January 1, 1998~~:

Sec. 51. Section 322.29, subsection 2, paragraphs a and b, Code 2005, are amended to read as follows:

a. For a motor vehicle manufacturer, ~~thirty-five~~ seventy dollars.

b. For a new motor vehicle distributor or wholesaler, ~~twenty~~ forty dollars.

Sec. 52. Section 322B.3, subsection 2, Code 2005, is amended to read as follows:

2. LICENSE FEES. The license fee for a manufactured or mobile home retailer is seventy dollars for a two-year ~~license, one hundred forty dollars for a four-year license, or two hundred ten dollars for a six-year license~~ period or part thereof. If the application is denied, the department shall refund the fee. Fees and funds accruing from the administration of this chapter shall be accounted for and paid by the department to the treasurer of state monthly for deposit in the road use tax fund of the state.

Sec. 53. Section 322B.4, Code 2005, is amended to read as follows:

322B.4 LICENSE APPLICATION AND FEES.

Upon application and payment of a ~~thirty-five~~ seventy dollar fee for a two-year period or part thereof, a person may be licensed as a manufacturer or distributor of manufactured or mobile homes. The application shall be in the form and shall contain information as the department prescribes. The license shall be granted or refused within thirty days after application. The license expires, unless sooner revoked or suspended by the department, on December 31 of ~~the calendar year for which the license was granted~~ even-numbered years. A licensee shall have the month of ~~December of the calendar year for which the license was granted and the following month of January~~ expiration and the month after the month of expiration to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee.

Sec. 54. Section 322C.4, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon application and payment of a fee, a person may be licensed as a travel trailer dealer. The license fee is seventy dollars for a two-year ~~license, one hundred forty dollars for a four-year license, or two hundred ten dollars for a six-year license~~ period or part thereof. The person shall pay an additional fee of twenty dollars for ~~two years, forty dollars for four years, or sixty dollars for six years~~ a two-year period or part thereof for each travel trailer lot in addition to the principal place of business unless the lot is adjacent to the principal place of business. For purposes of this subsection, "adjacent" means that the principal place of business and each additional lot are adjoining parcels of property. The applicant shall file in the office of the department a verified application for license as a travel trailer dealer in the form the department prescribes, which shall include the following:

Sec. 55. Section 322C.4, subsection 2, Code 2005, is amended to read as follows:

2. The license shall be granted or refused within thirty days after application. A license is valid for a two-year~~, four-year, or six-year~~ period and expires, unless revoked or suspended by the department, on ~~the last day of the last month of the two-year, four-year, or six-year period, as applicable~~ December 31 of even-numbered years. A licensee shall have the month of

expiration and the month after the month of expiration to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee. A separate license shall be obtained for each county in which an applicant does business as a travel trailer dealer.

Sec. 56. Section 322C.9, Code 2005, is amended to read as follows:

322C.9 LICENSE APPLICATION AND FEES.

Upon application and payment of a ~~thirty-five-dollar fee~~ seventy dollar fee for a two-year period or part thereof, a person may be licensed as a manufacturer or distributor of travel trailers. The application shall be in the form and shall contain information as the department prescribes. The license shall be granted or refused within thirty days after application. The license expires, unless sooner revoked or suspended by the department, on December 31 ~~of the calendar year for which the license was granted~~ of even-numbered years. A licensee shall have the month of ~~December of the calendar year for which the license was granted and the following month of January~~ expiration and the month after the month of expiration to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee.

Sec. 57. EFFECTIVE DATE AND DISPOSITION OF EXCESS FEES.

1. This division of this Act takes effect January 1, 2007.

2. Due to the transition to two-year licensing periods provided for in this division of this Act, the state department of transportation shall provide a credit for excess license fees paid pursuant to section 321F.4, 321H.4, 322.5, 322.29, 322B.3, 322B.4, 322C.4, or 322C.9 by any licensee prior to January 1, 2007. The department shall also provide a credit for excess fees paid by a vehicle dealer, transporter, or manufacturer for a distinguishing number and special plates pursuant to section 321.58 or 321.60 prior to January 1, 2007.

Approved April 20, 2006

CHAPTER 1069

LICENSED HEALTH CARE FACILITY EMPLOYEES
— CRIMINAL AND ABUSE RECORDS

H.F. 2588

AN ACT relating to the criminal and abuse registry checks required of a person employed by a licensed health care facility.

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

Section 1. Section 135C.33, subsection 4, Code 2005, is amended to read as follows:

4. a. ~~A~~ Except as provided in paragraph "b", a person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a facility licensed under this chapter unless an evaluation has been performed by the department of human services. If the department of human services determines from the evaluation that the person has committed a crime or has a record of founded child or dependent adult abuse which warrants prohibition of employment, the person shall not be employed in a facility licensed under this chapter.

b. A person with a criminal or abuse record who is employed by a facility licensed under this chapter and is hired by another licensee without a lapse in employment shall be subject to the criminal history and abuse record checks required pursuant to subsection 1. If an evaluation was previously performed by the department of human services concerning the person's criminal or abuse record and it was determined that the record did not warrant prohibition of the person's employment and the latest record checks do not indicate a crime was committed or founded abuse record was entered subsequent to that evaluation, the person may commence employment with the other licensee while the department of human services' evaluation of the latest record checks is pending. Otherwise, the requirements of paragraph "a" remain applicable to the person's employment.

Approved April 20, 2006

CHAPTER 1070

COUNTY TREASURER DUTIES, MOTOR VEHICLE REGULATION, AND PUBLIC NUISANCE TAX SALES

H.F. 2654

AN ACT relating to motor vehicles and the powers and duties of the county treasurer in relation to motor vehicles and property taxation and including effective and applicability date provisions.

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

Section 1. Section 12B.11, Code 2005, is amended to read as follows:

12B.11 MANNER AND DETAILS OF SETTLEMENT.

At the time of any examination of any such office, or at the time of any settlement with the treasurer in charge of any such public funds, the treasurer ~~shall~~ is not required to produce and count in the presence of the officer or officers making such examination or settlement, unless otherwise requested by the board of supervisors, all moneys or funds then on deposit in the safe or vault in the treasurer's office~~, and~~. The treasurer shall produce a statement of all money or funds on deposit with any depository wherein the treasurer is authorized to deposit such funds, and shall correctly show the balance remaining on deposit in such depository at the close of business on the day preceding the day of such settlement. The treasurer shall also file a statement setting forth the numbers, dates, and amounts of all outstanding checks, or other items of difference, reconciling the balance as shown by the treasurer's books with those of the depositories. The state treasurer shall also file a statement showing the numbers, dates, and amounts of all United States government bonds held as part of said public fund.

Sec. 2. Section 321.20, unnumbered paragraph 1, Code Supplement 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, or if a firm, association, or corporation with vehicles in multiple counties, the owner may make

application to the county treasurer of the county where the primary user of the vehicle is located, 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. 3. Section 321.20A, subsection 2, Code 2005, is amended to read as follows:

2. An owner of ~~a commercial vehicle~~ more than fifty commercial vehicles subject to the proportional registration provisions of chapter 326 ~~who has a fleet of more than fifty commercial vehicles and~~ who is issued a certificate of title under this section shall not be subject to registration fees until the commercial vehicle is driven or moved upon the highways. The registration fee due shall be prorated for the remaining unexpired months of the registration year. Ownership of the commercial vehicle shall not be transferred until registration fees have been paid to the department.

Sec. 4. Section 321.24, subsection 4, Code Supplement 2005, is amended to read as follows:

4. If the prior certificate of title is from another state and indicates that the vehicle was rebuilt, the new certificate of title and registration receipt shall contain the designation ~~of~~ "REBUILT" ~~stamped or~~ printed on its face together with the name of the state issuing the prior title. ~~The designation of "REBUILT" and the name of the other state shall be retained on all subsequent Iowa certificates of title for the vehicle. If the prior certificate of title is from another state and indicates that the vehicle was rebuilt, the registration receipt shall contain the designation of "REBUILT" stamped and printed on its face. The stamped designation of "REBUILT" shall be located on the center of the right side of the registration receipt in black letters no bigger than sixteen point type.~~ The designation shall be retained on the face of all subsequent certificates of title and registration receipts for the vehicle.

Sec. 5. Section 321.25, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A vehicle may be operated upon the highways of this state without registration plates for a period of ~~forty-five~~ sixty days after the date of delivery of the vehicle to the purchaser from a dealer if a card bearing the words "registration applied for" is attached on the rear of the vehicle. The card shall have plainly stamped or stenciled the registration number of the dealer from whom the vehicle was purchased and the date of delivery of the vehicle. In addition, a dealer licensed to sell new motor vehicles may attach the card to a new motor vehicle delivered by the dealer to the purchaser even if the vehicle was purchased from an out-of-state dealer and the card shall bear the registration number of the dealer that delivered the vehicle. A dealer shall not issue a card to a person known to the dealer to be in possession of registration plates which may be attached to the vehicle. A dealer shall not issue a card unless an application for registration and certificate of title has been made by the purchaser and a receipt issued to the purchaser of the vehicle showing the fee paid by the person making the application. Dealers' records shall indicate the agency to which the fee is sent and the date the fee is sent. The dealer shall forward the application by the purchaser to the county treasurer or state office within thirty calendar days from the date of delivery of the vehicle. However, if the vehicle is subject to a security interest and has been offered for sale pursuant to section 321.48, subsection 1, the dealer shall forward the application by the purchaser to the county treasurer or state office within thirty calendar days from the date of the delivery of the vehicle to the purchaser.

Sec. 6. Section 321.46, subsection 1, Code Supplement 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~~ 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~~ 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, or if a firm, association, or corporation with vehicles in multiple counties, the transferee may apply for and obtain from the county treasurer of the county where the primary user of the vehicle 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. 7. Section 321.52, subsection 4, paragraph b, Code Supplement 2005, is amended to read as follows:

b. When a wrecked or salvage vehicle has been repaired, the owner may apply for a regular certificate of title by paying the appropriate fees and surrendering the salvage certificate of title and a properly executed salvage theft examination certificate. The county treasurer shall issue a regular certificate of title which shall bear a designation ~~stamped or~~ printed on the face of the title and ~~stamped and~~ printed on the registration receipt indicating that the vehicle was previously titled on a salvage certificate of title in a form approved by the department. This designation shall be included on every Iowa certificate of title and registration receipt issued thereafter for the vehicle. ~~The stamped designation shall be in black and shall be in letters no bigger than sixteen point type and located on the center of the right side of the registration receipt.~~ However, if ownership of a stolen vehicle has been transferred to an insurer organized under the laws of this state or admitted to do business in this state, or if the transfer was the result of a settlement with the owner of the vehicle arising from damage to or the unrecovered theft of the vehicle, and if the insurer certifies to the county treasurer on a form approved by the department that the insurance company has received one or more written estimates which state that the retail cost of repairs including labor, parts, and other materials of all damage to the vehicle is less than three thousand dollars, the county treasurer shall issue to the insurance company the regular certificate of title and registration receipt without this designation.

Sec. 8. Section 321.101A, Code 2005, is amended to read as follows:

321.101A REVOCATION OF REGISTRATION BY COUNTY TREASURER.

The county treasurer may revoke the registration and registration plates of a vehicle if the registration fees are paid by check, electronic payment, or credit card and the check, electronic payment, or credit card is not honored by the payer's financial institution or credit card company, upon reasonable notice and demand. The owner of the vehicle or person in possession of the registration and registration plates for the vehicle shall immediately return the revoked registration and registration plates to the appropriate county treasurer's office.

Sec. 9. Section 321.123, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Travel trailers and fifth-wheel travel trailers, except those in manufacturer's or dealer's stock, shall be subject to an annual fee of twenty cents per square foot of floor space computed on the exterior overall measurements, but excluding three feet occupied by any trailer hitch as provided by and certified to by the owner, to the nearest whole dollar~~, which amount shall not be prorated or refunded; except the annual fee for travel trailers of any type, when.~~ When a travel trailer or fifth-wheel travel trailer is registered in Iowa for the first time or when ~~removed from a manufacturer's or dealer's stock,~~ title is transferred, the annual fee shall be prorated on a monthly basis. ~~It is further provided the~~ The annual fee ~~thus computed~~ shall be ~~limited~~ reduced to seventy-five percent of the full fee after the vehicle is more than six model years old.

Sec. 10. Section 321.126, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

Refunds of unexpired vehicle registration fees shall be allowed in accordance with this section, except that no refund shall be allowed and paid if the unused portion of the fee is less than ten dollars. Subsections 1 and 2 do not apply to ~~motor~~ vehicles registered by the county treasurer. The refunds shall be made as follows:

Sec. 11. Section 321.126, subsections 1, 2, 3, 4, and 7, Code Supplement 2005, are amended to read as follows:

1. If the ~~motor~~ vehicle is destroyed by fire or accident, or junked and its identity as a ~~motor~~ vehicle entirely eliminated, the owner in whose name the ~~motor~~ vehicle was registered at the time of destruction or dismantling shall return the plates to the department and within thirty days thereafter make a statement of such destruction or dismantling and make claim for refund. With reference to the destruction or dismantling of a vehicle, no refund shall be allowed unless a junking certificate has been issued, as provided in section 321.52.

2. If the ~~motor~~ vehicle is stolen, the owner shall give notice of the theft to the department within five days. If the ~~motor~~ vehicle is not recovered by the owner thirty days prior to the end of the current registration year, the owner shall make a statement of the theft and make claim for refund.

3. If the ~~motor~~ vehicle is placed in storage by the owner upon the owner's entry into the military service of the United States, the owner shall return the plates to the county treasurer or the department and make a statement regarding the storage and military service and make claim for refund. Whenever the owner of a ~~motor~~ vehicle so placed in storage desires to again register the vehicle, the county treasurer or department shall compute and collect the fees for registration for the registration year commencing in the month the vehicle is removed from storage.

4. If the ~~motor~~ vehicle is registered by the county treasurer during the current registration year and the owner or lessee registers the vehicle for proportional registration under chapter 326, the owner of the registered vehicle shall surrender the registration plates to the county treasurer and may file a claim for refund. In lieu of a refund, a credit for the registration fees paid to the county treasurer may be applied by the department to the owner or lessee's proportional registration fees upon the surrender of the county plates and registration.

7. 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.

Sec. 12. Section 321.127, subsections 1 and 4, Code 2005, are amended to read as follows:

1. The refund of the registration fee for ~~motor~~ vehicles shall be computed on the basis of the number of unexpired months remaining in the registration year from date of filing of the claim for refund with the county treasurer, computed to the nearest dollar.

4. Refunds for ~~motor~~ vehicles registered for proportional registration under chapter 326 shall be paid on the basis of unexpired complete calendar months remaining in the registration year from the date the claim for refund, license plate, and registration receipt are received by the department.

Sec. 13. Section 321.324A, subsections 1 and 3, Code 2005, are amended to read as follows:

1. For purposes of this section, "funeral procession" means a procession of motor vehicles accompanying the body of a deceased person during daylight hours which is being escorted by a vehicle continually displaying its emergency signal lamps flashing simultaneously and using lighted head lamps and identifying flags, or an escort vehicle displaying a flashing or

revolving red and amber light visible to pedestrians in all directions, and keeping all other motor vehicles with lighted head lamps in close formation.

3. The funeral ~~home~~ establishment in charge of the funeral procession is liable only in connection with the procession for any negligent, reckless, or intentional act by the funeral ~~home~~ establishment or any employee or agent of the funeral ~~home~~ establishment that results in any death, personal injury or property damage suffered during a funeral procession.

Sec. 14. Section 321.423, subsection 2, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. On a vehicle being operated as an escort vehicle for a funeral procession as provided in section 321.324A.

Sec. 15. Section 331.552, subsection 23, Code Supplement 2005, is amended to read as follows:

23. Collect a fee of ~~ten~~ twenty dollars for issuing a tax sale certificate ~~or a certificate of redemption from tax sale~~.

Sec. 16. Section 331.552, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 36. Destroy mobile home and manufactured home tax lists after ten years have elapsed from the end of the fiscal year in which the list was created.

Sec. 17. Section 331.559, subsection 15, Code 2005, is amended to read as follows:

15. Maintain a suspended tax list book as provided in section 427.12. After ten years from the date of payment, abatement, or cancellation of a suspended tax, special assessment, rate, or charge, the county treasurer may dispose of the official record of the suspended tax, special assessment, rate, or charge.

Sec. 18. Section 331.904, subsection 1, Code 2005, is amended to read as follows:

1. The annual salary of the first and second deputy officer of the office of auditor, treasurer, and recorder, ~~and~~ the deputy in charge of the motor vehicle registration and title division, and the deputy in charge of driver's license issuance shall each be an amount not to exceed eighty percent of the annual salary of the deputy's principal officer. In offices where more than two deputies are required, each additional deputy shall be paid an amount not to exceed seventy-five percent of the principal officer's salary. The amount of the annual salary of each deputy shall be certified by the principal officer to the board and, if a deputy's salary does not exceed the limitations specified in this subsection, the board shall certify the salary to the auditor. The board shall not certify a deputy's salary which exceeds the limitations of this subsection.

Sec. 19. Section 349.16, subsection 3, Code 2005, is amended to read as follows:

3. The reports of the county treasurer, including a schedule of the receipts and expenditures of the county and the current cash balance in each fund in the treasurer's office together with the total of warrants outstanding against each of ~~said~~ the funds as shown by the warrant register in the auditor's office. A listing of warrants outstanding is not required if the county issues checks in lieu of warrants, and there are no remaining outstanding warrants issued by the county.

Sec. 20. Section 445.5, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Failure to receive a tax statement is not a defense to the payment of the total amount due.

Sec. 21. Section 445.36, Code 2005, is amended to read as follows:

445.36 PAYMENT — INSTALLMENTS.

1. The taxes which become delinquent during the fiscal year are for the previous fiscal year.

2. A demand of taxes is not necessary, but every person subject to taxation shall attend at the office of the county treasurer and pay the taxes either in full, or one-half of the taxes before September 1 succeeding the levy, and the remaining half before March 1 following. ~~However, if the first installment of taxes is delinquent and not paid as of February 1, the treasurer shall mail a notice to the taxpayer of the delinquency and the due date for the second installment. Failure to receive a mailed notice is not a defense to the payment of the total amount due.~~ This ~~section~~ subsection does not apply to special assessments, or rates or charges.

3. If an installment of taxes, or an annual payment in the case of special assessments, or payment in full in the case of rates or charges, is delinquent and not paid as of February 1, the treasurer shall notify the taxpayer of the delinquency and the due date for the second installment. Failure to receive notice is not a defense to the payment of the total amount due.

Sec. 22. Section 446.9, subsection 1, Code 2005, is amended to read as follows:

1. A notice of the date, time, and place of the annual tax sale shall be served upon the person in whose name the parcel subject to sale is taxed. The county treasurer shall serve the notice by sending it by regular first class mail to the person's last known address not later than May 1 of each fiscal year. However, in those instances when May 1 is a Saturday or Sunday, the notice shall be served not later than the first business day of May. The notice shall contain a description of the parcel to be sold which is clear, concise, and sufficient to distinguish the parcel to be sold from all other parcels. It shall also contain the amount of delinquent taxes for which the parcel is liable each year, the amount of the interest and fees, and the amount of the service fee as provided in section 446.10, subsection 2, all to be incorporated as a single sum. The notice shall contain a statement that, after the sale, if the parcel is not redeemed within the period provided in chapter 447, the right to redeem expires and a deed may be issued.

Sec. 23. NEW SECTION. 446.19B PUBLIC NUISANCE TAX SALE — REHABILITATION FOR USE AS HOUSING.

1. The board of supervisors of a county may adopt an ordinance authorizing the county treasurer to separately offer and sell at the annual tax sale delinquent taxes on parcels that are abandoned property and are assessed as residential property or as commercial multifamily housing property and that are, or are likely to become, a public nuisance. 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 or before May 15, the county or city may file with the county treasurer a verified statement containing a listing of parcels and a declaration that each parcel is abandoned property, each parcel is assessed as residential property or as commercial multifamily housing property, each parcel is, or is likely to become, a public nuisance, and that each parcel is suitable for use as housing following rehabilitation.

3. The verified statement shall be published at the same time and in the same manner as the notice of the annual tax sale and the requirements in section 446.9, subsection 2, for publication of notice of the annual tax sale also apply to publication of the verified statement.

4. On the day of the regular tax sale, or any continuance or adjournment of the tax sale, the treasurer shall separately offer and sell those parcels listed in a verified statement timely received and properly published and which remain liable to sale for delinquent taxes. This sale shall be known as the "public nuisance tax sale". Notwithstanding any provision to the contrary, the percentage interest that may be purchased in a parcel offered for sale under this section shall not be less than one hundred percent.

5. To be eligible to bid on parcels under this section, a prospective bidder shall enter into a rehabilitation agreement with the county, or with the city if the property is located within a city, to demonstrate the intent to rehabilitate the property for use as housing if the property is not redeemed.

6. If after issuance of a tax sale deed to the holder of a certificate of purchase at the public nuisance tax sale, the tax sale deed holder determines that a building, structure, or other improvement located on the parcel cannot be rehabilitated for habitation, the tax sale deed holder may request approval from the board of supervisors, or the city council if the property is

located within a city, to remove, dismantle, or demolish the building, structure, or other improvement.

7. When a parcel is offered at public nuisance tax sale and no bid is received, or if the bid received is less than the total amount due, the county in which the parcel is located, through its county treasurer, shall bid for the parcel 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.

8. The tax sale certificate holder may assign the tax sale certificate obtained pursuant to this section.

9. For purposes of this section, "abandoned property" means the same as defined in section 446.19A, and "public nuisance" means the same as defined in section 657A.1.

Sec. 24. Section 446.31, unnumbered paragraph 2, Code 2005, is amended to read as follows:

When the county acquires a certificate of purchase, the county may assign the certificate for the total amount due as of the date of assignment or compromise the total amount due and assign the certificate. An assignment or a compromise and assignment shall be by written agreement. A copy of the agreement shall be filed with the treasurer. For each assignment transaction, the treasurer shall collect from the assignee an assignment transaction fee of ten dollars to be deposited in the county general fund. The assignment transaction fee shall not be added to the amount necessary to redeem. All money received from the assignment of county-held certificates of purchase shall be apportioned to the tax-levying and certifying bodies in proportion to their interests in the taxes for which the parcel was sold with all interest, fees, and costs deposited in the county general fund. After assignment of a certificate of purchase which is held by the county, section 446.37 applies. In that instance, ~~the three-year requirement shall be calculated~~ the date of cancellation shall be three years from the date the assignment is recorded by the treasurer in the county system. However, in the case of a tax sale certificate issued pursuant to section 446.19B and assigned by the county, the date of cancellation shall be one year from the date the assignment is recorded by the treasurer in the county system. When the assignment is entered and the assignment transaction fee is paid, all of the rights and title of the assignor shall vest in the assignee or the legal representative of the assignee. The statement in the treasurer's deed of the fact of the assignment is presumptive evidence of that fact.

Sec. 25. Section 446.32, Code 2005, is amended to read as follows:

446.32 PAYMENT OF SUBSEQUENT TAXES BY PURCHASER.

The county treasurer shall provide to the purchaser of a parcel sold at tax sale a receipt for the total amount paid by the purchaser after the date of purchase for a subsequent year. Taxes for a subsequent year may be paid by the purchaser beginning fourteen days following the date from which an installment becomes delinquent as provided in section 445.37. Notwithstanding any provision to the contrary, a subsequent payment must be received and recorded by the treasurer in the county system no later than five p.m. on the last business day of the month for interest for that month to accrue and be added to the amount due under section 447.1. However, the treasurer may establish a deadline for receipt of subsequent payments that is other than five p.m. on the last business day of the month to allow for timely processing of the subsequent payments. Late interest shall be calculated through the date that the subsequent payment is recorded by the treasurer in the county system. In no instance shall the date of postmark of a subsequent payment be used by a treasurer either to calculate interest or to determine whether interest shall accrue on the subsequent payment.

Sec. 26. Section 446.37, Code Supplement 2005, is amended to read as follows:

446.37 CANCELLATION OF SALE.

After three years have elapsed from the time of any tax sale, or after one year has elapsed

from the time of any tax sale under section 446.19B, and 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, 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, and in the case of a tax sale under section 446.19B, 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 one year 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. 27. Section 447.1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A parcel sold under this chapter and chapter 446 may be redeemed at any time before the right of redemption expires, by payment to the county treasurer, to be held by the treasurer subject to the order of the purchaser, of the amount for which the parcel was sold, including the fee for the certificate of purchase, and interest of two percent per month, counting each fraction of a month as an entire month, from the month of sale, and the total amount paid by the purchaser or the purchaser's assignee for any subsequent year, with interest at the same rate added on the amount of the payment for each subsequent year from the month of payment, counting each fraction of a month as an entire month. The amount of interest must be at least one dollar and shall be rounded to the nearest whole dollar. Interest shall accrue on subsequent amounts ~~from the month of payment by the certificate holder~~ as provided in section 446.32. The redemption must be received by the treasurer on or before the last day of the month to avoid additional interest being added to the amount necessary to redeem. However, if the last day of a month falls on a Saturday, Sunday, or a holiday, the payment must be received by the treasurer by the close of business on the first business day of the following month.

Sec. 28. Section 447.5, Code 2005, is amended to read as follows:

447.5 CERTIFICATE OF REDEMPTION — ISSUED BY TREASURER.

The county treasurer, upon application of a party to redeem a parcel sold at a tax sale, and being satisfied that the party has a right to redeem the parcel upon the payment of the proper amount, shall issue to the party a certificate of redemption, setting forth the facts of the sale substantially as contained in the certificate, the date of the redemption, the amount paid, and by whom redeemed, and shall make the proper entries in the county system in the treasurer's office. ~~The amount of the fee shall be as provided in section 331.552, subsection 23, for either the original certificate or duplicate certificate.~~

Sec. 29. Section 447.9, subsection 1, Code 2005, is amended to read as follows:

1. After one year and nine months from the date of sale, or after nine months from the date of a sale made under section 446.18 or 446.39, or after three months from the date of a sale made under section 446.19A or 446.19B, the holder of the certificate of purchase may cause to be served upon the person in possession of the parcel, and also upon the person in whose name the parcel is taxed, a notice signed by the certificate holder or the certificate holder's agent or attorney, stating the date of sale, the description of the parcel sold, the name of the purchaser, and that the right of redemption will expire and a deed for the parcel be made unless redemption is made within ninety days from the completed service of the notice. The notice shall be served by both regular mail and certified mail to the person's last known address and such service is deemed completed when the notice by certified mail is deposited in the mail and postmarked for delivery. The ninety-day redemption period begins as provided in section 447.12. When the notice is given by a county as a holder of a certificate of purchase the notice shall be signed by the county treasurer or the county attorney, and when given by a city, it shall be signed by the city officer designated by resolution of the council. When the notice is given by the Iowa finance authority or a city or county agency holding the parcel as part of an Iowa

homesteading project, it shall be signed on behalf of the agency or authority by one of its officers, as authorized in rules of the agency or authority.

Sec. 30. Section 447.12, Code 2005, is amended to read as follows:

447.12 WHEN SERVICE DEEMED COMPLETE — PRESUMPTION.

Service is complete only after an affidavit has been filed with the county treasurer, showing the making of the service, the manner of service, the time when and place where made, under whose direction the service was made, and costs incurred as provided in section 447.13. Costs not filed with the treasurer before a redemption is complete shall not be collected by the treasurer. Costs shall not be filed with the treasurer prior to the filing of the affidavit. The affidavit shall be made by the holder of the certificate or by the holder's agent or attorney, and in either of the latter cases stating that the affiant is the agent or attorney of the holder of the certificate. The affidavit shall be filed by the treasurer and entered in the county system and is presumptive evidence of the completed service of the notice. The right of redemption shall not expire until ninety days after service is complete. A redemption shall not be considered valid unless received by the treasurer prior to the close of business on the ninetieth day from the date of completed service except in the case of a public bidder certificate held by the county in which case the county may accept a redemption at any time prior to the issuance of the tax deed. However, if the ninetieth day falls on a Saturday, Sunday, or a holiday, payment of the total redemption amount must be received by the treasurer before the close of business on the first business day following the ninetieth day. The date of postmark of a redemption shall not be considered as the day the redemption was received by the treasurer for purposes of the ninety-day time period. When 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 affidavit shall be made by the treasurer of the county or the county attorney, a city officer designated by resolution of the council, or on behalf of the agency or authority, by one of its officers as authorized in rules of the agency or authority.

Sec. 31. EFFECTIVE AND APPLICABILITY DATES.

1. The sections of this Act amending sections 12B.11, 321.101A, and 349.16, being deemed of immediate importance, take effect upon enactment.

2. The sections of this Act amending section 331.552, subsection 23, and sections 446.32, 447.1, 447.5, and 447.12, being deemed of immediate importance, take effect upon enactment and apply to parcels sold at tax sales held on or after June 1, 2006.

3. The sections of this Act amending sections 321.123, 321.126, and 321.127 take effect January 1, 2007.

4. The section of this Act amending section 321.25 takes effect July 1, 2007.

Approved April 20, 2006

CHAPTER 1071

TERMINATION OF PARENTAL RIGHTS PROCEEDINGS
— ATTORNEY FEES

H.F. 2672

AN ACT relating to payment of attorney fees in termination of parental rights proceedings, providing an effective date, and providing for retroactive applicability.

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

Section 1. Section 600A.6B, subsections 1 and 2, Code Supplement 2005, are amended to read as follows:

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 person filing the petition is a private child-placing agency as defined in section 238.2 or 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 is a private child-placing agency as defined in section 238.2 or 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.

Sec. 2. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to March 12, 2004.

Approved April 20, 2006

CHAPTER 1072

DEPARTMENT OF ADMINISTRATIVE SERVICES
— MISCELLANEOUS CHANGES

H.F. 2705

AN ACT providing for changes relating to specified aspects of the operation of the department of administrative services.

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

Section 1. Section 8A.204, subsection 3, paragraph g, subparagraph (4), Code Supplement 2005, is amended to read as follows:

(4) Review and approval of all concept papers and documentation related to 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. The review and approval of con-

cept papers and documentation as provided in this subparagraph shall occur prior to the issuance of the related request for proposals. Notwithstanding section 21.5, subsection 1, the board, by vote of at least six members, may hold a closed session to review and discuss concept papers and documentation related to a request for proposals if the board determines that the public disclosure of such discussion prior to the issuance of the request for proposals may disadvantage any potential vendors.

The board shall keep detailed minutes of all discussion, persons present, and action occurring at a closed session, and shall also tape record all of the closed session. The minutes and the tape recording of a session closed under this subparagraph shall be made available for public examination when a final decision is made regarding whether to issue the request for proposals. All board actions and decisions regarding this information shall be made in open meetings[1] and appropriately recorded.

Sec. 2. Section 8A.206, Code Supplement 2005, is amended to read as follows:

8A.206 INFORMATION TECHNOLOGY STANDARDS.

1. The department ~~shall develop~~, in ~~consultation~~ conjunction with the technology governance board, ~~recommended~~ shall develop and adopt information technology standards ~~for consideration with respect~~ applicable to the procurement of information technology by all participating agencies. ~~It is the intent of the general assembly that information technology standards be established for the purpose of guiding such procurements.~~ Such standards, unless waived by the department, shall apply to all information technology procurements for participating agencies.

2. The office of the governor or the office of an elective constitutional or statutory officer shall consult with the department prior to procuring information technology and consider the information technology standards ~~recommended~~ adopted by the department, and provide a written report to the department relating to the office's decision regarding such acquisitions.

Sec. 3. Section 8A.311, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Notwithstanding section 72.3, if the competitive bidding procedure used by the department involves the use of a reverse auction or similar competitive bidding procedure requiring the disclosure of bid information submitted by vendors, the department shall disclose the bid information as necessary and appropriate.

Sec. 4. Section 8A.504, subsection 1, paragraph d, Code Supplement 2005, is amended to read as follows:

d. "State agency" means a board, commission, department, including the department of administrative services, or other administrative office or unit of the state of Iowa or any other state entity reported in the Iowa comprehensive annual financial report, or a political subdivision of the state, or an office or unit of a political subdivision. "State agency" does include the clerk of the district court as it relates to the collection of a qualifying debt. "State agency" does not include the general assembly~~,~~ or the governor~~, or any political subdivision of the state, or its offices and units~~.

Approved April 20, 2006

[1] See chapter 1185, §114 herein

CHAPTER 1073

STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM
— DEFERRED RETIREMENT

H.F. 2712

AN ACT establishing a deferred retirement option plan for members of the statewide fire and police retirement system and including an implementation provision.

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

Section 1. NEW SECTION. 411.6C DEFERRED RETIREMENT OPTION PLAN.

1. For purposes of this section, unless the context otherwise requires:

a. "Applicable percentage" means that percentage, not greater than one hundred percentage points, equal to fifty-two percentage points plus two percentage points for each month for the period between the eligible member's plan eligibility month and the month the eligible member commences membership in the plan.

b. "Drop benefit" means, for a participant, an amount credited to the participant's account each applicable month equal to the member's applicable percentage multiplied by the member's participant retirement amount.

c. "Eligible member" means a member who has attained fifty-five years of age with at least twenty-two years of membership service.

d. "Participant account" means an administrative record maintained by the system reflecting the participant's accumulated drop benefit.

e. "Participant retirement amount" means the amount equal to the monthly retirement allowance the eligible member would have received under section 411.6 if the member retired on the date the eligible member commenced participation in the plan, based on earnings through the previous full quarter of earnable compensation earned by the member.

f. "Plan" means the deferred retirement option plan established by this section.

g. "Plan eligibility month" means the first full calendar month in which the participant is an eligible member.

2. a. An eligible member may elect to participate in the deferred retirement option plan as provided in this section. A decision by an eligible member to participate in the plan is irrevocable. Upon commencing membership in the plan, the member shall remain an active member of the system and shall have credited to a participant account on behalf of the member from the fire and police retirement fund for each month the member participates in the plan the member's drop benefit. The amounts credited shall be invested by the system in risk-free assets of a short-term nature and interest and earnings shall not be credited to the member's participant account but shall remain with the fire and police retirement fund established in section 411.8. In addition, the annual readjustment of pensions under section 411.6, subsection 12, shall not apply to a participant's drop benefit or to amounts credited to the member's participant account.

b. Upon termination of an eligible member's participation in the plan, the eligible member shall be deemed to be retired under the system as of that date for purposes of the system and shall begin receiving a retirement allowance equal to the member's participant retirement amount or such optional retirement benefits, based upon that amount, pursuant to section 411.6A. In addition, the eligible member shall receive the moneys credited to the member's participant account while participating in the plan. The eligible member shall select, upon written application to the system, whether to receive the amount in the member's participant account in the form of a lump sum distribution or as a rollover to an eligible retirement plan as defined in section 411.6B.

c. If an eligible member terminates participation in the plan prior to the date selected by the member upon commencing membership in the plan and the termination is not due to the death or disability of the member under this chapter, then the system shall assess a twenty-five per-

cent penalty on the amount credited to the member's participant account prior to distributing the amount to the member. The penalty amount shall be transferred to and remain with the fire and police retirement fund.

3. To participate in the plan, an eligible member shall make written application to the system. The application shall include the following:

a. The month the eligible member intends to commence participation in the plan.

b. The eligible member's selection of a plan termination date. The plan termination date shall be either three, four, or five years after the date the eligible member commences membership in the plan. However, for the two-year period beginning with the first of the month following the implementation date of this section, an eligible member between sixty-two and sixty-four years of age may also select a plan termination date that is one or two years after the date the eligible member commences membership in the plan.

4. Participation in the plan by an eligible member does not guarantee continued employment. Contributions required from members and participating cities shall continue based on the earnable compensation of an eligible member participating in the plan. However, contributions made while an eligible member participates in the plan shall remain with the retirement fund and shall not be subject to a withdrawal of contributions under section 411.23.

5. The system's actuary, while making the annual valuation of the assets and liabilities of the fire and police retirement fund, shall determine whether establishment and operation of the plan created in this section has resulted in an increased actuarial cost to the system. If the actuary determines that the plan has resulted in an increased actuarial cost to the system, then, notwithstanding any provision of section 411.8 to the contrary, the system shall increase the members' contribution rate as necessary to cover the increased cost of the plan created in this section.

6. This section shall not be implemented until the system has received a favorable ruling from the internal revenue service regarding the plan as provided in this section. Upon receiving the favorable ruling, the board shall establish the implementation date of the plan.

Approved April 20, 2006

CHAPTER 1074

HUMAN TRAFFICKING

S.F. 2219

AN ACT relating to human trafficking and related offenses, including the provision of law enforcement training and victim assistance programs, providing penalties, and providing for a study.

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

Section 1. Section 80B.11, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Training standards on the subject of human trafficking, to include curricula on cultural sensitivity and the means to deal effectively and appropriately with trafficking victims. Such training shall encourage law enforcement personnel to communicate in the language of the trafficking victims. The course of instruction and training standards shall be developed by the director in consultation with the appropriate national and state experts in the field of human trafficking.

Sec. 2. NEW SECTION. 710A.1 DEFINITIONS.

As used in this chapter:

1. "Commercial sexual activity" means any sex act on behalf of which anything of value is given, promised to, or received by any person and includes, but is not limited to, prostitution, participation in the production of pornography, and performance in strip clubs.

2. "Debt bondage" means the status or condition of a debtor arising from a pledge of the debtor's personal services or a person under the control of a debtor's personal services as a security for debt if the reasonable value of such services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

3. "Forced labor or services" means labor or services that are performed or provided by another person and that are obtained or maintained through any of the following:

a. Causing or threatening to cause serious physical injury to any person.

b. Physically restraining or threatening to physically restrain another person.

c. Abusing or threatening to abuse the law or legal process.

d. Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.

4. "Human trafficking" means participating in a venture to recruit, harbor, transport, supply provisions, or obtain a person for any of the following purposes:

a. Forced labor or service that results in involuntary servitude, peonage, debt bondage, or slavery.

b. Commercial sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is under the age of eighteen, the commercial sexual activity need not involve force, fraud, or coercion.

5. "Involuntary servitude" means a condition of servitude induced by means of any scheme, plan, or pattern intended to cause a person to believe that if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint or the threatened abuse of legal process.

6. "Labor" means work of economic or financial value.

7. "Maintain" means, in relation to labor and services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type of services.

8. "Obtain" means, in relation to labor or services, to secure performance thereof.

9. "Peonage" means a status or condition of involuntary servitude based upon real or alleged indebtedness.

10. "Services" means an ongoing relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor, including commercial sexual activity and sexually explicit performances.

11. "Sexually explicit performance" means a live or public act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interest of patrons.

12. "Venture" means any group of two or more persons associated in fact, whether or not a legal entity.

13. "Victim" means a person subjected to human trafficking.

Sec. 3. NEW SECTION. 710A.2 HUMAN TRAFFICKING.

1. A person who knowingly engages in human trafficking is guilty of a class "D" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "C" felony.

2. A person who knowingly engages in human trafficking by causing or threatening to cause serious physical injury to another person is guilty of a class "C" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "B" felony.

3. A person who knowingly engages in human trafficking by physically restraining or threatening to physically restrain another person is guilty of a class "D" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "C" felony.

4. A person who knowingly engages in human trafficking by soliciting services or benefiting

from the services of a victim is guilty of a class "D" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "C" felony.

5. A person who knowingly engages in human trafficking by abusing or threatening to abuse the law or legal process is guilty of a class "D" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "C" felony.

6. A person who knowingly engages in human trafficking by knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document of a victim is guilty of a class "D" felony, except that if that other person is under the age of eighteen, the person is guilty of a class "C" felony.

7. A person who benefits financially or by receiving anything of value from knowing participation in human trafficking is guilty of a class "D" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "C" felony.

Sec. 4. NEW SECTION. 710A.3 AFFIRMATIVE DEFENSE.

It shall be an affirmative defense, in addition to any other affirmative defenses for which the victim might be eligible, to a prosecution for a criminal violation directly related to the defendant's status as a victim of a crime that is a violation of section 710A.2, that the defendant committed the violation under compulsion by another's threat of serious injury, provided that the defendant reasonably believed that such injury was imminent.

Sec. 5. NEW SECTION. 710A.4 RESTITUTION.

The gross income of the defendant or the value of labor or services performed by the victim to the defendant shall be considered when determining the amount of restitution.

Sec. 6. NEW SECTION. 710A.5 CERTIFICATION.

A law enforcement agency investigating a crime described in section 710A.2 shall notify the attorney general in writing about the investigation. Upon request of the attorney general, such law enforcement agency shall provide copies of any investigative reports describing the immigration status and cooperation of the victim. The attorney general shall certify in writing to the United States department of justice or other federal agency that an investigation or prosecution under this chapter has begun and that the person who is a likely victim of a crime described in section 710A.2 is willing to cooperate or is cooperating with the investigation to enable the person, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law enforcement shall not be required of a minor victim of a crime described in section 710A.2. This certification shall be made available to the victim and the victim's designated legal representative.

Sec. 7. NEW SECTION. 915.51 GENERAL RIGHTS OF HUMAN TRAFFICKING VICTIMS.

Victims of human trafficking, as defined in section 710A.1, shall have the same rights as other victims of a crime, including the right to receive victim compensation pursuant to section 915.84, regardless of their immigration status.

Sec. 8. Section 915.94, Code 2005, is amended to read as follows:

915.94 VICTIM COMPENSATION FUND.

A victim compensation fund is established as a separate fund in the state treasury. Moneys deposited in the fund shall be administered by the department and dedicated to and used for the purposes of section 915.41 and this subchapter. In addition, the department may use moneys from the fund for the purpose of the department's prosecutor-based victim service coordination, including the duties defined in sections 910.3 and 910.6 and this chapter, and for the award of funds to programs that provide services and support to victims of domestic abuse or sexual assault as provided in chapter 236, and to victims of section 710A.2. The department may also use up to one hundred thousand dollars from the fund to provide training for victim

service providers. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

Sec. 9. HUMAN TRAFFICKING STUDY. The legislative council is requested to authorize a study for the 2006 legislative interim on human trafficking. The study recommendations and findings shall include but are not limited to identifying the needs of human trafficking victims and law enforcement and any other agencies that serve victims of human trafficking. The study report, including findings and recommendations, shall be submitted to the general assembly for consideration during the 2007 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.

Approved April 21, 2006

CHAPTER 1075

LOANS FOR PURCHASE OF AGRICULTURAL LAND

S.F. 2262

AN ACT relating to the prepayment of agricultural loans secured by a real estate mortgage.

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

Section 1. Section 535.9, subsection 1, Code 2005, is amended to read as follows:

1. As used in this section, "loan" means a loan of money which is wholly or in part to be used for the purpose of purchasing real property which is a single-family or a two-family dwelling occupied or to be occupied by the borrower, or <u>which is payable over a term of five years or less</u> for the purpose of purchasing agricultural land. "Loan" includes the refinancing of a contract of sale, and the refinancing of a prior loan, whether or not the borrower also was the borrower under the prior loan, and the assumption of a prior loan.

Approved April 21, 2006

CHAPTER 1076

LEGAL EXPENSES UNDER ADOPTION SUBSIDY PROGRAM

S.F. 2290

AN ACT relating to the payment of costs of reasonable attorney fees and other expenses related to certain adoption proceedings.

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

Section 1. 2004 Iowa Acts, chapter 1175, section 139, subsection 1, paragraph b, is amended to read as follows:

b. The general limitation on attorney fees under the program shall be $500 per recipient. However, up to an additional $200 may be allowed for reasonable court costs and other related legal expenses.

Approved April 21, 2006

CHAPTER 1077

FARM TENANCIES

S.F. 2292

AN ACT relating to farm tenancies.

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

Section 1. NEW SECTION. 562.1A DEFINITIONS.

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

1. "Farm tenancy" means a leasehold interest in land held by a person who produces crops or provides for the care and feeding of livestock on the land, including by grazing or supplying feed to the livestock.

2. "Livestock" means the same as defined in section 717.1.

Sec. 2. Section 562.5, Code 2005, is amended to read as follows:

562.5 TERMINATION OF FARM TENANCIES.

In the case of ~~tenants occupying and cultivating farms~~ a farm tenancy, the notice must fix the termination of the farm tenancy to take place on the first day of March, except in cases of a mere ~~croppers~~ cropper, whose ~~leases~~ farm tenancy shall ~~be held to expire~~ terminate when the crop is harvested~~;~~. However, if the crop is corn, ~~it~~ the termination shall not be later than the first day of December, unless otherwise agreed upon.

Sec. 3. Section 562.6, Code 2005, is amended to read as follows:

562.6 AGREEMENT FOR TERMINATION.

If an agreement is made fixing the time of the termination of ~~the~~ a tenancy, whether in writing or not, the tenancy shall ~~cease~~ terminate at the time agreed upon, without notice. ~~In the case of farm tenants, except~~ Except for a farm tenant who is a mere ~~croppers, occupying and cultivating~~ cropper, a farm tenancy with an acreage of forty acres or more~~, the tenancy~~ shall

continue beyond the agreed term for the following crop year and otherwise upon the same terms and conditions as the original lease unless written notice for termination is served upon either party or a successor of the party in the manner provided in section 562.7, whereupon the farm tenancy shall terminate March 1 following. However, the tenancy shall not continue because of an absence of notice if there is default in the performance of the existing rental agreement.

Approved April 21, 2006

CHAPTER 1078

EMERGENCY MEDICAL CARE PROVIDERS — CERTIFICATION

S.F. 2318

AN ACT relating to an exception from emergency medical care requirements for persons providing care within the scope of their certification.

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

Section 1. NEW SECTION. 147A.15 EXCEPTION FOR CARE WITHIN SCOPE OF CERTIFICATION.

1. This subchapter does not apply to a registered member of the national ski patrol system, an industrial safety officer, a lifeguard, or a person employed or volunteering in a similar capacity in which the person provides on-site emergency medical care at a facility solely to the patrons or employees of that facility, provided that such person provides emergency medical care only within the scope of the person's training and certification and the person does not claim to be a certified emergency medical care provider or use any other term to indicate or imply that the person is a certified emergency medical care provider.

2. This subchapter does not apply to the national ski patrol system or any similar system in which the system provides on-site emergency medical care at a facility solely to the patrons or employees of that facility, provided that such system does not provide transportation to a hospital or other medical facility and provided that such system does not use any term to indicate or imply authorization to transport patients to a hospital or other medical facility without having obtained proper authorization to transport patients to a hospital or other medical facility under this subchapter.

Approved April 21, 2006

CHAPTER 1079

COMMUNICABLE AND INFECTIOUS DISEASES
AND PUBLIC HEALTH DISASTERS —
NOTIFICATION, INVESTIGATION, AND CONTROL

S.F. 2322

AN ACT relating to the investigation and control of communicable and infectious diseases and notification procedures concerning diseases, health conditions, unusual clusters, or suspicious events which may be the cause of a public health disaster.

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

Section 1. Section 135.145, subsections 1, 2, and 3, Code 2005, are amended to read as follows:

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

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

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

Sec. 2. Section 139A.2, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 0A. "Area quarantine" means prohibiting ingress and egress to and from a building or buildings, structure or structures, or other definable physical location, or portion thereof, to prevent or contain the spread of a suspected or confirmed quarantinable disease or to prevent or contain exposure to a suspected or known chemical, biological, radioactive, or other hazardous or toxic agent.

Sec. 3. Section 139A.3, subsection 2, paragraphs a and b, Code 2005, are amended to read as follows:

a. Any person who, acting reasonably and in good faith, files a report, releases information, or otherwise cooperates with an investigation under this ~~section~~ chapter is immune from any liability, civil or criminal, which might otherwise be incurred or imposed for ~~making a report~~ such action.

b. A report ~~to~~ or other information provided to or maintained by the department, ~~to~~ a local board, or ~~to~~ a local department, which identifies a person infected with or exposed to a reportable or other disease or health condition, is confidential and shall not be accessible to the public.

Sec. 4. Section 139A.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A health care provider or public, private, or hospital clinical laboratory shall provide the department, local board, or local department with all information reasonably necessary to conduct an investigation pursuant to this chapter upon request of the de-

partment, local board, or local department. The department may also subpoena records, reports, and any other evidence necessary to conduct an investigation pursuant to this chapter from other persons, facilities, and entities pursuant to rules adopted by the department.

Sec. 5. Section 139A.4, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The department and local boards may impose and enforce area quarantine restrictions according to rules adopted by the department. Area quarantine shall be imposed by the least restrictive means necessary to prevent or contain the spread of the suspected or confirmed quarantinable disease or suspected or known hazardous or toxic agent.

Approved April 21, 2006

CHAPTER 1080

DEPENDENT ADULT ABUSE — EMERGENCIES
— TEMPORARY CONSERVATOR

H.F. 2147

AN ACT relating to the temporary appointment of a conservator for a dependent adult in an emergency situation.

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

Section 1. Section 235B.19, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. a. Notwithstanding section 633.573, upon a finding that there is probable cause to believe that the dependent adult abuse is producing 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 order the appointment of a temporary conservator without notice to the dependent adult or the dependent adult's attorney if all of the following conditions are met:

(1) It clearly appears from specific facts shown by affidavit or by the verified petition that immediate and irreparable injury, loss, or damage will result to the physical or financial resources or property of the dependent adult before the dependent adult or the dependent adult's attorney can be heard in opposition.

(2) The department certifies to the court in writing any efforts the department has made to give the notice or the reasons supporting the claim that notice should not be required.

(3) The department files with the court a request for a hearing on the petition for the appointment of a temporary conservator.

(4) The department certifies that the notice of the petition, order, and all filed reports and affidavits will be sent to the dependent adult by personal service within the time period the court directs but not more than seventy-two hours after entry of the order of appointment.

b. An order of appointment of a temporary conservator entered by the court under paragraph "a" shall expire as prescribed by the court but within a period of not more than thirty days unless extended by the court for good cause.

c. A hearing on the petition for the appointment of a temporary conservator shall be held within the time specified in paragraph "b". If the department does not proceed with a hearing on the petition, the court, on the motion of any party or on its own motion, may dismiss the petition.

Sec. 2. Section 633.573, Code 2005, is amended to read as follows:

633.573 APPOINTMENT OF TEMPORARY CONSERVATOR.

~~A~~ Except as provided in section 235B.19, a temporary conservator may be appointed but only after a hearing on such notice, and subject to such conditions, as the court shall prescribe.

Approved April 21, 2006

CHAPTER 1081

EXECUTIONS OF JUDGMENTS
AND WAGE GARNISHMENT ORDERS — TIME LIMIT

H.F. 2233

AN ACT relating to the time limit on executions of judgments and orders for wage garnishments.

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

Section 1. Section 626.16, Code 2005, is amended to read as follows:

626.16 RECEIPT AND RETURN.

Every officer ~~to whose hands~~ who receives an execution ~~may come~~ shall ~~give~~ provide a receipt ~~therefor~~, if required, stating the hour when the same was received, and shall make sufficient return ~~thereof~~ of the execution, together with the money collected, on or before the ~~seventieth~~ one hundred twentieth day from the date of its issuance.

Sec. 2. Section 642.23, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Notwithstanding the ~~seventy-day~~ one-hundred-twenty-day period in section 626.16 for the return of an execution in garnishment for the payment of a support obligation, the sheriff shall promptly deposit any amounts collected with the clerk of the district court, and the clerk shall disburse the amounts, after subtracting applicable fees, within two working days of the filing of an order condemning funds as follows:

Approved April 21, 2006

CHAPTER 1082

FAILURE TO STOP AND RENDER AID
AT MOTOR VEHICLE ACCIDENTS — PENALTIES

H.F. 2398

AN ACT relating to criminal penalties for a driver convicted of failure to stop and render aid at the scene of a motor vehicle accident.

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

Section 1. Section 321.261, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding subsection 2, any person failing to stop or to comply with the requirements in subsection 1, in the event of an accident resulting in a serious injury to any person, is guilty upon conviction of an aggravated misdemeanor. For purposes of this section, "serious injury" means as defined in section 702.18.

Sec. 2. Section 321.261, subsection 3, Code 2005, is amended to read as follows:

~~3.~~ 4. A person failing to stop or to comply with the requirements in subsection 1, in the event of an accident resulting in the death of a person, is guilty upon conviction of ~~an aggravated misdemeanor~~ a class "D" felony.

Sec. 3. Section 902.12, subsection 6, Code 2005, is amended to read as follows:

6. Vehicular homicide in violation of section 707.6A, subsection 1 or 2, if the person was also convicted under section 321.261, subsection ~~3~~ 4, based on the same facts or event that resulted in the conviction under section 707.6A, subsection 1 or 2.

Approved April 21, 2006

CHAPTER 1083

WAGE PAYMENT DEPOSIT AND PAYDAY STATEMENT INFORMATION

H.F. 2508

AN ACT relating to direct deposit of wages and creating an exception to the payday information employers are required to provide each employee under the Iowa wage payment collection law and providing for retroactive applicability.

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

Section 1. Section 91A.3, subsection 3, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

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~~ employee hired on or after July 1, 2005, may

~~require~~ be required, as a condition of ~~hire~~ employment, ~~a new employee to sign up for~~ to participate in direct deposit of the employee's wages in a financial institution of the employee's choice unless any of the following conditions exist:

Sec. 2. Section 91A.3, subsection 3, Code Supplement 2005, is amended by adding the following new unnumbered paragraph after paragraph c:

NEW UNNUMBERED PARAGRAPH. If the employer fails to send an employee's wages for direct deposit on or by the regular payday in accordance with this subsection, the employer is liable for the amount of any overdraft charge if the overdraft is created on the employee's account because of the employer's failure to send the wages on or by the regular payday.

Sec. 3. Section 91A.6, subsection 4, Code Supplement 2005, is amended to read as follows:

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. However, the employer need not provide information on hours worked for employees who are exempt from overtime under the federal Fair Labor Standards Act, as defined in 29 C.F.R. pt. 541, unless the employer has established a policy or practice of paying to or on behalf of exempt employees overtime, a bonus, or a payment based on hours worked, whereupon the employer shall send or otherwise provide a statement to the exempt employees showing the hours the employee worked or the payments made to the employee by the employer, as applicable. 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. 4. RETROACTIVE APPLICABILITY. The section of this Act which amends section 91A.3, subsection 3, unnumbered paragraph 1, is retroactively applicable to July 1, 2005, for employees hired on or after that date.

Approved April 21, 2006

CHAPTER 1084

CRIMINAL INDICTMENTS OR INFORMATIONS — STATUTES OF LIMITATIONS

H.F. 2624

AN ACT extending the statute of limitations for the filing of an indictment or information in a felony or aggravated or serious misdemeanor proceeding involving DNA profiling.

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

Section 1. Section 802.3, Code 2005, is amended to read as follows:

802.3 FELONY — AGGRAVATED OR SERIOUS MISDEMEANOR.

In all cases, except those enumerated in ~~sections~~ section 802.1, 802.2, ~~and~~ 802.2A, or 802.10, an indictment or information for a felony or aggravated or serious misdemeanor shall be found within three years after its commission.

Sec. 2. NEW SECTION. 802.10 DNA PROFILE OF ACCUSED.

1. "DNA profile" means the same as defined in section 81.1.

2. An indictment or information may be found containing only the DNA profile of the person charged. When an indictment or information is found containing only a DNA profile, the limitation of any action under section 802.3 is tolled.

3. However, an indictment or information shall be found within three years from the date the identity of the person charged is identified by the person's DNA profile under section 802.3. If the action involves sexual abuse, the indictment or information shall be found as provided in section 802.2, if the person is identified by the person's DNA profile.

Approved April 21, 2006

CHAPTER 1085

HEALTHY CHILDREN TASK FORCE

S.F. 2251

AN ACT directing the department of education and the Iowa department of public health to convene a healthy children task force and providing an effective date.

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

Section 1. HEALTHY CHILDREN TASK FORCE.

1. The department of education and the Iowa department of public health shall convene a healthy children task force to do the following:

a. Assess current policies and statutes affecting the health of children, specifically physical activity, physical education, food and nutrition, and nutrition education for children ages three through eighteen.

b. Develop recommendations for policy and statutory changes to enhance the health and well-being of children including, but not limited to, physical activity, food and nutrition, and education related to these topics.

c. Submit its findings and recommendations to the governor and the general assembly not later than January 1, 2007.

2. Members of the healthy children task force shall include the following:

a. Eight legislative members who shall be appointed as follows:

(1) Four state senators who are the co-chairpersons of the standing senate education and human resources committees.

(2) Four state representatives, including the chairpersons of the standing house of representatives education and human resources committees, and the ranking members of the standing house of representatives education and human resources committees.

b. A representative of each of the following, appointed by the respective entity:

(1) The department of education.

(2) The Iowa department of public health.

(3) The American heart association.

(4) The Iowa association for health, physical education, recreation and dance.

(5) The Iowa association of school boards.

(6) The Iowa dietetic association.

(7) The school nutrition association of Iowa.

(8) The Iowa state education association.
(9) The school administrators of Iowa.
(10) The Iowa medical society.
(11) Iowa partners: action for healthy kids.
(12) The Iowa parent teacher association.
(13) The Iowa nurses association.
(14) The American cancer association.
(15) The Iowa dental association.
(16) The Iowa academy of pediatrics.
(17) The professional educators of Iowa.
(18) The Iowa chiropractic association.
(19) The Iowa dental hygienists' association.
(20) The Iowa occupational therapy association.
(21) The Iowa physical therapy association.
(22) The dean of the school of consumer and family sciences at the Iowa state university of science and technology.
(23) The state board of education.
(24) The child development coordinating council.
(25) The Iowa empowerment board.
(26) The Iowa hospital association.
(27) The Iowa optometric association.
(28) The department of human services.
(29) The hawk-i board.
(30) The area education agencies.
(31) The Iowa academy of family physicians.
(32) The Iowa osteopathic medical association.
(33) The access for special kids family resource center.
(34) The university of Iowa hospitals and clinics' center for disabilities and development.[1]

c. Three parents or guardians of school-age children, appointed by the governor.

d. One middle school student and one high school student from each of the five congressional districts who shall be appointed by the governor.

3. a. The task force shall elect a chairperson and vice chairperson from the members appointed pursuant to subsection 2, paragraph "b", subparagraphs (3) through (34) and subsection 2, paragraph "c".

b. In case of the absence or disability of the chairperson and vice chairperson, the members of the task force shall elect a temporary chairperson in the same manner as provided in paragraph "a".

c. A majority of the members of the task force present shall constitute a quorum.

4. The department of education and the Iowa department of public health shall work cooperatively to provide staffing and administrative support to the task force.

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

Approved April 26, 2006

[1] See chapter 1185, §88 herein

CHAPTER 1086

DEBT COLLECTION AND BANKRUPTCY
— EXEMPT PERSONAL PROPERTY

S.F. 2301

AN ACT relating to exemptions for certain personal property from execution by creditors in state court debt collection and federal bankruptcy actions.

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

Section 1. Section 627.6, subsections 1, 5, 9, and 13, Code 2005, are amended to read as follows:

1. ~~All wearing apparel of the debtor and the debtor's dependents kept for actual use and the trunks or other receptacles necessary for the wearing apparel, not to exceed in value one thousand dollars in the aggregate. In addition, the~~ The debtor's interest in:

a. ~~any~~ Any wedding or engagement ring owned ~~and~~ or received by the debtor or the debtor's dependents ~~on or before the date of marriage~~. However, any interest acquired in one or more wedding or engagement rings owned or received by the debtor or the debtor's dependents after the date of marriage and within two years of the date the execution is issued or an exemption is claimed shall not exceed a value equal to seven thousand dollars in the aggregate minus the amount claimed by the debtor for any other jewelry claimed in paragraph "b".

b. All jewelry of the debtor and the debtor's dependents owned or received by the debtor or the debtor's dependents, not to exceed in value two thousand dollars in the aggregate.

5. The debtor's interest in all wearing apparel of the debtor and the debtor's dependents kept for actual use and the trunks or other receptacles necessary for the wearing apparel, musical instruments, household furnishings, and household goods ~~and~~ which include, but are not limited to, appliances, radios, television sets, record or tape playing machines, compact disc players, satellite dishes, cable television equipment, computers, software, printers, digital video disc players, video players, and cameras held primarily for the personal, family, or household use of the debtor ~~or a dependent of the debtor~~ and the debtor's dependents, not to exceed in value ~~two~~ seven thousand dollars in the aggregate.

9. ~~Any combination of the following, not to exceed a value of five thousand dollars in the aggregate~~ The debtor's interest in the following:

a. ~~Musical instruments, not including radios, television sets, or record or tape playing machines, held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.~~

~~b.~~ One motor vehicle, not to exceed in value seven thousand dollars in the aggregate.

~~c.~~ b. In the event of a bankruptcy proceeding, the debtor's interest in accrued wages and in state and federal tax refunds as of the date of filing of the petition in bankruptcy, not to exceed one thousand dollars in the aggregate. This exemption is in addition to the limitations contained in sections 642.21 and 537.5105.

13. The debtor's interest, not to exceed one ~~hundred~~ thousand dollars in the aggregate, in any cash on hand, bank deposits, credit union share drafts, or other deposits, wherever situated, or other personal property not otherwise specifically provided for in this chapter.

Sec. 2. Section 627.6, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 15. The debtor's interest in payments reasonably necessary for the support of the debtor or the debtor's dependents to or for the benefit of the debtor or the debtor's dependents, including structured settlements, resulting from the wrongful death of a decedent upon which the debtor or the debtor's dependents were dependent.

Approved April 26, 2006

CHAPTER 1087

LITTERING AND ILLEGAL SOLID WASTE DISPOSAL

S.F. 2319

AN ACT relating to littering and illegal discarding of solid waste and increasing fines and penalties and making appropriations.

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

Section 1. Section 455B.307A, subsection 3, Code 2005, is amended to read as follows:

3. A person who violates this section is subject to a civil penalty not to exceed ~~five hundred~~ one thousand dollars for each violation. The revenue from the penalty provided in this subsection shall be remitted to the treasurer of state for deposit in the general fund of the state. Fifty percent of such moneys are appropriated to the state department of transportation for purposes of the cleanup of litter and illegally discarded solid waste. The remaining fifty percent of such moneys shall be deposited in the general fund of the county in which the violation occurred to be used exclusively for the cleanup and prevention of illegal dumping.

Sec. 2. Section 602.8108, subsection 2, Code Supplement 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, 8, ~~and~~ 9, and 11, 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. 3. Section 602.8108, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 11. The state court administrator shall allocate fifty percent of all of the fines attributable to littering citations issued pursuant to sections 321.369, 321.370, and 461A.43 to the treasurer of state for deposit in the general fund of the state and such moneys are appropriated to the state department of transportation for purposes of the cleanup of litter and illegally discarded solid waste.

Sec. 4. Section 805.8A, subsection 14, paragraph d, Code Supplement 2005, is amended to read as follows:

d. LITTER AND DEBRIS VIOLATIONS. For violations under sections 321.369 and 321.370, the scheduled fine is ~~thirty-five~~ seventy dollars.

Sec. 5. Section 805.8B, subsection 6, paragraph b, Code 2005, is amended to read as follows:

b. For violations under sections 461A.40, ~~461A.43,~~ 461A.46, and 461A.49, the scheduled fine is fifteen dollars.

Sec. 6. Section 805.8B, subsection 6, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. For violations under section 461A.43, the scheduled fine is thirty dollars.

Approved April 26, 2006

CHAPTER 1088

OPEN FEEDLOT OPERATIONS

S.F. 2369

AN ACT relating to requirements for open feedlot operations, by providing for nutrient management plans, stockpiling of solids, and operating permits, and providing an effective date and retroactive applicability.

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

Section 1. Section 459A.102, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 8A. "Designated area" means a known sinkhole, a cistern, an abandoned well, an unplugged agricultural drainage well, an agricultural drainage well surface inlet, a drinking water well, a designated wetland, or a water source. However, "designated area" does not include a terrace tile inlet or surface tile inlet other than an agricultural drainage well surface tile inlet.

NEW SUBSECTION. 8B. "Designated wetland" means the same as defined in section 459.102.

NEW SUBSECTION. 9A. "Grassed waterway" means a natural or constructed channel that is shaped or graded and established with suitable vegetation for the stable conveyance of surface water runoff.

NEW SUBSECTION. 9B. "High-quality water resource" means the same as defined in section 459.102.

NEW SUBSECTION. 20A. "Stockpile" means to store solids from an open feedlot operation outside of an open feedlot operation structure or outside of an area that drains to an open feedlot operation structure.

NEW SUBSECTION. 23. "Water source" means the same as defined in section 459.102.

Sec. 2. NEW SECTION. 459A.202 OPERATING PERMIT REQUIREMENTS.

1. The owner of an open feedlot operation qualifying under this section shall apply for an operating permit on or before July 31, 2007.

2. Except as provided in subsection 3, an open feedlot operation qualifies under this section if all of the following apply:

a. The open feedlot operation commenced operation prior to April 14, 2003, and the physical facilities of the open feedlot operation have not expanded since that date.

b. The open feedlot operation was not required to be issued an operating permit prior to April 14, 2003, but is required to obtain an operating permit on and after that date, pursuant to all of the following:

(1) Rules adopted by the department, including but not limited to rules adopted as part of 567 IAC ch. 65, that were in effect prior to April 14, 2003, and have been subsequently amended.

(2) Regulations adopted by the federal government, including but not limited to the environmental protection agency as a part of 40 C.F.R. pts. 122 and 412, that were in effect prior to April 14, 2003, and have been subsequently amended.

3. An open feedlot operation does not qualify under this section if the open feedlot operation is required by the department to be issued an operating permit only because of special conditions determined applicable by the department according to the results of a departmental evaluation as established by rules adopted by the department.

4. This section is repealed on July 1, 2009.

Sec. 3. Section 459A.205, subsection 3, paragraph a, Code Supplement 2005, is amended to read as follows:

a. For an open feedlot operation submitting an application for a construction permit on or

after ~~September~~ April 30, ~~2006~~ 2007, a nutrient management plan as provided in section 459A.208.

Sec. 4. Section 459A.208, subsection 1, Code Supplement 2005, is amended to read as follows:

1. a. 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~~.

b. (1) The owner of an open feedlot operation shall comply with the provisions of paragraph "a" by July 31, 2007.

(2) This paragraph "b" is repealed on July 31, 2007.

Sec. 5. NEW SECTION. 459A.403 SOLIDS STOCKPILING.

A person may stockpile solids, subject to all of the following:

1. a. The person shall not stockpile the solids within the following distances:

(1) Four hundred feet from a designated area other than a high-quality water resource.

(2) Eight hundred feet from a high-quality water resource.

b. The person shall not stockpile solids within two hundred feet from a terrace tile inlet or surface tile inlet unless the solids are maintained in a manner that will not allow precipitation-induced runoff to drain from the solids to the terrace tile inlet or surface tile inlet.

c. The person shall not stockpile solids in a grassed waterway or where water pools on the soil surface.

d. The person shall not stockpile solids on land having a slope of more than three percent unless methods, structures, or practices are implemented to contain the stockpiled solids, including but not limited to using hay bales, silt fences, temporary earthen berms, or other effective measures, and to prevent or diminish precipitation-induced runoff from the stockpiled solids.

2. The person must remove the stockpiled solids and apply them in accordance with the provisions of this chapter, including but not limited to section 459A.410, within six months after the solids are stockpiled.

Sec. 6. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment, and is retroactively applicable to February 13, 2006.

Approved April 26, 2006

CHAPTER 1089

BUSINESS ENTITIES — MISCELLANEOUS PROVISIONS

S.F. 2374

AN ACT containing various provisions relating to business entities, including limited partnerships, corporations, limited liability companies, cooperatives, and nonprofit corporations.

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

DIVISION I
LIMITED PARTNERSHIPS

Section 1. Section 488.108, subsection 4, paragraph b, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001 or 486A.1002.

(2) For a limited partnership, this section, section 488.109, or section 488.810.

(3) For a business corporation, section 490.401, 490.402, 490.403, or 490.1422.

(4) For a limited liability company, section 490A.401, 490A.402, or 490A.1313.

(5) For a nonprofit corporation, section 504.401, 504.402, 504.403, or 504.1423.

Sec. 2. Section 488.810, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A limited partnership that has been administratively dissolved may apply to the secretary of state for reinstatement ~~within two years~~ at any time after the effective date of dissolution. The application must be delivered to the secretary of state for filing and state all of the following:

Sec. 3. Section 488.810, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. ~~That~~ If the application is received more than five years after the effective date of the dissolution, that the limited partnership's name satisfies the requirements of section 488.108.

Sec. 4. Section 488.810, subsection 2, Code 2005, is amended to read as follows:

2. If the secretary of state determines that an application contains the information required by subsection 2[1] and that the information is correct, the secretary of state shall prepare a declaration of reinstatement that states this determination, sign, and file the ~~original of the~~ declaration of reinstatement, and ~~serve~~ deliver a copy to the limited partnership ~~with a copy~~.

Sec. 5. Section 488.810, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A limited partnership shall not relinquish the right to retain its name if the reinstatement is effective within five years of the effective date of the limited partnership's dissolution.

DIVISION II
BUSINESS CORPORATIONS

Sec. 6. Section 490.401, subsection 2, paragraph b, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001 or 486A.1002.

(2) For a limited partnership, section 488.108, 488.109, or 488.810.

(3) For a business corporation, this section, or section 490.402, 490.403, or 490.1422.

[1] The phrase "subsection 1" probably intended

(4) For a limited liability company, section 490A.401, 490A.402, or 490A.1313.
(5) For a nonprofit corporation, section 504.401, 504.402, 504.403, or 504.1423.

Sec. 7. Section 490.502, subsection 3, Code 2005, is amended to read as follows:
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 2 for each corporation, or a single statement for all corporations named in the notice, except that it need be signed only by the registered agent ~~or agents~~ and need not be responsive to subsection 1, paragraph "c", and must recite that a copy of the statement has been mailed to each corporation named in the notice.

Sec. 8. Section 490.630, subsection 1, Code 2005, is amended to read as follows:
1. ~~Unless section 490.1704 is applicable to the corporation, the~~ The shareholders of a corporation do not have a preemptive right to acquire the corporation's unissued shares except to the extent the articles of incorporation so provide.

Sec. 9. Section 490.1422, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:
A corporation administratively dissolved under section 490.1421 may apply to the secretary of state for reinstatement ~~within two years~~ at any time after the effective date of dissolution. The application must meet all of the following requirements:

Sec. 10. Section 490.1422, subsection 1, paragraph c, Code 2005, is amended to read as follows:
c. ~~State~~ If the application is received more than five years after the effective date of dissolution, state a corporate name that satisfies the requirements of section 490.401.

Sec. 11. Section 490.1422, subsection 2, paragraph b, Code 2005, is amended to read as follows:
b. (1) If the secretary of state determines that the application contains the information required by subsection 1, and that a delinquency or liability reported pursuant to paragraph "a" ~~of this subsection~~ has been satisfied, and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the ~~original of the~~ certificate of reinstatement, and ~~serve~~ deliver a copy ~~on~~ to the corporation under section 490.504.
(2) If the corporate name in subsection 1, paragraph "c", is different than the corporate name in subsection 1, paragraph "a", the certificate of reinstatement shall constitute an amendment to the articles of incorporation insofar as it pertains to the corporate name. A corporation shall not relinquish the right to retain its corporate name if the reinstatement is effective within five years of the effective date of the corporation's dissolution.

Sec. 12. Section 490.1422, subsection 4, Code 2005, is amended by striking the subsection.

Sec. 13. Section 490.1506, subsection 2, paragraph b, Code 2005, is amended to read as follows:
b. A ~~corporate~~ name reserved ~~or~~, registered ~~under~~, or protected as provided in section 490.402 or 490.403.

Sec. 14. Section 490.1701, subsection 3, paragraph a, Code Supplement 2005, is amended to read as follows:
a. The corporation shall amend or restate its articles of incorporation to indicate that the corporation adopts this chapter and to designate the address of its initial registered office and the name of its registered agent ~~or agents~~ at that office and, if the name of the corporation is

not in compliance with the requirements of this chapter, to change the name of the corporation to one complying with the requirements of this chapter.

Sec. 15. Section 534.508, subsection 1, Code 2005, is amended to read as follows:

1. IN GENERAL. Sections 490.601 through 490.604, 490.620 through 490.628, and 490.630~~, and 490.1704~~ apply to stock associations.

Sec. 16. Sections 490.1704 and 490.1705, Code 2005, are repealed.

DIVISION III
LIMITED LIABILITY COMPANIES

Sec. 17. Section 490A.121, subsections 2 and 3, Code 2005, are amended to read as follows:

2. The secretary of state files a document by ~~stamping or otherwise endorsing~~ recording it as "filed"~~, together with the secretary of state's name and official title~~ and acknowledging the date and time of its receipt~~, on both the document and the receipt for the filing fee, and recording the document in the records of the secretary of state~~. After filing a document, and except as provided in section 490A.503, the secretary of state shall deliver a copy of the filed document, with ~~the filing fee receipt, or~~ an acknowledgment of ~~receipt if no fee is required, attached,~~ the date and time of filing to the domestic or foreign limited liability company or its representative.

3. If the secretary of state refuses to file a document, the secretary of state shall return it to the domestic or foreign limited liability company or its representative ~~within ten days after the document was received by the secretary of state~~, together with a brief, written explanation of the reason for the refusal.

Sec. 18. Section 490A.124, subsection 1, paragraphs e and f, Code 2005, are amended to read as follows:

e. Application for registered name per month or part thereof ..... $ ~~2~~
No fee

f. Application for renewal of registered name ..... $ ~~20~~
No fee

Sec. 19. Section 490A.131, subsection 1, paragraph b, Code Supplement 2005, is amended to read as follows:

b. The street ~~and mailing~~ address of its ~~designated~~ registered office and the name and street ~~and mailing~~ address of its registered agent ~~for service of process in this state~~.

Sec. 20. Section 490A.131, subsection 4, Code Supplement 2005, is amended to read as follows:

4. If a filed biennial report contains an address of a ~~designated~~ registered office or the name or address of ~~an~~ a registered 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.

Sec. 21. Section 490A.131, subsection 5, Code Supplement 2005, is amended by striking the subsection.

Sec. 22. Section 490A.201, Code 2005, is amended to read as follows:

490A.201 PURPOSES.

1. A limited liability company organized under this chapter has the purpose of engaging in any lawful ~~business~~ activity unless a more limited purpose is set forth in the articles of organization.

2. A limited liability company engaging in ~~a business~~ an activity that is subject to regulation under another statute of this state may organize under this chapter only if permitted by, and subject to all limitations of, the other statute.

Sec. 23. Section 490A.305, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. Separate and distinct records are maintained for ~~the~~ that series and separate and distinct records account for the assets associated with ~~the~~ that series ~~are held and.~~ The assets associated with a series must be accounted for separately from the other assets of the limited liability company, ~~or from any other series of the limited liability company~~ including another series.

Sec. 24. Section 490A.305, subsection 13, Code 2005, is amended to read as follows:

13. A foreign limited liability company that is ~~registering~~ authorized to do business in this state under ~~this chapter~~ subchapter XIV which is governed by an operating agreement that establishes or provides for the establishment of designated series of members, managers, or membership interests having separate rights, powers, or duties with respect to specified property or obligations of the foreign limited liability company, or profits and losses associated with the specified property or obligations, shall indicate that fact on the application for ~~registration~~ a certificate of authority as a foreign limited liability company. In addition, the foreign limited liability company shall state on the application whether the debts, liabilities, and obligations incurred, contracted for, or otherwise existing with respect to a particular series, if any, are enforceable against the assets of such series only, and not against the assets of the foreign limited liability company generally.

Sec. 25. Section 490A.401, subsection 3, paragraph b, Code 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001 or 486A.1002.

(2) For a limited partnership, section 488.108, 488.109, or 488.810.

(3) For a business corporation, section 490.401, 490.402, 490.403, or 490.1422.

(4) For a limited liability company, this section or section 490A.402 or 490A.1313.

(5) For a nonprofit corporation, section 504.401, 504.402, 504.403, or 504.1423.

Sec. 26. Section 490A.401, subsection 6, Code 2005, is amended to read as follows:

6. This chapter does not control the use of fictitious names; however, if a limited liability company uses a fictitious name in this state it shall deliver to the secretary of state for filing a certified copy of the resolution ~~of the limited liability company~~ filed and executed according to section 490A.120 adopting the fictitious name.

Sec. 27. Section 490A.1301, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The administrative dissolution of the limited liability company under section 490A.1312.

Sec. 28. NEW SECTION. 490A.1308 REVOCATION OF DISSOLUTION.

1. A limited liability company may revoke its dissolution within one hundred twenty days of the effective date of its articles of dissolution.

2. Revocation of dissolution must be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the managers of the limited liability company alone, in which event the managers may revoke the dissolution without member action.

3. After the revocation of dissolution is authorized, the limited liability company may revoke the dissolution by delivering to the secretary of state for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth all of the following:

a. The name of the limited liability company.

b. The effective date of the dissolution that was revoked.

c. The date that the revocation of dissolution was authorized.

d. If members of the limited liability company unanimously revoked the dissolution, a statement to that effect.

e. If the managers of the limited liability company revoked a dissolution authorized by its members, a statement that revocation was permitted by action by the managers alone pursuant to that authorization.

4. Revocation of dissolution is effective upon the effective date of the articles of revocation of dissolution.

5. When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution as if the dissolution had never occurred.

PART B
ADMINISTRATIVE DISSOLUTION

Sec. 29. NEW SECTION. 490A.1311 GROUNDS FOR ADMINISTRATIVE DISSOLUTION.

The secretary of state may commence a proceeding under section 490A.1312 to administratively dissolve a limited liability company if any of the following apply:

1. The limited liability company has not delivered a biennial report to the secretary of state in a form that meets the requirements of section 490A.131, within sixty days after it is due, or has not paid the filing fee as determined by the secretary of state, within sixty days after it is due.

2. The limited liability company is without a registered office or registered agent in this state as required in subchapter V for sixty days or more.

3. The limited liability company does not notify the secretary of state within sixty days that its registered office or registered agent as required in subchapter V has been changed, its registered office has been discontinued, or that its registered agent has resigned.

4. The limited liability company's period of duration stated in its articles of organization expires.

Sec. 30. NEW SECTION. 490A.1312 PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION.

1. If the secretary of state determines that one or more grounds exist under section 490A.1311 for dissolving a limited liability company, the secretary of state shall serve the limited liability company with written notice of the secretary of state's determination under section 490A.504.

2. If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after service of the notice is perfected under section 490A.504, the secretary of state shall administratively dissolve the limited liability company by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the limited liability company under section 490A.504.

3. A limited liability company administratively dissolved continues its existence but shall not carry on any business except that necessary to wind up and liquidate its business and affairs under part A of this subchapter and notify claimants under sections 490A.1306 and 490A.1307.

4. The administrative dissolution of a limited liability company does not terminate the authority of its registered agent as provided in subchapter V.

5. The secretary of state's administrative dissolution of a limited liability company pursuant to this section appoints the secretary of state the limited liability company's agent for service of process in any proceeding based on a cause of action which arose during the time the limited liability company was authorized to transact business in this state. Service of process on the

secretary of state under this subsection is service on the limited liability company. Upon receipt of process, the secretary of state shall serve a copy of the process on the limited liability company as provided in section 490A.504. This subsection does not preclude service on the limited liability company's registered agent, if any.

Sec. 31. NEW SECTION. 490A.1313 REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION.

1. A limited liability company administratively dissolved under section 490A.1312 may apply to the secretary of state for reinstatement at any time after the effective date of dissolution. The application must meet all of the following requirements:

a. Recite the name of the limited liability company at its date of dissolution and the effective date of its administrative dissolution.

b. State that the ground or grounds for dissolution as provided in section 490A.1311 have been eliminated.

c. If the application is received more than five years after the effective date of the administrative dissolution, state a name that satisfies the requirements of section 490A.401.

d. State the federal tax identification number of the limited liability company.

2. a. The secretary of state shall refer the federal tax identification number contained in the application for reinstatement to the department of revenue. The department of revenue shall report to the secretary of state the tax status of the limited liability company. If the department reports to the secretary of state that a filing delinquency or liability exists against the limited liability company, the secretary of state shall not cancel the certificate of dissolution until the filing delinquency or liability is satisfied.

b. If the secretary of state determines that the application contains the information required by subsection 1, and that a delinquency or liability reported pursuant to paragraph "a" of this subsection has been satisfied, and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the limited liability company under section 490A.504. If the limited liability company's name in subsection 1, paragraph "c", is different than the name in subsection 1, paragraph "a", the certificate of reinstatement shall constitute an amendment to the limited liability company's articles of organization insofar as it pertains to its name. A limited liability company shall not relinquish the right to retain its name as provided in section 490A.401, if the reinstatement is effective within five years of the effective date of the limited liability company's dissolution.

3. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution as if the administrative dissolution had never occurred.

Sec. 32. NEW SECTION. 490A.1314 APPEAL FROM DENIAL OF REINSTATEMENT.

1. If the secretary of state denies a limited liability company's application for reinstatement following administrative dissolution pursuant to section 490A.1312, the secretary of state shall serve the limited liability company under section 490A.504 with a written notice that explains the reason or reasons for denial.

2. The limited liability company may appeal the denial of reinstatement to the district court within thirty days after service of the notice of denial is perfected. The limited liability company appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the limited liability company's application for reinstatement, and the secretary of state's notice of denial.

3. The court may summarily order the secretary of state to reinstate the dissolved limited liability company or may take other action the court considers appropriate.

4. The court's final decision may be appealed as in other civil proceedings.

Sec. 33. Section 490A.1401, Code 2005, is amended to read as follows:

490A.1401 LAW GOVERNING.

The law of the state or other jurisdiction under which a foreign limited liability company is

formed governs its formation and internal affairs and the liability of its members and managers. A foreign limited liability company shall not be denied ~~registration~~ a certificate of authority by reason of any difference between those laws and the laws of this state. A foreign limited liability company holding a valid ~~registration~~ certificate of authority in this state shall have no greater rights and privileges than a domestic limited liability company. The ~~registration~~ certificate of authority shall not be deemed to authorize the foreign limited liability company to exercise any of its powers or purposes that a domestic limited liability company is forbidden by law to exercise in this state.

Sec. 34. Section 490A.1402, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

490A.1402 APPLICATION FOR CERTIFICATE OF AUTHORITY.

1. A foreign limited liability company may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application must set forth all of the following:

a. The name of the foreign limited liability company or, if its name is unavailable for use in this state, a name that satisfies the requirements of section 490A.401.

b. The name of the state or country under whose law it is organized.

c. Its date of formation and period of duration.

d. The street address of its principal office.

e. The address of its registered office in this state and the name of its registered agent at that address as provided in subchapter V.

2. The foreign limited liability company shall deliver the completed application to the secretary of state, and also deliver to the secretary of state a certificate of existence or a document of similar import duly authenticated by the secretary of state or proper officer of the state or other jurisdiction of its formation which is dated no earlier than ninety days prior to the date the application is filed with the secretary of state.

Sec. 35. Section 490A.1404, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A certificate of ~~registration~~ authority shall not be issued to a foreign limited liability company unless the name of the limited liability company satisfies the requirements of section 490A.401. To obtain or maintain a certificate of ~~registration~~ authority, the company shall comply with the following:

Sec. 36. Section 490A.1405, Code 2005, is amended to read as follows:

490A.1405 CHANGE AND AMENDMENT.

If any statement in the application for ~~registration~~ a certificate of authority of a foreign limited liability company was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited liability company shall promptly deliver to the secretary of state for filing articles of correction correcting such statement as required by section 490A.123.

Sec. 37. Section 490A.1406, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. That the foreign limited liability company is not transacting business in this state and that it surrenders its ~~registration~~ certificate of authority to transact business in this state.

Sec. 38. Section 490A.1406, subsection 2, Code 2005, is amended to read as follows:

2. The certificate of ~~registration~~ authority shall be canceled upon the filing of the certificate of cancellation by the secretary of state.

Sec. 39. Section 490A.1410, subsection 1, paragraph a, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) Deliver for filing to the secretary of state a biennial report as required by section 490A.131.

Sec. 40. Section 490A.1410, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A certificate of ~~registration~~ authority of a foreign limited liability company shall not be revoked by the secretary of state, unless both of the following apply:

DIVISION IV
TRADITIONAL COOPERATIVES

Sec. 41. Section 499.78, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

An association administratively dissolved under section 499.77 may apply to the secretary of state for reinstatement ~~within two years~~ at any time after the effective date of dissolution. The application must meet all of the following requirements:

DIVISION V
CLOSED COOPERATIVES

Sec. 42. Section 501.104, Code 2005, is amended to read as follows:

501.104 NAME.

The name of a cooperative organized under this chapter must comply with all of the following:

1. The name must contain the word "cooperative", "coop", or "co-op"~~, and the.~~

2. The name must be distinguishable from ~~the names~~ all of the following:

a. The name of ~~cooperatives~~ a cooperative organized under this chapter ~~or.~~

b. The name of a cooperative or cooperative association organized under another chapter, including chapter 497, 498, 499, or 501A.

c. The name of a foreign ~~cooperatives~~ cooperative, cooperative association, or corporation authorized to do business in this state, including as provided in section 499.54 or section 501A.221.

d. The name of a cooperative which has been administratively dissolved pursuant to section 501.812 for a period of less than five years from the effective date of the dissolution.

Sec. 43. Section 501.813, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A cooperative administratively dissolved under section 501.812 may apply to the secretary of state for reinstatement ~~within two years~~ at any time after the effective date of dissolution. The application must meet all of the following requirements:

Sec. 44. Section 501.813, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. ~~State~~ If the application is received more than five years after the effective date of the cooperative's dissolution, state a name that satisfies the requirements of section 501.104.

Sec. 45. Section 501.813, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. (1) If the secretary of state determines that the application contains the information required by subsection 1, and that a delinquency or liability reported pursuant to paragraph "a" has been satisfied, and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the ~~original of the certificate~~ document, and ~~serve~~ deliver a copy ~~on~~ to the cooperative under section 501.106.

(2) If the name of the cooperative as provided in subsection 1, paragraph "c", is different than the name in subsection 1, paragraph "a", the certificate of reinstatement shall constitute an amendment to the articles of association insofar as it pertains to the name. A cooperative

shall not relinquish the right to retain its name if the reinstatement is effective within five years of the effective date of the cooperative's dissolution.

DIVISION VI
NONPROFIT CORPORATIONS

Sec. 46. Section 504.401, subsection 2, paragraph b, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001 or 486A.1002.

(2) For a limited partnership, section 488.108, 488.109, or 488.810.

(3) For a business corporation, section 490.401, 490.402, 490.403, or 490.1422.

(4) For a limited liability company, section 490A.401, 490A.402, or 490A.1313.

(5) For a nonprofit corporation, this section or section 504.402, 504.403, or 504.1423.

Sec. 47. Section 504.403, subsection 1, paragraph b, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

b. A name reserved, registered, or protected as follows:

(1) For a limited liability partnership, section 486A.1001 or 486A.1002.

(2) For a limited partnership, section 488.108, 488.109, or 488.810.

(3) For a business corporation, section 490.401, 490.402, 490.403, or 490.1422.

(4) For a limited liability company, section 490A.401, 490A.402, or 490A.1313.

(5) For a nonprofit corporation, this section or section 501.401, 501.402, or 504.1423.

Sec. 48. Section 504.702, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. Except as provided in the articles or bylaws of a ~~religious~~ corporation, if the holders of at least five percent of the voting power of any corporation sign, date, and deliver to any corporate officer one or more written demands for the meeting describing the purpose for which it is to be held. Unless otherwise provided in the articles of incorporation, a written demand for a special meeting may be revoked by a writing to that effect received by the corporation prior to the receipt by the corporation of demands sufficient in number to require the holding of a special meeting.

Sec. 49. Section 504.808, subsection 10, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The articles or bylaws of a ~~religious~~ corporation may do both of the following:

Sec. 50. Section 504.901, Code Supplement 2005, is amended to read as follows:

504.901 PERSONAL LIABILITY.

1. Except as otherwise provided in this chapter, a director, officer, employee, or member of a corporation is not liable for the corporation's debts or obligations and a director, officer, member, or other volunteer is not personally liable in that capacity to any person for any action taken or failure to take any action in the discharge of the person's duties except liability for any of the following:

~~1.~~ a. The amount of any financial benefit to which the person is not entitled.

~~2.~~ b. An intentional infliction of harm on the corporation or the members.

~~3.~~ c. A violation of section 504.835.

~~4.~~ d. An intentional violation of criminal law.

2. A provision set forth in the articles of incorporation eliminating or limiting the liability of a director to the corporation or its members for money damages for any action taken, or any failure to take any action, pursuant to section 504.202, subsection 2, paragraph "d", shall not affect the applicability of this section.

Sec. 51. Section 504.1001, Code 2005, is amended to read as follows:

504.1001 AUTHORITY TO AMEND.

A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles as of the effective date of the amendment or to delete a provision that is not required to be contained in the articles of incorporation. ~~Whether a provision is required or permitted in the articles is determined as of the effective date of the amendment.~~

Sec. 52. Section 504.1002, subsection 1, Code 2005, is amended to read as follows:

1. Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt ~~one or more~~ amendments to the corporation's articles of incorporation without member approval ~~to do~~ for any of the following purposes:

a. ~~Extend~~ To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law.

b. ~~Delete~~ To delete the names and addresses of the initial directors.

c. ~~Delete~~ To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the secretary of state.

d. ~~Change~~ To change the corporate name by substituting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution to the name.

e. ~~Make~~ To make any other change expressly permitted by this subchapter to be made by director action.

Sec. 53. Section 504.1005, unnumbered paragraph 1, Code 2005, is amended to read as follows:

~~A~~ After an amendment to the articles of incorporation has been adopted and approved in the manner required by this chapter and by the articles of incorporation or bylaws, the corporation amending its articles shall deliver to the secretary of state, for filing, articles of amendment setting forth:

Sec. 54. Section 504.1005, subsections 4 and 5, Code 2005, are amended to read as follows:

4. If approval by members was not required, ~~a statement to that effect and~~ a statement that the amendment was duly approved by ~~a sufficient vote of~~ the incorporators or by the board of directors ~~or incorporators~~, as the case may be, and that member approval was not required.

5. If approval by members was required, ~~both of the following:~~

~~a. The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on the amendment, and number of votes of each class indisputably voting on the amendment.~~

~~b. Either the total number of votes cast for and against the amendment by each class entitled to vote separately on the amendment or the total number of undisputed votes cast for the amendment by each class and~~ a statement that the ~~number of votes cast for the~~ amendment ~~by each class~~ was ~~sufficient for approval by that class~~ duly approved by the members in the manner required by this chapter, the articles of incorporation, and bylaws.

Sec. 55. Section 504.1006, Code 2005, is amended to read as follows:

504.1006 RESTATED ARTICLES OF INCORPORATION.

1. A corporation's board of directors may restate the corporation's articles of incorporation at any time with or without approval by members or any other person, to consolidate all amendments into a single document.

2. ~~The restatement may~~ If the restated articles include one or more new amendments ~~to the articles. If the restatement includes an amendment requiring~~ that require approval by the members or any other person, ~~it~~ the amendments must be adopted as provided in section 504.1003.

~~3. If the restatement includes an amendment requiring approval by members, the board must submit the restatement to the members for their approval.~~

~~4. If the board seeks to have the restatement approved by the members at a membership meeting, the corporation shall notify each of its members of the proposed membership meeting in writing in accordance with section 504.705. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed restatement and must contain or be accompanied by a copy or summary of the restatement that identifies any amendments or other changes the restatement would make in the articles.~~

~~5. If the board seeks to have the restatement approved by the members by written ballot or written consent, the material soliciting the approval shall contain or be accompanied by a copy or summary of the restatement that identifies any amendments or other changes the restatement would make in the articles.~~

~~6. A restatement requiring approval by the members must be approved by the same vote as an amendment to articles under section 504.1003.~~

~~7.~~ 3. If the restatement includes an amendment requiring approval pursuant to section 504.1031, the board must submit the restatement for such approval.

~~8.~~ 4. A corporation ~~restating~~ that restates its articles of incorporation shall deliver to the secretary of state for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate ~~setting forth all of the following:~~

~~a. Whether the restatement contains an amendment to the articles requiring approval by the members or any other person other than the board of directors and, if it does not, that the board of directors adopted the restatement.~~

~~b. If the restatement contains an amendment to the articles requiring approval by the members, the information required by section 504.1005.~~

~~c. If the restatement contains an amendment to the articles requiring approval by a person whose approval is required pursuant to section 504.1031, a statement that such approval was obtained~~ stating that the restated articles consolidate all amendments into a single document. If a new amendment is included in the restated articles, the corporation shall include the statement required in section 504.1005.

~~9.~~ 5. Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to the original articles of incorporation.

~~10.~~ 6. The secretary of state may certify restated articles of incorporation as the articles of incorporation currently in effect without including the certificate information required by subsection ~~8~~ 4.

Sec. 56. Section 504.1007, subsection 1, Code 2005, is amended to read as follows:

1. A corporation's articles may be amended without board approval or approval by the members or approval required pursuant to section 504.1031 to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under ~~federal statute if the articles after amendment contain only provisions required or permitted by section 504.202~~ the authority of law of the United States.

Sec. 57. Section 504.1008, Code Supplement 2005, is amended to read as follows:

504.1008 EFFECT OF AMENDMENT AND RESTATEMENT.

An amendment to the 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. 58. Section 504.1423, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A corporation administratively dissolved under section 504.1422 may apply to the secretary

of state for reinstatement ~~within two years~~ at any time after the effective date of dissolution. The application must state all of the following:

Sec. 59. Section 504.1423, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. ~~That~~ If the application is received more than five years after the effective date of dissolution, state the corporation's name satisfies the requirements of section 504.401.

Sec. 60. Section 504.1423, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. (1) If the secretary of state determines that the application contains the information required by subsection 1, that a delinquency or liability reported pursuant to paragraph "a" has been satisfied, and that all of the application information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement reciting that determination and the effective date of reinstatement, file the ~~original of the certificate~~ document, and ~~serve~~ deliver a copy ~~on~~ to the corporation under section 504.504.

(2) If the corporate name in subsection 1, paragraph "c", is different from the corporate name in subsection 1, paragraph "a", the certificate of reinstatement shall constitute an amendment to the articles of incorporation insofar as it pertains to the corporate name. A corporation shall not relinquish the right to retain its corporate name if the reinstatement is effective within five years of the effective date of the corporation's dissolution.

Sec. 61. Section 504.1506, subsection 2, paragraph b, Code Supplement 2005, is amended to read as follows:

b. A corporate name reserved, ~~or~~ registered ~~under~~, or protected as provided in section 490.402 or 490.403 or section 504.402 or 504.403.

Sec. 62. NEW SECTION. 504.1607 EXCEPTION TO NOTICE REQUIREMENT.

1. Whenever notice is required to be given under any provision of this chapter to any member, such notice shall not be required to be given if notice of two consecutive annual meetings, and all notices of meetings during the period between such two consecutive annual meetings, have been sent to the member at the member's address as shown on the records of the corporation and have been returned as undeliverable.

2. If the member delivers to the corporation a written notice setting forth the member's then-current address, the requirement that notice be given to the member shall be reinstated.

Approved April 26, 2006

CHAPTER 1090

REGULATION OF MANUFACTURED,
MODULAR, AND MOBILE HOMES

S.F. 2394

AN ACT relating to manufactured or mobile home regulation, and including fee, penalty, and effective date provisions.

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

DIVISION IV
MANUFACTURED AND MOBILE HOME REGULATION

Section 1. NEW SECTION. 103A.51 DEFINITIONS.

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

1. "Ground anchoring system" means any device or combination of devices used to securely anchor a manufactured or mobile home to the ground.

2. "Ground support system" means any device or combination of devices placed beneath a manufactured or mobile home and used to provide support.

3. "Home" means a manufactured home, mobile home, or modular home.

4. "Manufactured home" means a factory-built structure built under the authority of 42 U.S.C. § 5403, that is required by federal law to display a seal required by the United States department of housing and urban development, and was constructed on or after June 15, 1976.

5. "Manufactured or mobile home distributor" means a person who sells or distributes manufactured or mobile homes to manufactured or mobile home retailers.

6. "Manufactured or mobile home manufacturer" means a person engaged in the business of fabricating or assembling manufactured or mobile homes.

7. "Manufactured or mobile home retailer" means a person who, for a commission or other thing of value, sells, exchanges, or offers or attempts to negotiate a sale or exchange of an interest in a home or who is engaged wholly or in part in the business of selling homes, whether or not the homes are owned by the retailer. "Manufactured or mobile home retailer" does not include any of the following:

a. A receiver, trustee, administrator, executor, guardian, attorney, or other person appointed by or acting under the judgment or order of a court to transfer an interest in a home.

b. A person transferring a home registered in the person's name and used for personal, family, or household purposes, if the transfer is an occasional sale and is not part of the business of the transferor.

c. A person who transfers an interest in a home only as an incident to engaging in the business of financing new or used homes.

d. A person who exclusively sells modular homes.

8. "Mobile home" means a structure, transportable in one or more sections, which exceeds eight feet in width and thirty-two feet in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to one or more utilities. A "mobile home" is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976.

9. "Modular home" means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa state building code for modular factory-built structures, as adopted pursuant to section 103A.7, and displays a seal issued by the commissioner.

10. "New home" means a home that has not been sold at retail.

11. "Permanent site" means any lot or parcel of land on which a manufactured or mobile home used as a dwelling or place of business is located for ninety consecutive days, except a

construction site when the manufactured or mobile home is used by a commercial contractor as a construction office or storage room.

12. "Preowned home" means a home that has been previously sold at retail.

13. "Retailer's inventory" means homes offered for sale at the retailer's licensed address or at any mobile home park or land-leased community so long as the title of the home is in the retailer's name and the home is not being occupied.

14. "Sell at retail" means to sell a home to a person who will devote it to a consumer use.

15. "Tiedown system" means a ground support system and a ground anchoring system used in concert to provide anchoring and support for a manufactured or mobile home.

Sec. 2. NEW SECTION. 103A.52 MANUFACTURED OR MOBILE HOME RETAILER LICENSE — PROCEDURE.

1. LICENSE APPLICATION. A manufactured or mobile home retailer shall file with the commissioner an application for license as a manufactured or mobile home retailer as the commissioner may prescribe.

2. LICENSE FEE. The license fee for a manufactured or mobile home retailer is an annual fee of one hundred dollars. If the application is denied, the commissioner shall refund the fee.

3. SURETY BOND. Before the issuance of a manufactured or mobile home retailer's license, an applicant for a license shall file with the commissioner a surety bond executed by the applicant as principal and executed by a corporate surety company, licensed and qualified to do business within this state, which bond shall run to the state, be in the amount of fifty thousand dollars, and be conditioned upon the faithful compliance by the applicant as a retailer with all of the statutes of this state regulating the business of the retailer and indemnifying any person dealing or transacting business with the retailer in connection with a manufactured or mobile home from a loss or damage occasioned by the failure of the retailer to comply with this division, including but not limited to the furnishing of a proper and valid document of title to the manufactured or mobile home involved in the transaction.

4. MANUFACTURED OR MOBILE HOME HOOKUPS. A licensed manufactured or mobile home retailer or an employee of a licensed manufactured or mobile home retailer may perform water, gas, electrical, and other utility service connections in a manufactured or mobile home space, or within ten feet of such space, located in a manufactured home community or mobile home park. The licensed retailer or an employee of the retailer is not required to obtain any additional state or local authorization, permit, or license to perform utility service connections. However, the utility service connections are subject to inspection and approval by the local building department and the manufactured or mobile home retailer shall pay the inspection fee, if any.

Sec. 3. NEW SECTION. 103A.53 LICENSE APPLICATION AND FEES.

Upon application and payment of a one hundred dollar fee, a person may be licensed as a manufacturer or distributor of manufactured or mobile homes. The application shall be in the form and shall contain information as the commissioner prescribes. The license shall be granted or refused within thirty days after application. The license expires, unless sooner revoked or suspended by the commissioner, on December 31 of the calendar year for which the license was granted. A licensee shall have the month of December of the calendar year for which the license was granted and the following month of January to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee.

Sec. 4. NEW SECTION. 103A.54 FEES.

Notwithstanding section 103A.23, the department of public safety shall retain all fees collected pursuant to this division and the fees retained are appropriated to the commissioner to administer the licensing program and the certification program for manufactured or mobile home installers, including the employment of personnel for the enforcement and administration of such programs.

Sec. 5. NEW SECTION. 103A.55 REVOCATION, SUSPENSION, AND DENIAL OF LICENSE.

The commissioner may revoke, suspend, or refuse the license of a manufactured or mobile home retailer, manufactured or mobile home manufacturer, or manufactured or mobile home distributor, as applicable, if the commissioner finds that the manufactured or mobile home retailer, manufacturer, or distributor is guilty of any of the following acts or offenses:

1. Fraud in procuring a license.

2. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the business of a manufactured or mobile home retailer, manufacturer, or distributor or engaging in unethical conduct or practice harmful or detrimental to the public.

3. Conviction of a felony related to the business of a manufactured or mobile home retailer, manufacturer, or distributor. A copy of the record of conviction or plea of guilty shall be sufficient evidence for the purposes of this section.

4. Failing upon the sale or transfer of a manufactured or mobile home to deliver to the purchaser or transferee of the manufactured or mobile home sold or transferred, a manufacturer's or importer's certificate, or a certificate of title duly assigned, as provided in chapter 321.

5. Failing upon the purchasing or otherwise acquiring of a manufactured or mobile home to obtain a manufacturer's or importer's certificate, a new certificate of title, or a certificate of title duly assigned as provided in chapter 321.

6. Failing to apply for and obtain from a county treasurer a certificate of title for a used manufactured or mobile home, titled in Iowa, acquired by the retailer within thirty days from the date of acquisition, as required under section 321.45, subsection 4.

A person whose license is revoked or suspended or whose application for a license is denied may appeal the revocation, suspension, or denial in accordance with chapter 17A, including the opportunity for an evidentiary hearing.

Sec. 6. NEW SECTION. 103A.56 RULES.

The commissioner shall prescribe rules under chapter 17A for the administration and enforcement of this division. The commissioner shall prescribe forms to be used in connection with the licensing of persons under this division.

Sec. 7. NEW SECTION. 103A.57 UNLAWFUL PRACTICE — CRIMINAL PENALTY.

It is unlawful for a person to engage in business as a manufactured or mobile home retailer, manufactured or mobile home manufacturer, or manufactured or mobile home distributor in this state without first acquiring and maintaining a license in accordance with this division. A person convicted of violating this section is guilty of a serious misdemeanor.

Sec. 8. NEW SECTION. 103A.58 MANUFACTURED HOME, MOBILE HOME, AND MODULAR HOME RETAIL INSTALLMENT CONTRACT — FINANCE CHARGE.

1. A retail installment contract or agreement for the sale of a manufactured home, mobile home, or modular home may include a finance charge not in excess of an amount equivalent to one and three-fourths percent per month simple interest on the declining balance of the amount financed.

2. For purposes of this section, "amount financed" means the same as defined in section 537.1301.

3. The limitations contained in this section do not apply in a transaction referred to in section 535.2, subsection 2. With respect to a consumer credit sale, as defined in section 537.1301, the limitations contained in this section supersede conflicting provisions of chapter 537, article 2, part 2.

Sec. 9. NEW SECTION. 103A.59 MANUFACTURED OR MOBILE HOME INSTALLERS CERTIFICATION — VIOLATION — CIVIL PENALTY.

1. A person who installs a manufactured or mobile home for another person shall be certified in accordance with rules adopted by the commissioner pursuant to chapter 17A. The com-

missioner may assess a fee sufficient to recover the costs of administering the certification of manufactured or mobile home installers. The commissioner may suspend or revoke the certification of a manufactured or mobile home installer for failure to perform installation of a manufactured or mobile home pursuant to certification standards as provided by rules of the commissioner.

2. If a provision of this chapter or a rule adopted pursuant to this chapter relating to the manufacture or installation of a manufactured or mobile home is violated, the commissioner may assess a civil penalty not to exceed one thousand dollars for each offense. Each violation involving a separate manufactured or mobile home, or a separate failure or refusal to allow an act to be performed or to perform an act as required by this chapter or a rule adopted pursuant to this chapter, constitutes a separate offense. However, the maximum amount of civil penalties which may be assessed for any series of violations occurring within one year from the date of the first violation shall not exceed one million dollars.

Sec. 10. NEW SECTION. 103A.60 APPROVED TIEDOWN SYSTEM — PROVIDED AT SALE — INSTALLATION.

A manufactured or mobile home retailer shall provide an approved tiedown system. The purchaser shall install or have installed such system within one hundred fifty days of locating the manufactured or mobile home on a permanent site.

Sec. 11. NEW SECTION. 103A.61 INSTALLER COMPLIANCE AND CERTIFICATION.

A person who installs a tiedown system shall comply with the minimum standards for such systems, and shall provide the owner of the manufactured or mobile home on which installation is made and the commissioner with a certification of approved system installation. Such certification shall be in proper form as established by the commissioner.

Sec. 12. NEW SECTION. 103A.62 LISTING AND FORM OF CERTIFICATION OF APPROVED SYSTEMS PROVIDED.

The commissioner shall provide, upon request, a list of approved tiedown systems and instructions for the completion of proper certification of approved system installation.

Sec. 13. NEW SECTION. 103A.63 COMPLIANCE.

When it appears that a retailer, purchaser, or other person is in noncompliance with the provisions of sections 103A.60 through 103A.62, the commissioner shall prescribe a period of time not to exceed one hundred fifty days within which compliance must be achieved and the commissioner shall so notify the retailer, purchaser, or other person.

Sec. 14. Section 103A.3, subsections 10, 11, 21, and 26, Code 2005, are amended by striking the subsections.

Sec. 15. Section 103A.3, subsection 16, Code 2005, is amended to read as follows:

16. "Manufactured home", "mobile home", and "modular home" mean the same as defined in section ~~435.1~~ 103A.51.

Sec. 16. Section 103A.10, subsection 3, Code 2005, is amended to read as follows:

3. Provisions of the state building code relating to the manufacture and installation of factory-built structures shall apply throughout the state. Factory-built structures approved by the commissioner shall be deemed to comply with all building regulations applicable to its manufacture and installation and shall be exempt from any other state or local building regulations.

Sec. 17. Section 321.45, subsection 4, Code 2005, is amended to read as follows:

4. After acquiring a used mobile home or manufactured home to be titled in Iowa, a manufactured or mobile home retailer, as defined in section ~~322B.2~~ 103A.51 shall within thirty days apply for and obtain from the county treasurer of the retailer's county of residence a new certificate of title for the mobile home or manufactured home. In the event that there is a prior lien

or encumbrance to be released, as required by section 321.50, subsection 5, the thirty-day time period in this subsection does not begin to run until the lien or encumbrance is released.

Sec. 18. Section 321.57, subsection 5, Code 2005, is amended by striking the subsection.

Sec. 19. Section 321.58, Code 2005, is amended to read as follows:

321.58 APPLICATION.

All dealers, transporters, and new motor vehicle wholesalers licensed under chapter 322, ~~and manufactured or mobile home retailers licensed under chapter 322B,~~ upon payment of a fee of seventy dollars for two years, one hundred forty dollars for four years, or two hundred ten dollars for six years, may make application to the department upon the appropriate form for a certificate containing a general distinguishing number and for one or more special plates as appropriate to various types of vehicles subject to registration. The applicant shall also submit proof of the applicant's status as a bona fide transporter, new motor vehicle wholesaler licensed under chapter 322, ~~manufactured or mobile home retailer licensed under chapter 322B,~~ or dealer, as reasonably required by the department. Dealers in new vehicles shall furnish satisfactory evidence of a valid franchise with the manufacturer of the vehicles authorizing the dealership.

Sec. 20. Section 322B.3, subsection 5, Code 2005, is amended to read as follows:

5. MANUFACTURED OR MOBILE HOME HOOKUPS. A manufactured or mobile home retailer or an employee of a manufactured or mobile home retailer may perform water, gas, electrical, and other utility service connections in a manufactured or mobile home space, or within ten feet of such space, located in a ~~manufactured home community or mobile home park, and the retailer or an employee of the retailer may install a tiedown system on a manufactured or mobile home located in a~~ manufactured home community or mobile home park. The licensed retailer or an employee of the retailer is not required to obtain any additional state or local authorization, permit, or license to perform utility service connections. However, the utility service connections are subject to inspection and approval by local building code officials and the manufactured or mobile home retailer shall pay the inspection fee, if any.

Sec. 21. Section 523H.1, subsection 3, paragraph c, Code 2005, is amended to read as follows:

c. "Franchise" also does not include any contract under which a petroleum retailer or petroleum distributor is authorized or permitted to occupy leased marketing premises, which premises are to be employed in connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or controlled by a refiner which is regulated by the federal Petroleum Marketing Practices Act, 15 U.S.C. § 2801 et seq. The term "refiner" means any person engaged in the refining of crude oil to produce motor fuel, and includes any affiliate of such person. "Franchise" also does not include a contract entered into by any person regulated under chapter 103A, division IV, or chapter 123, 322, 322A, ~~322B,~~ 322C, 322D, 322F, 522B, or 543B, or a contract establishing a franchise relationship with respect to the sale of construction equipment, lawn or garden equipment, or real estate.

Sec. 22. Section 537A.10, subsection 1, paragraph c, subparagraph (3), Code 2005, is amended to read as follows:

(3) "Franchise" also does not include any contract under which a petroleum retailer or petroleum distributor is authorized or permitted to occupy leased marketing premises, which premises are to be employed in connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or controlled by a refiner which is regulated by the federal Petroleum Marketing Practices Act, 15 U.S.C. § 2801 et seq. The term "refiner" means any person engaged in the refining of crude oil to produce motor fuel, and includes any affiliate of such person. "Franchise" also does not include a contract entered into by any person regulated under chapter 103A, division IV, or chapter 123, 322, 322A, ~~322B,~~ 322C, 322D, 322F,

522B, or 543B, or a contract establishing a franchise relationship with respect to the sale of construction equipment, lawn or garden equipment, or real estate.

Sec. 23. Section 103A.26 and sections 103A.30 through 103A.33, Code 2005, are repealed.

Sec. 24. Chapter 322B, Code 2005, is repealed.

Sec. 25. TRANSITION. The state department of transportation shall refund any portion of a license fee paid pursuant to chapter 322B prior to the effective date of this Act that remains unexpired as of January 1, 2007, to the licensee that paid the fee.

Sec. 26. EFFECTIVE DATE. The sections of this Act amending section 103A.10, subsection 3, and section 322B.3, subsection 5, being deemed of immediate importance, take effect upon enactment. The remainder of this Act takes effect on January 1, 2007.

Approved April 26, 2006

CHAPTER 1091

IOWA PUBLIC EMPLOYEES' AND JUDICIAL RETIREMENT SYSTEMS

H.F. 729

AN ACT relating to the Iowa public employees' retirement system and the judicial retirement system.

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

DIVISION I
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Section 1. Section 97B.1A, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 11A. "Fully funded" means a funded ratio of at least one hundred percent using the most recent actuarial valuation. For purposes of this subsection, "funded ratio" means the ratio produced by dividing the lesser of the actuarial value of the system's assets or the market value of the system's assets, by the system's actuarial liabilities, using the actuarial method adopted by the investment board pursuant to section 97B.8A, subsection 3.

Sec. 2. Section 97B.1A, subsection 24, paragraph a, Code Supplement 2005, is amended to read as follows:

a. "Three-year average covered wage" means~~, for a member who retires prior to July 1, 2008,~~ a member's covered wages averaged for the highest three years of the member's service, except as otherwise provided in this subsection. The highest three years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, the system may determine the wages for the third year by computing the average quarter of all quarters from the member's highest calendar year of covered wages not being used in the selection of the two highest years and using the computed average quarter for each quarter in the third year in which no wages have been reported in combination with the final quarter or quarters of the member's

service to create a full year. However, the system shall not use the member's final quarter of wages if using that quarter would reduce the member's three-year average covered wage. If the three-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the three-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service. Notwithstanding any other provision of this paragraph to the contrary, a member's wages for the third year as computed by this paragraph shall not exceed, by more than three percent, the member's highest actual calendar year of covered wages for a member whose first month of entitlement is January 1999 or later.

Sec. 3. Section 97B.1A, subsection 24, paragraph c, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:[1]

c. Notwithstanding any other provisions of this subsection to the contrary, for a member who retires on or after July 1, 2007, the member's three-year average covered wage shall be the lesser of the three-year average covered wage as calculated pursuant to paragraph "a" and the adjusted covered wage amount. For purposes of this paragraph, the adjusted covered wage amount shall be the greater of the member's three-year average covered wage calculated pursuant to paragraph "a" as of July 1, 2007, and an amount equal to one hundred twenty-one percent of the member's applicable calendar year wages. The member's applicable calendar year wages shall be the member's highest full calendar year of covered wages not used in the calculation of the member's three-year average covered wage pursuant to paragraph "a", or, if the member does not have another full calendar year of covered wages that was not used in the calculation of the three-year average covered wage under paragraph "a", the lowest full calendar year of covered wages that was used in the calculation of the member's three-year average covered wage pursuant to paragraph "a".

Sec. 4. Section 97B.11, Code 2005, is amended to read as follows:

97B.11 CONTRIBUTIONS BY EMPLOYER AND EMPLOYEE.

1. Each employer shall deduct from the wages of each member of the retirement system a contribution in the amount of ~~three and seven-tenths percent~~ the applicable employee percentage of the covered wages paid by the employer, until the member's termination from employment. The contributions of the employer shall be in the amount of ~~five and seventy-five hundredths percent~~ the applicable employer percentage of the covered wages of the member.

2. For purposes of this section, unless the context otherwise requires:

a. "Applicable employee percentage" means the percentage rate equal to three and seven-tenths percent plus forty percent of the total additional percentage.

b. "Applicable employer percentage" means the percentage rate equal to five and seventy-five hundredths percent plus sixty percent of the total additional percentage.

c. "Total additional percentage" means as follows:

(1) For the fiscal period beginning July 1, 2007, through June 30, 2011, the total additional percentage for a fiscal year shall be the total additional percentage for the prior fiscal year plus, only if the total comparison percentage is greater than the total of the applicable employee percentage and the applicable employer percentage for the prior fiscal year, one-half percentage point.

(2) For each fiscal year beginning on or after July 1, 2011, the total additional percentage shall be the total additional percentage for the prior fiscal year.

d. "Total comparison percentage" means the percentage rate that the system determines, based upon the most recent actuarial valuation of the retirement system, would be sufficient to amortize the unfunded actuarial liability of the retirement system in ten years.

Sec. 5. Section 97B.48A, subsection 1, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this subsection and not for purposes of determining a retiree's covered wages, remuneration paid on and after July 1, 2007, includes

[1] See chapter 1092, §2; chapter 1185, §126 herein

noncovered contributions to a defined contribution plan qualified under Internal Revenue Code section 401(a), a tax-deferred annuity qualified under Internal Revenue Code section 403(b), an eligible deferred compensation plan qualified under Internal Revenue Code section 457, or any other tax qualified or nonqualified investment vehicle, that is provided by an employer to a retiree who has been or will be reemployed in covered employment.

Sec. 6. Section 97B.49C, subsection 3, paragraph a, Code Supplement 2005, is amended to read as follows:

a. Annually, the system shall actuarially determine the cost of the benefits provided for members covered under this section as a percentage of the covered wages of the employees covered by this section. ~~Fifty~~ Notwithstanding any provision of section 97B.11 to the contrary, fifty percent of the cost shall be paid by the employers of employees covered under this section and fifty percent of the cost shall be paid by the employees. The employer and employee contributions required under this paragraph ~~are in lieu of the~~ shall be treated as contributions paid under sections 97B.11 and 97B.11A.

Sec. 7. Section 97B.49F, subsection 2, paragraph c, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4A) Notwithstanding any provisions of this paragraph to the contrary, moneys shall not be credited to the reserve account if the system is not fully funded or if the system would not remain fully funded if moneys were credited to the reserve account.

Sec. 8. Section 97B.49H, subsection 3, Code 2005, is amended to read as follows:

3. The system shall annually determine the amount to be credited to the supplemental accounts of active members. The total amount credited to the supplemental accounts of all active members shall not exceed the amount that the system determines, in consultation with the system's actuary, can be absorbed without significantly impacting the funded status of the system. The amount to be credited shall ~~be~~ not be greater than the amount calculated by multiplying the member's covered wages for the applicable wage reporting period by the supplemental rate. For purposes of this subsection, the supplemental rate is the difference, if positive, between the combined employee and employer statutory contribution rates in effect under section 97B.11 and the normal cost rate of the retirement system as determined by the system's actuary in the most recent annual actuarial valuation of the retirement system. The credits shall be made at least quarterly during the calendar year following a determination that the retirement system does not have an unfunded accrued liability. The normal cost rate, calculated according to the actuarial cost method used, is the percent of pay allocated to each year of service that is necessary to fund projected benefits over all members' service with the retirement system.

Sec. 9. Section 97B.50A, subsection 12, Code 2005, is amended to read as follows:

12. ~~ADDITIONAL~~ CONTRIBUTIONS. The expenses incurred in the administration of this section by the system shall be paid through ~~additional~~ contributions as determined pursuant to section 97B.49B, subsection 3, or section 97B.49C, subsection 3, as applicable.

Sec. 10. Section 97B.65, Code 2005, is amended to read as follows:

97B.65 REVISION RIGHTS RESERVED — INCREASE OF BENEFITS — RATES OF CONTRIBUTION.

The right is reserved to the general assembly to alter, amend, or repeal any provision of this chapter or any application thereof to any person, provided, however, that to the extent of the funds in the retirement system the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to any member of the retirement system shall not be repudiated, provided further, however, that the amount of benefits accrued on account of prior service shall be adjusted to the extent of any unfunded accrued liability then outstanding. ~~Any~~ An increase ~~enacted~~ in the benefits or retirement ~~allowance~~ allowances provided under

this chapter shall not be enacted until after the system's actuary determines that the system is fully funded and will continue to be fully funded immediately following enactment of the increase. However, an increase in the benefits or retirement allowances provided under this chapter may be enacted if the increase is accompanied by a change in the employer and employee contribution rates necessary to support such increase~~, all~~ as determined ~~in accordance with sound actuarial principles and methods~~ by the system's actuary.

Sec. 11. PUBLIC RETIREMENT SYSTEMS COMMITTEE — PENSION FLEXIBILITY REVIEW — REPORT.

1. The public retirement systems committee (committee) established by section 97D.4 shall conduct a review of various options to provide persons covered under the Iowa public employees' retirement system (IPERS) additional flexibility in plan design with features incorporating aspects of defined contribution type vehicles. In conducting its review, the committee shall consider previous studies and reports on pension flexibility issues in Iowa and across the country, and shall solicit input on pension flexibility issues from IPERS staff, the IPERS benefits advisory committee, and other interested parties.

2. The committee's review of pension flexibility issues shall consider, among other ideas, the following:

a. Ways in which IPERS can assist employers in expanding existing supplemental plans offered by public employers.

b. Ways in which IPERS could offer its own defined contribution type supplementary plan vehicle to complement its core defined benefit plan.

c. Ways in which IPERS could provide a cost of living or favorable experience dividend benefit to members through either defined contribution or alternative defined benefit type plans.

d. Various hybrid plan designs incorporating features of both defined benefit and defined contribution plan vehicles, including, but not limited to, an integrated defined benefit and defined contribution plan, a floor-offset plan, or a pension equity plan.

3. The committee shall submit a report to the general assembly by October 1, 2007, which report shall contain, in addition to any other findings and recommendations concerning public retirement systems in Iowa, its findings and recommendations concerning its review of pension flexibility issues, including any proposal or proposals regarding adding additional flexibility in IPERS' plan design for the benefit of IPERS covered employees and employers.

DIVISION II
JUDICIAL RETIREMENT SYSTEM

Sec. 12. Section 602.9104, Code 2005, is amended to read as follows:

602.9104 DEDUCTIONS FROM JUDGES' SALARIES — CONTRIBUTIONS BY STATE.

1. a. A judge to whom this article applies shall be paid an amount equal to ~~ninety-five percent of~~ the basic salary of the judge as set by the general assembly~~. An~~ reduced by an amount ~~equal to five percent of the basic salary of the judge as set by the general assembly is~~ designated as the judge's required contribution to the judicial retirement fund~~, and~~. The amount designated as the judge's required contribution shall be paid by the state in the manner provided in subsection 2.

b. The state shall contribute annually to the judicial retirement fund an amount equal to the state's required contribution for all judges covered under this article. The state's required contribution shall be appropriated directly to the judicial retirement fund by the general assembly.

2. The amount designated ~~in subsection 1~~ as the judge's required contribution to the judicial retirement fund shall be paid by the department of administrative services from the general fund of the state to the court administrator for deposit with the treasurer of state to the credit of the judicial retirement fund. Moneys in the fund are appropriated for the payment of annuities, refunds, and allowances provided by this article, except that the amount of the appropriations affecting payment of annuities, refunds, and allowances to judges of the municipal and superior court is limited to that part of the fund accumulated for their benefit as provided in

this article. The corpus and income of the fund shall be used only for the exclusive benefit of the judges covered under this article, their survivors, or an alternate payee who is assigned benefits pursuant to a domestic relations order.

3. A judge covered under this article is deemed to consent to the reduction in basic salary as provided in subsection 1.

4. ~~a.~~ As used in this ~~subsection~~ section, unless the context otherwise requires:

~~(1)~~ a. "Actuarial valuation" means an actuarial valuation of the judicial retirement system or an annual actuarial update of an actuarial valuation, as required pursuant to section 602.9116.

~~(2)~~ b. "Fully funded status" means that the most recent actuarial valuation reflects that, using the projected unit credit method in accordance with generally recognized and accepted actuarial principles and practices set forth by the American academy of actuaries, the funded status of the system is at least ~~one hundred~~ ninety percent, based upon the benefits provided for judges through the judicial retirement system as of July 1, 2006.

c. "Judge's required contribution" means an amount equal to the basic salary of the judge multiplied by the following applicable percentage:

(1) For the fiscal year beginning July 1, 2006, and for each subsequent fiscal year until the system attains fully funded status, six percent multiplied by a fraction equal to the actual percentage rate contributed by the state for that fiscal year divided by twenty-three and seven-tenths percent.

(2) Commencing with the first fiscal year in which the system attains fully funded status, and for each subsequent fiscal year, the percentage rate equal to fifty percent of the required contribution rate.

~~(3)~~ d. "Required contribution rate" means that percentage of the basic salary of all judges covered under this article which~~, in addition to the judge's contribution established in subsection 1,~~ the actuary of the system determines is necessary, using the projected unit credit method in accordance with generally recognized and accepted actuarial principles and practices set forth by the American academy of actuaries, to ~~maintain fully funded status~~ amortize the unfunded actuarial liability of the judicial retirement system within twenty years.

e. "State's required contribution" means an amount equal to the basic salary of all judges covered under this article multiplied by the following applicable percentage:

(1) For the fiscal year beginning July 1, 2006, and for each subsequent fiscal year until the system attains fully funded status, twenty-three and seven-tenths percent.

(2) Commencing with the first fiscal year in which the system attains fully funded status, and for each subsequent fiscal year, the percentage rate equal to fifty percent of the required contribution rate.

~~b. Effective with the fiscal year commencing July 1, 1994, and for each subsequent fiscal year until the system attains fully funded status, based upon the benefits provided for judges through the judicial retirement system as of July 1, 2001, the state shall contribute annually to the judicial retirement fund an amount equal to at least twenty-three and seven-tenths percent of the basic salary of all judges covered under this article. Commencing with the first fiscal year in which the system attains fully funded status, based upon the benefits provided for judges through the judicial retirement system as of July 1, 2001, and for each subsequent fiscal year, the state shall contribute to the judicial retirement fund the required contribution rate. The state's contribution shall be appropriated directly to the judicial retirement fund.~~

Sec. 13. Section 602.9106, Code 2005, is amended to read as follows:

602.9106 RETIREMENT.

Any person who shall have become separated from service as a judge of any of the courts included in this article and who has had an aggregate of at least ~~six~~ four years of service as a judge of one or more of such courts and shall have attained the age of sixty-five years or who has had ~~twenty-five~~ twenty years of consecutive service as a judge of one or more of said courts and shall have attained the age of fifty years, and who shall have otherwise qualified as provided in this article, shall be entitled to an annuity as hereinafter provided.

Sec. 14. Section 602.9107, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. The annual annuity of a judge under this system is an amount equal to three and one-fourth percent of the judge's average annual basic salary for the judge's highest three years as a judge of one or more of the courts included in this article, multiplied by the judge's years of service as a judge of one or more of the courts for which contributions were made to the system. However, an annual annuity shall not exceed an amount equal to a specified percentage of the highest basic annual salary which the judge is receiving or had received as of the time the judge became separated from service. Forfeitures shall not be used to increase the annuities a judge or survivor would otherwise receive under the system.

Sec. 15. Section 602.9107, subsection 1, paragraph b, subparagraph (4), Code 2005, is amended to read as follows:

(4) For judges who retire and receive an annuity on or after July 1, 2001, but before July 1, 2006, the specified percentage shall be sixty percent.

Sec. 16. Section 602.9107, subsection 1, paragraph b, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) For judges who retire and receive an annuity on or after July 1, 2006, the specified percentage shall be sixty-five percent.

Sec. 17. Section 602.9107C, subsection 1, Code 2005, is amended to read as follows:

1. A judge under this system who has at least ~~six~~ four years of service as a judge of any of the courts included in this article and who was a member of the Iowa public employees' retirement system as provided in chapter 97B, but who was not retired under that system, upon submitting verification of membership and service in the Iowa public employees' retirement system to the court administrator, including proof that the judge has no further claim upon a retirement benefit from that public system, may make contributions as provided by this section to the system either for the entire period of service in the other public system, or for partial service in the other public system in increments of one or more calendar quarters, and receive credit for that service under the system.

Sec. 18. Section 602.9108, Code 2005, is amended to read as follows:

602.9108 INDIVIDUAL ACCOUNTS — REFUNDING.

The amount designated as the judge's contribution to the judicial retirement fund in section 602.9104, ~~subsection 1,~~ and all amounts paid into the fund by a judge shall be credited to the individual account of the judge. If a judge covered under this article becomes separated from service as a judge before the judge completes an aggregate of ~~six~~ four years of service as a judge of one or more of the courts, the total amount in the judge's individual account shall be returned to the judge or the judge's legal representatives within one year of the separation. If a judge, who is covered under this article and who has completed an aggregate of ~~six~~ four years or more of service as a judge of one or more of the courts, dies before retirement, without a survivor, the total amount in the judge's individual account shall be paid in one sum to the judge's legal representatives within one year of the judge's death. If an annuitant under this section dies without a survivor, and without having received in annuities an amount equal to the total amount in the judge's individual account at the time of separation from service, the amount remaining to the annuitant's credit shall be paid in one sum to the annuitant's legal representatives within one year of the annuitant's death.

Sec. 19. Section 602.9112, Code 2005, is amended to read as follows:

602.9112 VOLUNTARY RETIREMENT FOR DISABILITY.

Any judge of the supreme, district or municipal court, including a district associate judge, or a judge of the court of appeals, who shall have served as a judge of one or more of such courts for a period of ~~six~~ four years in the aggregate and who believes the judge has become perma-

nently incapacitated, physically or mentally, to perform the duties of the judge's office may personally or by the judge's next friend or guardian file with the court administrator a written application for retirement. The application shall be filed in duplicate and accompanied by an affidavit as to the duration and particulars of the judge's service and the nature of the judge's incapacity. The court administrator shall forthwith transmit one copy of the application and affidavit to the chief justice who shall request the attorney general in writing to cause an investigation to be made relative to the claimed incapacity and report back the results thereof in writing. If the chief justice finds from the report of the attorney general that the applicant is permanently incapacitated, physically or mentally, to perform the duties of the applicant's office the chief justice shall by endorsement thereon declare the applicant retired, and the office vacant, and shall file the report in the office of the court administrator, and a copy in the office of the secretary of state. From the date of such filing the applicant shall be deemed retired from the applicant's office and entitled to the benefits of this article to the same extent as if the applicant had retired under the provisions of section 602.9106.

Sec. 20. Section 602.9115A, unnumbered paragraphs 1 and 3, Code 2005, are amended to read as follows:

In lieu of the annuities and refunds provided for judges and judges' survivors under sections 602.9107, ~~602.9107A,~~ 602.9108, 602.9115, 602.9204, 602.9208, and 602.9209, judges may elect to receive an optional retirement annuity during the judge's lifetime and have the optional retirement annuity, or a designated fraction of the optional retirement annuity, continued and paid to the judge's survivor after the judge's death and during the lifetime of the survivor.

The optional retirement annuity shall be the actuarial equivalent of the amounts of the annuities payable to judges and survivors under sections 602.9107, ~~602.9107A,~~ 602.9115, 602.9204, 602.9208, and 602.9209. The actuarial equivalent shall be based on the mortality and interest assumptions set out in section 602.9107, subsection 3.

Sec. 21. Section 602.9116, subsection 1, Code 2005, is amended to read as follows:

1. The court administrator shall cause an actuarial valuation to be made of the assets and liabilities of the judicial retirement fund at least once every four years commencing with the fiscal year beginning July 1, 1981. For each fiscal year in which an actuarial valuation is not conducted, the court administrator shall cause an annual actuarial update to be prepared for the purpose of determining the adequacy of the contribution rates specified in section 602.9104~~, subsection 4~~. The court administrator shall adopt mortality tables and other necessary factors for use in the actuarial calculations required for the valuation upon the recommendation of the actuary. Following the actuarial valuation or annual actuarial update, the court administrator shall determine the condition of the system and shall report its findings and recommendations to the general assembly.

Sec. 22. Section 602.9203, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. Meets the minimum requirements for entitlement to an annuity as specified in section 602.9106. However, a judge who elects to retire prior to attaining the age of sixty-five and who has not had ~~twenty-five~~ twenty years of consecutive service, may serve as a senior judge, but shall not be paid an annuity pursuant to section 602.9204 until attaining age sixty-five.

Sec. 23. Section 602.9204, subsection 1, Code 2005, is amended to read as follows:

1. A judge who retires on or after July 1, 1994, and who is appointed a senior judge under section 602.9203 shall be paid a salary as determined by the general assembly. A senior judge or retired senior judge shall be paid an annuity under the judicial retirement system in the manner provided in section 602.9109, but computed under this section in lieu of section 602.9107, as follows: The annuity paid to a senior judge or retired senior judge shall be an amount equal to ~~three percent~~ the applicable percentage multiplier of the basic senior judge salary, multiplied by the judge's years of service prior to retirement as a judge of one or more

of the courts included under this article, for which contributions were made to the system, except the annuity of the senior judge or retired senior judge shall not exceed an amount equal to the applicable specified percentage of the basic senior judge salary used in calculating the annuity. However, following the twelve-month period during which the senior judge or retired senior judge attains seventy-eight years of age, the annuity paid to the person shall be an amount equal to ~~three percent~~ the applicable percentage multiplier of the basic senior judge salary cap, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except that the annuity shall not exceed an amount equal to the applicable specified percentage of the basic senior judge salary cap. A senior judge or retired senior judge shall not receive benefits calculated using a basic senior judge salary established after the twelve-month period in which the senior judge or retired senior judge attains seventy-eight years of age. The state shall provide, regardless of age, to an active senior judge or a senior judge with six years of service as a senior judge and to the judge's spouse, and pay for medical insurance until the judge attains the age of seventy-eight years.

Sec. 24. Section 602.9204, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. oa. "Applicable percentage multiplier" means as follows:

(1) For a senior judge or retired senior judge who retired as a judge and received an annuity prior to July 1, 2006, three percent.

(2) For a senior judge or a retired senior judge who retired as a judge and received an annuity on or after July 1, 2006, three and one-fourth percent.

Sec. 25. Section 602.9107A, Code 2005, is repealed.

Approved April 26, 2006

CHAPTER 1092

IOWA PUBLIC EMPLOYEES'
AND STATEWIDE FIRE AND POLICE RETIREMENT SYSTEMS

H.F. 2245

AN ACT concerning the Iowa public employees' retirement system and the statewide fire and police retirement system, and providing an effective and retroactive applicability date.

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

DIVISION I
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Section 1. Section 97B.1A, subsection 24, paragraph a, Code Supplement 2005, is amended to read as follows:

a. "Three-year average covered wage" means~~, for a member who retires prior to July 1, 2008,~~ a member's covered wages averaged for the highest three years of the member's service, except as otherwise provided in this subsection. The highest three years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a

year of employment does not occur at the end of a calendar year, the system may determine the wages for the third year by computing the average quarter of all quarters from the member's highest calendar year of covered wages not being used in the selection of the two highest years and using the computed average quarter for each quarter in the third year in which no wages have been reported in combination with the final quarter or quarters of the member's service to create a full year. However, the system shall not use the member's final quarter of wages if using that quarter would reduce the member's three-year average covered wage. If the three-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the three-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service. Notwithstanding any other provision of this paragraph to the contrary, a member's wages for the third year as computed by this paragraph shall not exceed, by more than three percent, the member's highest actual calendar year of covered wages for a member whose first month of entitlement is January 1999 or later.

Sec. 2. Section 97B.1A, subsection 24, paragraph c, Code Supplement 2005, is amended by striking the paragraph.[1]

Sec. 3. Section 97B.4, subsection 4, paragraph a, Code 2005, is amended to read as follows:

a. ANNUAL REPORT TO GOVERNOR. Not later than the ~~fifteenth~~ thirty-first day of December of each year, the system shall submit to the governor a report covering the administration and operation of this chapter during the preceding fiscal year and shall make recommendations for amendments to this chapter. The report shall include a balance sheet of the moneys in the retirement fund. The report shall also include information concerning the investment management expenses for the retirement fund for each fiscal year expressed as a percent of the market value of the retirement fund investment assets, including the information described in section 97B.7, subsection 3, paragraph "d". The information provided under this paragraph shall also include information on the investment policies and investment performance of the retirement fund. In providing this information, to the extent possible, the system shall include the total investment return for the entire fund, for portions of the fund managed by investment managers, and for internally managed portions of the fund, and the cost of managing the fund per thousand dollars of assets. The performance shall be based upon market value, and shall be contrasted with relevant market indices and with performances of pension funds of similar asset size.

Sec. 4. Section 97B.48, subsection 5, Code 2005, is amended to read as follows:

5. Effective on such date as the system determines by rule, but in no event later than July 1, 2006, if the system determines that the ~~accumulated contributions of a member,~~ lump sum amount payable to a living member who has had a break in service or to a beneficiary of a deceased member~~, are~~ is less than ~~three thousand dollars~~ the current maximum amount prescribed by the internal revenue service that may be distributed without triggering automatic rollover rights, the lump sum amount payable under this chapter shall be paid to the living member or beneficiary in full satisfaction of all rights of the member or beneficiary to receive any payments under the system. For purposes of this section, a "break in service" means twenty consecutive calendar quarters in which no wages are reported to the system. The lump sum payment shall be made within one hundred eighty days after the calendar quarter in which the member completes a break in service or dies, whichever is applicable. A member or beneficiary who receives a mandatory distribution under this subsection shall have sixty days to return the distribution to the system and restore the member's or beneficiary's account.

Sec. 5. Section 97B.49C, subsection 1, paragraph c, Code Supplement 2005, is amended to read as follows:

c. "Eligible service" means membership and prior service as a sheriff or deputy sheriff under this section. In addition, eligible service includes membership and prior service as a ~~marshal~~

[1] See chapter 1091, §3; chapter 1185, §126 herein

~~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~~ member in a protection occupation as defined in section 97B.49B.

Sec. 6. Section 97B.52A, subsection 1, paragraph c, Code Supplement 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~~ 2010, covered employment does not include employment as a licensed health care professional by a public hospital as defined in section 249J.3, with the exception of public hospitals governed pursuant to chapter 226.

Sec. 7. 2004 Iowa Acts, chapter 1103, section 62, is amended to read as follows:

SEC. 62. LICENSED HEALTH CARE PROFESSIONALS — BONA FIDE RETIREMENT REPORT. The Iowa public employees' retirement system and the Iowa hospital association shall each submit a report to the general assembly by ~~December 1, 2006~~ October 1, 2009, concerning the costs and effectiveness of the provision of this Act amending section 97B.52A that provides that covered employment, for purposes of establishing a bona fide retirement, does not include employment as a licensed health care professional by a public hospital as defined in section 249I.3.[2] Each report shall provide statistics concerning the number of members taking advantage of this provision, the costs and financial benefits, if any, associated with this provision, and recommendations for further action.

Sec. 8. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. The section of this Act amending section 97B.48, subsection 5, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2006, and is applicable on or after that date.

DIVISION II
STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM

Sec. 9. Section 411.1, subsection 12, Code 2005, is amended to read as follows:

12. "Member in good standing" means a member in service who is not subject to removal by the employing city of the member pursuant to section 400.18 or 400.19, or other comparable process, and who is not the subject of an investigation that could lead to such removal. A person who is restored to active service for purposes of applying for a pension under this chapter is not a member in good standing.

Sec. 10. Section 411.3, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. If a person is reemployed, the person shall not become an active member of the system upon reemployment, and the person so reemployed and the participating city shall not make contributions to the system based upon the person's compensation for reemployment. A person who is so reemployed shall ~~continue~~ not be eligible to receive ~~the~~ a service retirement allowance for the period of reemployment. The service retirement allowance shall be reinstated upon termination of the reemployment, ~~and~~ but the service retirement allowance shall not be recalculated based upon the person's reemployment. Notwithstanding section 97B.1A or any other provision of law to the contrary, a person reemployed as provided in this subsection shall be exempt from chapter 97B.

[2] Chapter 249I was repealed by 2005 Iowa Acts, chapter 167, §39, 66; see chapter 249J

Sec. 11. Section 411.5, subsection 6, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Records containing financial or commercial information that relates to the investment of retirement system funds if the disclosure of such information could result in a loss to the retirement system or to the provider of the information are not public records for the purposes of chapter 22.

Sec. 12. Section 411.5, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 15. CLOSED SESSIONS. In addition to the reasons provided in section 21.5, subsection 1, the board may hold a closed session pursuant to the requirements of section 21.5 of that portion of a board meeting in which financial or commercial information is provided to or discussed by the board if the board determines that disclosure of such information could result in a loss to the retirement system or to the provider of the information.

Sec. 13. Section 411.6, subsection 5, paragraph a, Code 2005, is amended to read as follows:

a. Upon application to the system, of a member in good standing or of the chief of the police or fire departments, respectively, any member in good standing who has become totally and permanently incapacitated for duty as the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city by which the member is regularly employed, shall be retired by the system if the medical board certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A medical condition shall be deemed to have been known to exist on the date that membership commenced if the medical condition is reflected in any record or document completed or obtained in accordance with the system's medical protocols pursuant to section 400.8, or in any other record or document obtained pursuant to an application for disability benefits from the system, if such record or document existed prior to the date membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the medical board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits.

Sec. 14. Section 411.6, subsection 5, paragraph b, Code 2005, is amended to read as follows:

b. If a member in service or the chief of the police or fire departments becomes incapacitated for duty as a natural or proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time or place or while acting, pursuant to order, outside the city by which the member is regularly employed, the member, upon being found to be temporarily incapacitated following a medical examination as directed by the city, is entitled to receive the member's full pay and allowances from the city's general fund or trust and agency fund until re-examined as directed by the city and found to be fully recovered or until the city determines that the member is likely to be permanently disabled. If the temporary incapacity of a member continues more than sixty days, or if the city expects the incapacity to continue more than sixty days, the city shall notify the system of the temporary incapacity. Upon notification by a city, the system may refer the matter to the medical board for review and consultation with the member's treating physician during the temporary incapacity. Except as provided by this paragraph, the board of trustees of the statewide system has no jurisdiction over these matters until the city determines that the disability is likely to be permanent.

Sec. 15. Section 411.6, subsection 8, paragraph c, subparagraph (3), Code 2005, is amended to read as follows:

(3) If there is no surviving spouse or child, then the member's dependent father or mother, or both, as the system determines, to continue until ~~remarriage or~~ death.

Sec. 16. Section 411.6, subsection 9, paragraph b, subparagraph (1), subparagraph subdivision (c), Code 2005, is amended to read as follows:

(c) If the member's designated beneficiary is the member's dependent father or mother, or both, then to the father or mother, or both, in equal shares, to continue until ~~remarriage or~~ death.

Sec. 17. Section 411.6, subsection 9, paragraph b, subparagraph (2), subparagraph subdivision (c), Code 2005, is amended to read as follows:

(c) If there is no surviving spouse or child, then to the member's dependent father or mother, or both, in equal shares, to continue until ~~remarriage or~~ death.

Sec. 18. Section 411.23, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. Commencing July 1, 2006, a member's contributions shall be refunded to the member by the system if the following conditions are met:

(1) The member was a member of the system for less than four years.

(2) The member terminated service four or more years prior to the date of the refund.

(3) The amount to be refunded does not exceed five thousand dollars, or such other amount as may be established under section 401(a) of the Internal Revenue Code.

b. In the event a refund is made in accordance with this subsection without the member's consent, the system shall pay the distribution in a direct rollover to an individual retirement plan designated by the system unless the member elects to have such distribution paid directly to an eligible retirement plan specified by the member in a direct rollover in accordance with section 411.6B or elects to receive the distribution directly. The system may, by rule, implement a de minimus exception to the automatic rollover provision of this subsection, subject to the limitations of the Internal Revenue Code and any applicable internal revenue service regulations.

Approved April 26, 2006

CHAPTER 1093

ALLOWED GROWTH FACTOR
FOR COUNTY MENTAL HEALTH, MENTAL RETARDATION,
AND DEVELOPMENTAL DISABILITIES SERVICES FUNDING

H.F. 2330

AN ACT relating to the allowed growth factor adjustment funding for county mental health, mental retardation, and developmental disabilities services funds and including effective date and retroactive applicability provisions.

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

Section 1. Section 331.438, subsection 2, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Unless otherwise provided by law, in order to be included in any distribution formula for the allowed growth factor adjustment and to receive an allowed growth factor adjustment payment, a county must levy seventy percent or more of the maximum amount allowed for the county's services fund for taxes due and payable in the fiscal year for which the allowed growth factor adjustment is payable.

Sec. 2. 2004 Iowa Acts, chapter 1175, section 173, subsection 4, paragraph c, as enacted by 2005 Iowa Acts, chapter 175, section 52, is amended to read as follows:

c. For an ending balance percentage of 10 or more but less than 25 percent, a withholding factor of ~~25~~ 28.043 percent. However, for a county with an ending balance percentage of 10 or more but less than 15 percent that meets the eligibility requirements for a distribution from the per capita expenditure target pool under section 426B.5 for the fiscal year beginning July 1, 2005, the withholding factor shall be 14.643 percent.

Sec. 3. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 2005, and is applicable on and after that date.

Approved April 26, 2006

CHAPTER 1094

PHYSICIAN ASSISTANT PRESCRIBING AUTHORITY

H.F. 2331

AN ACT to eliminate certain restrictions on the authority of a physician assistant to prescribe certain schedule II controlled substances.

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

Section 1. Section 147.107, subsection 5, Code 2005, is amended to read as follows:

5. Notwithstanding subsection 1 and any other provision of this section to the contrary, a physician may delegate the function of prescribing drugs, controlled substances, and medical

devices to a physician assistant licensed pursuant to chapter 148C. When delegated prescribing occurs, the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription so that the individual who dispenses or administers the prescription knows under whose delegated authority the physician assistant is prescribing. Rules relating to the authority of physician assistants to prescribe drugs, controlled substances, and medical devices pursuant to this subsection shall be adopted by the board of physician assistant examiners, after consultation with the board of medical examiners and the board of pharmacy examiners. However, the rules shall prohibit the prescribing of schedule II controlled substances which are listed as ~~stimulants or~~ depressants pursuant to chapter 124.

Approved April 26, 2006

CHAPTER 1095

ENERGY CONSERVATION STANDARDS
FOR NEW RESIDENTIAL CONSTRUCTION

H.F. 2361

AN ACT relating to energy conservation standards included in the state building code for new single-family or two-family residential construction.

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

Section 1. Section 103A.8A, Code 2005, is amended to read as follows:

103A.8A MINIMUM ENERGY EFFICIENCY STANDARD.

The state building code commissioner shall adopt as a part of the state building code a requirement that new single-family or two-family residential construction shall ~~meet an established minimum energy efficiency standard. The standard shall be stated in terms of the home heating index developed by the physics department at Iowa state university of science and technology. The minimum standard shall be the average energy consumption of new single-family or two-family residential construction as determined by a survey conducted by the department of natural resources of the average actual energy consumption, as expressed in terms of the home heating index~~ comply with energy conservation requirements. The requirements adopted by the commissioner shall be based upon a nationally recognized standard or code for energy conservation. The ~~minimum standard~~ requirements shall only apply to single-family or two-family residential construction commenced after the adoption of the ~~standard~~ requirements. This chapter shall not be construed to prohibit a governmental subdivision from adopting or enacting a minimum energy standard which is substantially in accordance and consistent with ~~model~~ energy codes and standards developed by a nationally recognized organization in effect on or after July 1, 2002. A governmental subdivision that adopts or enacts a minimum energy standard which is substantially in accordance and consistent with ~~model~~ energy codes and standards developed by a nationally recognized organization shall adopt or enact any update or revision to the ~~model~~ energy codes and standards.

Approved April 26, 2006

CHAPTER 1096

ADOPTION — PRIOR CHILD SUPPORT
AND CUSTODY PROCEEDINGS

H.F. 2463

AN ACT relating to adoption and termination of jurisdiction of a court involving prior child support and custody proceedings.

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

Section 1. NEW SECTION. 600B.31A TERMINATION OF JURISDICTION OF COURT ISSUING ORIGINAL ORDER.

If a proceeding is initiated in a court for an adoption involving the children of parents whose paternity, obligation for support, or custody determination has been determined under this chapter or for modification of a child support or custody order granted under this chapter, the following requirements shall be met if the proceedings are initiated in a court other than the court which issued the original order:

1. The party initiating the proceedings shall present to the court the names and addresses of the parties to the original proceeding, if known, as well as the name and place of the court which issued the original order and the date of the original order.

2. The court in which the proceedings are initiated shall cause notice of the proceedings to be served upon all the parties to the original order unless the parties are deceased.

The court in which the proceedings are initiated or any party to the proceedings may also request that a copy of the transcript of the proceedings of the court which issued the original order be made available for consideration in the new proceedings.

Approved April 26, 2006

CHAPTER 1097

OBSTRUCTIONS IN HIGHWAY RIGHTS-OF-WAY

H.F. 2515

AN ACT relating to obstructions in highways and providing penalties.

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

Section 1. NEW SECTION. 318.1 DEFINITIONS.

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

1. "Department" means the state department of transportation.

2. "Highway authority" means the county board of supervisors, in the case of secondary roads, and the department, in the case of primary roads.

3. "Highway right-of-way" means the total area of land, whether reserved by public ownership or easement, that is reserved for the operation and maintenance of a legally established public roadway. This area shall be deemed to consist of two portions, a central traveled way including the shoulders and that remainder on both sides of the road, between the outside shoulder edges and the outer boundaries of the right-of-way.

4. "Obstruction" means an obstacle in the highway right-of-way, or an impediment or hin-

drance which impedes, opposes, or interferes with free passage along the highway right-of-way not including utility structures installed in accordance with an approved permit.

5. "Officer" means any department employee, county employee, or elected county official.

6. "Traveled portion of the right-of-way" means that area of the highway right-of-way, not including the shoulders, on which vehicles normally travel.

7. "Utility" means all private, public, municipal, or cooperative owned systems for water, sewer, natural gas, electric, telegraph, telephone, transit, pipeline, heating plants, railroads, bridges, street lights, or traffic control signals.

8. "Utility structures" means the aboveground devices, required by a utility, including poles, lines, and wires, used for telephone, electric, natural gas, and other distribution or transmission purposes, and natural gas and electrical substations.

Sec. 2. NEW SECTION. 318.2 PURPOSE.

The purpose of this chapter is to enhance public safety for those traveling the public roads and allow economical maintenance of highway rights-of-way.

Sec. 3. NEW SECTION. 318.3 OBSTRUCTIONS IN HIGHWAY RIGHT-OF-WAY.

A person shall not place, or cause to be placed, an obstruction within any highway right-of-way. This prohibition includes, but is not limited to, the following actions:

1. The excavation, filling, or making of any physical changes to any part of the highway right-of-way, except as provided under section 318.8.

2. The cultivation or growing of crops within the highway right-of-way.

3. The destruction of plants placed within the highway right-of-way.

4. The placing of fences or ditches within the highway right-of-way.

5. The alteration of ditches, water breaks, or drainage tiles within the highway right-of-way.

6. The placement of trash, litter, debris, waste material, manure, rocks, crops or crop residue, brush, vehicles, machinery, or other items within the highway right-of-way.

7. The placement of billboards, signs, or advertising devices within the highway right-of-way.

8. The placement of any red reflector, or any object or other device which shall cause the effect of a red reflector on the highway right-of-way which is visible to passing motorists.

Sec. 4. NEW SECTION. 318.4 DUTY OF HIGHWAY AUTHORITIES.

The highway authority shall cause all obstructions in a highway right-of-way under its jurisdiction to be removed.

Sec. 5. NEW SECTION. 318.5 REMOVAL AND COST.

1. An obstruction in a highway right-of-way which constitutes an immediate and dangerous hazard shall, without notice or liability in damages, be removed by the highway authority.

2. An obstruction not constituting an immediate and dangerous hazard shall be removed by the highway authority without liability after forty-eight-hour notice served in the same manner in which an original notice is served, or in writing by certified mail, or in any other manner reasonably calculated to apprise the person responsible for the obstruction that the obstruction will be removed at the person's expense. The highway authority shall assess the removal cost.

3. Upon removal of the obstruction, the highway authority may immediately send a statement of the cost to the person responsible for the obstruction. If within ten days after sending the statement the cost is not paid, the highway authority may institute legal proceedings to collect the cost of removal. The removal costs shall be assessed against the following persons, as applicable:

a. The vehicle owner in the case of an abandoned vehicle.

b. The abutting property owner in the case of a fence, other than a right-of-way line fence, or other temporary obstruction placed within the highway right-of-way by the owner or tenant of the abutting property.

c. The owner or person responsible for placement of any other obstruction.

4. All removals shall be without liability on the part of any officer ordering or effecting such removal.

Sec. 6. NEW SECTION. 318.6 PUBLIC NUISANCE.

1. Any person who places, or causes to be placed, any obstruction in a highway right-of-way as prohibited under section 318.3 is deemed to have created a public nuisance punishable as provided in chapter 657.

2. If a person is found guilty of placing an obstruction within a highway right-of-way, the court may, in addition to any fine imposed, or judgment for damages or costs for which a separate execution may issue, order that the obstruction be abated or removed at the expense of the defendant. The costs for abatement or removal of the obstruction may be entered as a personal judgment against the defendant or assessed against the property where the obstruction occurred, or both.

Sec. 7. NEW SECTION. 318.7 INJUNCTION TO RESTRAIN OBSTRUCTIONS.

A highway authority may maintain a suit in equity aided by injunction to restrain an obstruction in a highway right-of-way. In such actions, the highway authority may cause the legal boundary lines of the highway to be adjudicated provided all interested parties are impleaded.

Sec. 8. NEW SECTION. 318.8 PERMIT REQUIRED.

A person shall not excavate, fill, or make a physical change within a highway right-of-way without obtaining a permit from the applicable highway authority. At the request of a permittee, a modification may be granted in the discretion of the highway authority. Work performed under the permit shall be performed in conformity with the specifications prescribed by the highway authority. If the work does not conform to permit specifications, the person shall be notified to make the conforming changes. If after twenty days the changes have not been made, the highway authority may make the necessary changes and immediately send a statement of the cost to the responsible person. If within thirty days after sending the statement the cost is not paid, the highway authority may institute legal proceedings to collect the cost of correction. A violation of the permit specifications shall be considered a violation of section 318.3. A public utility subject to section 306A.3 is exempt from this section.

Sec. 9. NEW SECTION. 318.9 UTILITY STRUCTURES.

1. a. A utility structure in a highway right-of-way used for telephone, electric, natural gas, or other distribution or transmission purposes shall be removed by the owner or operator of the transmission lines upon written notice from the highway authority of not less than ninety days, to the owner and operator. The notice shall, with reasonable certainty, specify the utility structure to be removed, and shall be served in the same manner that original notices are required to be served. If the owner or operator of the transmission line is unable to remove the utility structure within the required time due to circumstances beyond the control of the owner or operator, the owner or operator shall file a request with the highway authority for an extension of time to complete the work.

b. If the owner or operator of a transmission line needs authorization from the utilities board or other governmental authority to relocate a utility structure or to obtain a new private easement right for relocation of the utility structure, the owner or operator shall request an extension of time within which to remove the utility structure. The highway authority shall grant an extension of time for at least ninety days following the date authorization is granted or the easement right is obtained.

2. Upon written application, the highway authority shall locate the construction of new telephone, electric, or transmission lines or parts of lines, including natural gas pipeline, for the roads within the highway authority's jurisdiction, subject to the jurisdiction of the utilities board under chapters 476, 478, and 479, as follows:

a. The county engineer, or the board of supervisors if a county engineer is not available, shall locate the lines for secondary roads.

b. The department shall locate the lines for primary roads.

3. The department and the county engineer, or the board of supervisors if a county engineer is not available, may designate the location of a utility structure within a highway right-of-way. A utility structure that is not properly located within the highway right-of-way shall be removed within a time prescribed to a designated location. If not so removed, the highway authority may remove the utility structure and recover costs as provided in section 318.5.

Sec. 10. NEW SECTION. 318.10 FENCES.

1. A fence which constitutes an immediate and dangerous hazard shall, without notice or liability in damages, be removed by the highway authority. In all other cases where a fence is an obstruction in a highway right-of-way, notice in writing of not less than thirty days shall be given to the owner, occupant, or agent of the land enclosed by the fence.

2. The notice shall, with reasonable certainty, specify the line to which the fences shall be removed, and shall be served in the same manner that original notices are required to be served, or in writing by certified mail, or in any other manner reasonably calculated to apprise the person responsible for the fence.

3. The department and the county engineer, or the board of supervisors if a county engineer is not available, may designate the location of a fence within a highway right-of-way. A fence that is not properly located within the highway right-of-way shall be removed within a time prescribed to a designated location. If not so removed, the highway authority may remove the fences and recover costs as provided in section 318.5.

Sec. 11. NEW SECTION. 318.11 BILLBOARDS AND SIGNS.

1. No billboard or advertising sign or device, except a sign or device authorized by law or approved by the highway authority, shall be placed or erected upon a highway right-of-way.

2. A billboard or advertising sign, whether on public or private property, that obstructs the view of any portion of a public highway or of a railway track making the use of the traveled portion of the right-of-way dangerous is a public nuisance and shall be abated. The person responsible for the erection and maintenance of the billboard or sign may be punished as provided in chapter 657.

Sec. 12. NEW SECTION. 318.12 ENFORCEMENT.

A highway authority shall enforce the provisions of this chapter by appropriate civil or criminal proceeding or by both such proceedings.

Sec. 13. Section 68A.406, subsection 2, paragraph a, Code Supplement 2005, is amended to read as follows:

a. Any property owned by the state or the governing body of a county, city, or other political subdivision of the state, including all property considered the public right-of-way. Upon a determination by the board that a sign has been improperly placed, the sign shall be removed by highway authorities as provided in section ~~319.13~~ 318.5, or by county or city law enforcement authorities in a manner consistent with section ~~319.13~~ 318.5.

Sec. 14. Section 306.46, subsection 1, Code Supplement 2005, is amended to read as follows:

1. A public utility may construct, operate, repair, or maintain its utility facilities within a public road right-of-way. The location of new utility facilities shall comply with section ~~319.5~~ 318.9. A utility facility shall not be constructed or installed in a manner that causes interference with public use of the road.

Sec. 15. Section 306C.13, subsection 8, paragraph f, Code 2005, is amended to read as follows:

f. Which do not comply with all applicable state or local laws, regulations and ordinances, including but not limited to zoning, building, and sign codes as locally interpreted and applied and enforced, or which violate chapter ~~319~~ 318; however, nothing in this division shall prevent

or restrict county or local zoning authorities from making a determination of customary use concerning size, lighting, and spacing of advertising devices in zoned commercial or industrial adjacent areas, and such determinations will be accepted in lieu of the standards of this division. The provisions of this division shall not prevent or restrict county or local zoning authorities within their respective jurisdictions from establishing standards imposing controls stricter than those required by this division.

Sec. 16. Section 311.32, Code 2005, is amended to read as follows:

311.32 ADMINISTRATION AND MAINTENANCE OF ROADS.

Any road established by petition and any road improved by petition under this chapter shall be administered and maintained by the county under chapters 306, 309, 314, 317, and ~~319~~ 318. However, the fact that right-of-way is donated by property owners for the establishment of a road or a portion of the cost of a road improvement is paid by property owners under this chapter, does not preclude the board of supervisors from exercising its responsibility over these roads as secondary roads.

Sec. 17. Section 331.362, subsection 7, Code 2005, is amended to read as follows:

7. The board shall cause the removal of obstructions on the secondary roads, in accordance with chapter ~~319~~ 318.

Sec. 18. Section 331.756, subsection 57, Code Supplement 2005, is amended to read as follows:

57. Commence legal proceedings to remove billboards and signs which constitute a public nuisance as provided in section ~~319.11~~ 318.11.

Sec. 19. Chapter 319, Code 2005, is repealed.

Approved April 26, 2006

CHAPTER 1098

CHILD ABUSE AND UNREGISTERED CHILD CARE HOMES — NOTICE TO PARENTS, GUARDIANS, OR CUSTODIANS

H.F. 2564

AN ACT relating to notification of parents, guardians, or custodians of children receiving child care from an unregistered child care home when it is determined that child abuse involving the home has occurred.

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

Section 1. Section 237A.5, subsection 2, paragraph f, Code 2005, is amended to read as follows:

f. If it has been determined that a child receiving child care from a child care facility or a child care home ~~which receives public funding for providing child care~~ is the victim of founded child abuse committed by an employee, license or registration holder, child care home provider, or resident of the child care facility or child care home for which a report is placed in the central registry pursuant to section 232.71D, the administrator shall provide notification at the

time of the determination to the parents, guardians, and custodians of children receiving care from the child care facility or child care home. A notification made under this paragraph shall identify the type of abuse but shall not identify the victim or perpetrator or circumstances of the founded abuse.

Approved April 26, 2006

CHAPTER 1099

ELECTRONIC STATE CHILD CARE ASSISTANCE PROGRAM PAYMENTS

H.F. 2565

AN ACT requiring the department of human services to implement an electronic payment system for the state child care assistance program.

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

Section 1. Section 237A.13, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. On or before July 1, 2007, the department shall implement a system for making program payments by electronic funds transfer or other electronic means.

Approved April 26, 2006

CHAPTER 1100

MISCELLANEOUS ECONOMIC DEVELOPMENT PROGRAMS AND REPORTS

H.F. 2613

AN ACT concerning programs and reports related to economic development.

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

Section 1. Section 15.108, subsection 4, paragraph c, Code 2005, is amended by striking the paragraph.

Sec. 2. Section 15.113, Code Supplement 2005, is amended to read as follows:

15.113 ECONOMIC DEVELOPMENT ASSISTANCE — REPORT.

In order for the general assembly and the governor 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 and the governor by January 15 of each year data on all assistance or benefits provided under the community economic betterment program, the 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 and the governor prior to submitting the data to assure that its form and specificity are sufficient to provide accurate and complete information to the general assembly and the governor. 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 and the governor.

Sec. 3. Section 15.203, subsection 2, Code 2005, is amended by striking the subsection.

Sec. 4. Section 15.203, subsection 5, Code 2005, is amended to read as follows:

5. The agricultural products advisory council may employ or contract with a consultant or specialist to assist in developing and implementing the program and plan of the departments and the council. ~~In the event a promotion program and plan as set forth in subsection 2 are not adopted by the council by April 1, 1990, the council shall employ or contract with a consultant or specialist to assist in the development of a promotion program and plan.~~

Sec. 5. Section 260E.7, Code 2005, is amended to read as follows:

260E.7 DEPARTMENT OF ECONOMIC DEVELOPMENT.

The Iowa department of economic development in consultation with the department of education shall coordinate the new jobs training program. The Iowa department of economic development shall adopt, amend, and repeal rules under chapter 17A that the community college will use in developing projects with new and expanding industrial new jobs training proposals. The department is authorized to make any rule that is adopted, amended, or repealed effective immediately upon filing with the administrative rules coordinator or at a subsequent stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing, and publication. ~~The department shall prepare an annual report for the governor and general assembly on the activities of the industrial new jobs training program.~~

Sec. 6. Section 15.114, Code Supplement 2005, is repealed.

Sec. 7. Sections 15.231 and 496B.16, Code 2005, are repealed.

Approved April 26, 2006

CHAPTER 1101

DOMESTIC ABUSE AND OTHER DANGEROUS ACTIVITIES
— PENALTIES AND PROTECTIVE OR NO-CONTACT ORDERS

H.F. 2652

AN ACT relating to civil and criminal procedure including the issuance of and violations of certain civil protective orders and criminal no-contact orders.

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

Section 1. Section 236.7, subsection 1, Code 2005, is amended to read as follows:

1. A proceeding under this chapter shall be held in accordance with the rules of civil proce-

dure, except as otherwise set forth in this chapter and in chapter 664A, and is in addition to any other civil or criminal remedy.

Sec. 2. Section 562A.27A, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. The tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief pursuant to chapter 236, 598, 664A, or 915, or any other applicable provision which would apply to the person conducting the activities causing the clear and present danger.

Sec. 3. Section 562B.25A, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. The tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief pursuant to chapter 236, 598, 664A, or 915, or any other applicable provision which would apply to the person conducting the activities causing the clear and present danger.

Sec. 4. Section 598.41, subsection 3, paragraph j, Code Supplement 2005, is amended to read as follows:

j. Whether a history of domestic abuse, as defined in section 236.2, exists. In determining whether a history of domestic abuse exists, the court's consideration shall include, but is not limited to, commencement of an action pursuant to section 236.3, the issuance of a protective order against the parent or the issuance of a court order or consent agreement pursuant to section 236.5, the issuance of an emergency order pursuant to section 236.6, the holding of a parent in contempt pursuant to section ~~236.8~~ 664A.7, the response of a peace officer to the scene of alleged domestic abuse or the arrest of a parent following response to a report of alleged domestic abuse, or a conviction for domestic abuse assault pursuant to section 708.2A.

Sec. 5. NEW SECTION. 664A.1 DEFINITIONS.

For purposes of this chapter:

1. "No-contact order" means a court order issued in a criminal proceeding requiring the defendant to have no contact with the alleged victim, persons residing with the alleged victim, or members of the alleged victim's immediate family, and to refrain from harassing the alleged victim, persons residing with the alleged victim, or members of the alleged victim's family.

2. "Protective order" means a protective order issued pursuant to chapter 232, a court order or court-approved consent agreement entered pursuant to chapter 236, including a valid foreign protective order under section 236.19, subsection 3, a temporary or permanent protective order or order to vacate the homestead under chapter 598, and an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault under section 708.2A.

3. "Victim" means a person who has suffered physical, emotional, or financial harm as a result of a public offense, as defined in section 701.2, committed in this state.

Sec. 6. NEW SECTION. 664A.2 APPLICABILITY.

1. This chapter applies to no-contact orders issued for violations or alleged violations of sections 708.2A, 708.7, 708.11, 709.2, 709.3, and 709.4, and any other public offense for which there is a victim.

2. A protective order issued in a civil proceeding shall be issued pursuant to chapter 232, 236, or 598. Punishment for a violation of a protective order shall be imposed pursuant to section 664A.7.

Sec. 7. NEW SECTION. 664A.3 ENTRY OF TEMPORARY NO-CONTACT ORDER.

1. When a person is taken into custody for contempt proceedings pursuant to section 236.11

or arrested for any public offense referred to in section 664A.2, subsection 1, and the person is brought before a magistrate for initial appearance, the magistrate shall enter a no-contact order if the magistrate finds both of the following:

a. Probable cause exists to believe that any public offense referred to in section 664A.2, subsection 1, or a violation of a no-contact order, protective order, or consent agreement has occurred.

b. The presence of or contact with the defendant poses a threat to the safety of the alleged victim, persons residing with the alleged victim, or members of the alleged victim's family.

2. A no-contact order issued pursuant to this section shall be issued in addition to any other conditions of release imposed by a magistrate pursuant to section 811.2. The no-contact order has force and effect until it is modified or terminated by subsequent court action in a contempt proceeding or criminal or juvenile court action and is reviewable in the manner prescribed in section 811.2. Upon final disposition of the criminal or juvenile court action, the court shall terminate or modify the no-contact order pursuant to section 664A.5.

3. A no-contact order requiring the defendant to have no contact with the alleged victim's children shall prevail over any existing order which may be in conflict with the no-contact order.

4. A no-contact order issued pursuant to this section shall restrict the defendant from having contact with the victim, persons residing with the victim, or the victim's immediate family.

Sec. 8. NEW SECTION. 664A.4 NOTICE OF NO-CONTACT ORDER.

1. The clerk of the district court or other person designated by the court shall provide a copy of the no-contact order to the victim pursuant to this chapter and chapter 915.

2. The clerk of the district court shall provide a notice and copy of the no-contact order to the appropriate law enforcement agencies and the twenty-four-hour dispatcher for the law enforcement agencies in the same manner as provided in section 236.5. The clerk of the district court shall provide a notice and copy of a modification or vacation of a no-contact order in the same manner.

Sec. 9. NEW SECTION. 664A.5 MODIFICATION — ENTRY OF PERMANENT NO-CONTACT ORDER.

If a defendant is convicted of, receives a deferred judgment for, or pleads guilty to a public offense referred to in section 664A.2, subsection 1, or is held in contempt for a violation of a no-contact order issued under section 664A.3 or for a violation of a protective order issued pursuant to chapter 232, 236, or 598, the court shall either terminate or modify the temporary no-contact order issued by the magistrate. The court may continue the no-contact order in effect for a period of five years from the date the judgment is entered or the deferred judgment is granted, regardless of whether the defendant is placed on probation.

Sec. 10. NEW SECTION. 664A.6 MANDATORY ARREST FOR VIOLATION OF NO-CONTACT ORDER.

1. If a peace officer has probable cause to believe that a person has violated a no-contact order issued under this chapter, the peace officer shall take the person into custody and shall take the person without unnecessary delay before the nearest or most accessible magistrate in the judicial district in which the person was taken into custody.

2. If the peace officer is investigating a domestic abuse assault pursuant to section 708.2A, the officer shall also comply with sections 236.11 and 236.12.

Sec. 11. NEW SECTION. 664A.7 VIOLATION OF NO-CONTACT ORDER OR PROTECTIVE ORDER — CONTEMPT OR SIMPLE MISDEMEANOR PENALTIES.

1. Violation of a no-contact order issued under this chapter or a protective order issued pursuant to chapter 232, 236, or 598, including a modified no-contact order, is punishable by summary contempt proceedings.

2. A hearing in a contempt proceeding brought pursuant to this section shall be held not less than five and not more than fifteen days after the issuance of a rule to show cause, as determined by the court.

3. If held in contempt for a violation of a no-contact order or a modified no-contact order for a public offense referred to in section 664A.2, subsection 1, or held in contempt of a no-contact order issued during a contempt proceeding brought pursuant to section 236.11, the person shall be confined in the county jail for a minimum of seven days. A jail sentence imposed pursuant to this subsection shall be served on consecutive days. No portion of the mandatory minimum term of confinement imposed by this subsection shall be deferred or suspended. A deferred judgment, deferred sentence, or suspended sentence shall not be entered for a violation of a no-contact order or modified no-contact order and the court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence.

4. Violation of a no-contact order entered for the offense or alleged offense of domestic abuse assault in violation of section 708.2A or a violation of a protective order issued pursuant to chapter 232, 236, or 598 constitutes a public offense and is punishable as a simple misdemeanor. Alternatively, the court may hold a person in contempt of court for such a violation, as provided in subsection 3.

5. A person shall not be held in contempt or convicted of violations under multiple no-contact orders, protective orders, or consent agreements, for the same set of facts and circumstances that constitute a single violation.

Sec. 12. NEW SECTION. 664A.8 EXTENSION OF NO-CONTACT ORDER.

Upon the filing of an application by the state which is filed within ninety days prior to the expiration of a modified no-contact order, the court shall modify and extend the no-contact order for an additional period of five years, unless the court finds that the defendant no longer poses a threat to the safety of the victim, persons residing with the victim, or members of the victim's family. The number of modifications extending the no-contact order permitted by this section is not limited.

Sec. 13. Section 708.2A, subsection 5, paragraph a, Code 2005, is amended to read as follows:

a. A conviction for, deferred judgment for, or plea of guilty to, a violation of this section which occurred more than ~~six~~ twelve years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense.

Sec. 14. Section 708.2A, subsection 7, Code 2005, is amended to read as follows:

7. If a person is convicted for, receives a deferred judgment for, or pleads guilty to a violation of this section, the court shall modify the no-contact order issued upon initial appearance in the manner provided in section ~~236.14~~ 664A.5, regardless of whether the person is placed on probation.

Sec. 15. Section 709.22, subsection 3, paragraph c, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

The right to seek a no-contact order under section ~~709.20~~ 664A.3 or 915.22, if your attacker is arrested for sexual assault.

Sec. 16. Section 901.5, subsection 7A, Code Supplement 2005, is amended by striking the subsection.

Sec. 17. Section 907.3, subsection 1, paragraph i, Code Supplement 2005, is amended to read as follows:

i. The offense is a conviction for or plea of guilty to a violation of section ~~236.8~~ 664A.7 or a finding of contempt pursuant to section ~~236.8 or 236.14~~ 664A.7.

Sec. 18. Section 907.3, subsection 2, paragraph b, Code Supplement 2005, is amended to read as follows:

b. Section ~~236.8~~ 664A.7 or for contempt pursuant to section ~~236.8 or 236.14~~ 664A.7.

Sec. 19. Section 907.3, subsection 3, paragraph b, Code Supplement 2005, is amended to read as follows:

b. A sentence imposed pursuant to section ~~236.8 or 236.14~~ 664A.7 for contempt.

Sec. 20. Section 915.50, subsection 3, Code 2005, is amended to read as follows:

3. The right to receive a criminal no-contact order upon a finding of probable cause, pursuant to section ~~236.14~~ 664A.3.

Sec. 21. Sections 236.8, 236.14, 708.12, and 709.20, Code 2005, are repealed.

Approved April 26, 2006

CHAPTER 1102

NATURAL RESOURCE COMMISSION JURISDICTION — LAKEBEDS AND RIVERBEDS

H.F. 2663

AN ACT relating to jurisdiction of the natural resource commission over certain areas of lakebeds and riverbeds.

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

Section 1. Section 461A.25, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purposes of this section, property under the commission's jurisdiction does not include an area of the bed of a lake or river occupied by a dock or other appurtenance or means of access to a dock, including but not limited to boat hoists and boat slips, or occupied by a boat ramp, constructed or installed and maintained under littoral or riparian rights.

Approved April 26, 2006

CHAPTER 1103

VOLUNTEER EMERGENCY SERVICE PROVIDER DEATH BENEFIT

H.F. 2665

AN ACT concerning the line of duty death benefit payable to public safety providers.

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

Section 1. Section 97A.6, subsection 16, paragraph b, Code Supplement 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) The death qualifies for a volunteer emergency services provider death benefit pursuant to section 100B.11.

Sec. 2. Section 97B.52, subsection 2, paragraph b, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) The death qualifies for a volunteer emergency services provider death benefit pursuant to section 100B.11.

Sec. 3. Section 100B.11, subsection 3, Code 2005, is amended to read as follows:

3. For purposes of this section, "volunteer emergency services provider" means ~~a~~ any of the following:

a. A volunteer fire fighter as defined in section 85.61~~, a.~~

b. A ~~volunteer~~ person performing the functions of an emergency medical care provider or ~~volunteer~~ emergency rescue technician as defined in section 147A.1 who ~~is not covered as a volunteer emergency services provider under chapter 97A, 97B, or 411, or a~~ was not paid full-time by the entity for which such services were being performed at the time the incident giving rise to the death occurred.

c. A reserve peace officer as defined in section 80D.1A.

Sec. 4. Section 411.6, subsection 15, paragraph b, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) The death qualifies for a volunteer emergency services provider death benefit pursuant to section 100B.11.

Approved April 26, 2006

CHAPTER 1104

PROBATE AND TRUST CODES — MISCELLANEOUS PROVISIONS

H.F. 2742

AN ACT relating to the probate and trust codes and providing applicability date provisions.

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

Section 1. Section 249A.3, subsection 11, paragraph d, Code Supplement 2005, is amended to read as follows:

d. ~~Failure~~ Unless a surviving spouse is precluded from making an election under the terms of a premarital agreement, the failure of a surviving spouse to take 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 an elective share would have exceeded the value of the inheritance received under the will.

Sec. 2. Section 633.246A, Code Supplement 2005, is amended to read as follows:

633.246A MEDICAL ASSISTANCE ELIGIBILITY.

~~Failure~~ Unless precluded from doing so under the terms of a premarital agreement, the 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. 3. Section 633.356, subsection 8, paragraph b, Code 2005, is amended to read as follows:

b. When the department of human services is entitled to money or property of a decedent pursuant to section 249A.5, subsection 2, and no affidavit has been presented by a successor of the decedent as defined in subsection 2, within ninety days of the date of the decedent's death, the funds in the account or other property, up to the amount of the claim of the department, shall be paid to the department upon presentation by the department or an entity designated by the department of an affidavit to the holder of the decedent's property. Such affidavit shall include the information specified in subsection 3, except that the department may submit proof of payment of funeral expenses as verification of the decedent's death instead of a certified copy of the decedent's death certificate. The amount of the department's claim shall also be included in the affidavit, which shall entitle the department to receive the funds as a successor of the decedent. The department shall issue a refund within sixty days to any claimant with a superior priority pursuant to section 633.425, if notice of such claim is given to the department, or to the entity designated by the department to receive notice, within one year of the department's receipt of funds. This paragraph shall apply to funds or property of the decedent transferred to the custody of the treasurer of state as unclaimed property pursuant to chapter 556.

Sec. 4. Section 633A.3102, subsection 6, Code Supplement 2005, is amended by striking the subsection.

Sec. 5. Section 633A.3103, Code Supplement 2005, is amended to read as follows:

633A.3103 OTHER RIGHTS OF SETTLOR.

Except to the extent the terms of the trust otherwise provide, while a trust is revocable ~~and the individual holding the power to revoke the trust is competent~~, all of the following apply unless the trustee actually knows that the individual holding the power to revoke the trust is not competent:

1. The holder of the power, and not the beneficiary, has the rights afforded beneficiaries.
2. The duties of the trustee are owed to the holder of the power.
3. The trustee shall follow a written direction given by the holder of the power, or a person to whom the power has been delegated in writing, without liability for so doing, so long as the action by the delegate is authorized by the trust unless the trustee actually knows that the direction violates the terms of the trust.

Sec. 6. Section 633A.3104, Code Supplement 2005, is amended to read as follows:

633A.3104 ~~CREDITOR CLAIMS~~ CLAIMS AGAINST REVOCABLE TRUST.

1. During the lifetime of the settlor, the trust property of a revocable trust is subject to the ~~claims~~ debts of the ~~settlor's creditors~~ settlor to the extent of the settlor's power of revocation.
2. Following the death of a settlor, the property of a revocable trust ~~subject to the settlor's power of revocation at the time of death~~ is subject to the ~~claims~~ debts of the ~~settlor's creditors~~ settlor and ~~costs of administration~~ charges of the settlor's estate to the extent of the value of

the property over which the settlor had a power of revocation, if the settlor's estate is inadequate to satisfy those ~~claims~~ debts and ~~costs~~ charges.

3. If a revocable trust becomes subject to the debts of a settlor and the charges of the settlor's estate pursuant to this section, 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 and paid in the order listed therein to the extent the settlor's estate is inadequate to satisfy the listed debts and charges.

Sec. 7. Section 633A.3105, subsection 2, Code Supplement 2005, is amended to read as follows:

2. Property in trust subject to a presently exercisable general power of appointment is chargeable with the ~~claims~~ debts of the ~~holder's creditors~~ holder and ~~costs of administration~~ charges of the holder's estate to the same extent as if the holder was a settlor and the power of appointment was a power of revocation.

Sec. 8. Section 633A.3109, Code Supplement 2005, is amended to read as follows:

633A.3109 NOTICE TO CREDITORS, CLAIMANTS, HEIRS, SPOUSE, AND BENEFICIARIES.

1. As used in this section, "heir" means only such person ~~as~~ who would, in an intestate estate, be entitled to a share under section 633.219.

2. ~~A creditor of a deceased settlor of a revocable trust must bring suit to enforce its claim against the assets of the decedent's trust within one year of the decedent's death or be forever barred from collection against the trust assets.~~ If the notice provided for in subsection 3 has not been published and if a probate administration is commenced for the decedent within one year of the decedent's date of death and notice is properly given pursuant to section 633.230 or 633.304, a creditor's rights shall be determined under those sections and section 633A.3104.

3. ~~If no notice is given to creditors and heirs pursuant to subsection 2, a creditor's rights may~~ Except as provided in subsections 2 and 4, the rights of creditors against assets of the trust and those of heirs to contest the trust shall be established or terminated ~~if~~ by the trustee ~~gives~~ giving notice as follows:

a. The trustee shall publish a notice once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the decedent was a resident at the time of death, and in any county of which the decedent was a nonresident but in which some real estate of the trust is located. If the decedent was not a resident of Iowa, but the principal place of administration is in Iowa, the trustee shall publish notice in the county that is the principal place of administration pursuant to section 633A.6102.

b. ~~If at any time during the pendency of the trust administration the trustee has knowledge of the name and address of a person believed to own or possess a claim which will not, or may not, be paid or otherwise satisfied during administration, the trustee shall provide a notice by ordinary mail to each such claimant at the claimant's last known address.~~ As soon as practicable, the trustee shall give notice by ordinary mail to the surviving spouse, the heirs of the decedent, and each beneficiary under the trust whose identities are reasonably ascertainable, at such person's last known address.

c. ~~As soon as practicable, the trustee shall give a notice by ordinary mail to the surviving spouse, the heirs of the decedent, and each beneficiary under the trust whose identities are reasonably ascertainable, at such persons' last known addresses.~~ If at any time during the pendency of the trust administration the trustee has knowledge of the name and address of a person believed to own or possess a claim which will not, or may not, be paid or otherwise satisfied during administration, the trustee shall provide a notice by ordinary mail to each such creditor at the creditor's last known address stating the decedent settlor's date of death and that the claim shall be forever barred unless proof of the creditor's claim is mailed to the trustee by certified mail, return receipt requested, within the later to occur of sixty days from the second publication of notice or thirty days from the date of mailing of the notice.

d. The notice in paragraphs "a", and "b", ~~and "c"~~ shall include notification of the decedent's death, and the fact that any action to contest the validity of the trust must be brought within the later to occur of sixty days from the date of the second publication of the notice made pursuant to paragraph "a" or thirty days from the date of mailing of the notice pursuant to paragraph "b" ~~or "c"~~ and that any claim against the trust assets will be forever barred unless proof of a creditor's claim is mailed to the trustee by certified mail, return receipt requested, within the later to occur of sixty days from the second publication of notice or thirty days from the date of mailing the notice, if required. A person who does not make a claim within the appropriate period is forever barred.

~~e. The trustee shall give notice to debtors to make payment, and to creditors having claims against the trust assets to mail proof of their claim to the trustee via certified mail, return receipt requested, within the later to occur of sixty days from the second publication of the notice or thirty days from the date of mailing of the notice, or thereafter be forever barred.~~

4. If notice has not been published or given as provided in subsection 2 or 3, a claimant of a deceased settlor of a revocable trust must bring suit to enforce its claim against the assets of the decedent's trust within one year of the decedent's death or be forever barred from collecting against the trust assets unless the trustee has failed to comply with subsection 3, paragraph "c". The one-year limitation period shall not be extended by the commencement of probate administration for the settlor more than one year following the settlor's death.

~~4.~~ 5. The notice described in subsection 3 shall be substantially in the following form:

To all persons regarding . . . . . , deceased, who died on or about . . . . . , (year) . . . . You are hereby notified that . . . . . is the trustee of the . . . . . Trust. At this time, no probate administration is contemplated with regard to the above-referenced decedent's estate.

Any action to contest the validity of the trust must be brought in the District Court of . . . . County, Iowa, within the later to occur of sixty days from the date of second publication of this notice, or thirty days from the date of mailing this notice to all heirs of the decedent, spouse of the decedent, and beneficiaries under the trust whose identities are reasonably ascertainable. Any ~~claim~~ suit not filed within this period shall be forever barred.

Notice is further given that ~~all persons indebted to the decedent or to the trust are requested to make immediate payment to the undersigned trustee. Creditors having claims~~ any person or entity possessing a claim against the trust must mail ~~them~~ proof of the claim to the trustee at the address listed below via certified mail, return receipt requested~~. Unless creditor claims are mailed~~ by the later to occur of sixty days from the second publication of this notice or thirty days from the date of mailing this notice~~, a~~ if required, or the claim shall be forever barred, unless ~~otherwise allowed or~~ paid or otherwise satisfied.

Dated this . . . . day of . . . . . , (year) . . . . .

. . . . . Trust

. . . . . .

Trustee

Address: . . . . . .

. . . . . .

Date of second publication . . . . day of . . . . . ,

(year) . . . . .

6. The proof of claim must be in writing stating the party's name and address and describing the nature and amount of the claim, if ascertainable, and accompanied by an affidavit of the party or a representative of the party verifying the amount that is due, or when the amount will become due, that no payments have been made on the claim that are not credited, and that no offsets to the claim exist.

7. At any time after receipt by the trustee of a proof of claim, the trustee may give the party submitting the claim a written notice of disallowance of the claim. The notice shall be given by certified mail, return receipt requested, addressed to the party at the address stated in the claim, and to the attorney of record of the party submitting the claim. Such notice of disallowance shall advise the party submitting the claim that the claim has been disallowed and will be forever barred unless suit is filed against the trustee to enforce the claim within thirty days

of the date of the mailing of the notice of disallowance. If suit is filed, the provisions in chapter 633 relating to actions to enforce a claim shall apply with the trust and trustee substituted for the estate and personal representative.

~~5.~~ 8. ~~The claimant either must receive satisfaction of its claim, or must file suit against the trust to enforce collection of the creditor's claim within sixty days of mailing its claim to the trustee.~~ The trustee and creditor may agree to extend the limitations period for filing an action to enforce the claim. If the ~~claimant~~ creditor fails to properly file its claim within the established time period or bring an action to enforce its claim within the established time period, the creditor's claim shall be forever barred.

Sec. 9. Section 633A.3111, Code Supplement 2005, is amended to read as follows:

633A.3111 TRUSTEE'S LIABILITY FOR DISTRIBUTIONS.

1. A trustee who distributes trust assets without making adequate provisions for the payment of ~~creditor claims~~ debts and charges that are known or reasonably ascertainable at the time of the distribution shall be jointly and severally liable with the beneficiaries to the extent of the distributions made.

2. A trustee shall be entitled to indemnification from the beneficiaries for all amounts paid ~~to creditors~~ for debts and charges under this section, to the extent of distributions made.

Sec. 10. Section 633A.3112, Code Supplement 2005, is amended by striking the section and inserting in lieu thereof the following:

633A.3112 DEFINITIONS — REVOCABLE TRUSTS.

As used in this subchapter:

1. "Charges" includes costs of administration, funeral expenses, costs of monuments, and federal and state estate taxes.

2. "Claimant" includes any interested party who possesses any legal claim to trust property, the settlor's spouse, the settlor's heirs as defined in section 633A.3109, and any other person or entity with standing to challenge the trust, a creditor of the settlor, and a personal representative of the settlor's estate.

3. "Debts" includes liabilities of the settlor owed at death that survive the settlor's death, whether arising in contract, tort, or otherwise.

Sec. 11. Section 633A.4207, subsection 2, Code Supplement 2005, is amended to read as follows:

2. If the terms of the trust confer upon a person other than the settlor of a revocable trust power to direct certain actions of the trustee, the trustee shall act in accordance with an exercise of the power unless the trustee knows the attempted exercise violates the terms of the trust or the trustee knows that the person holding the power is ~~incompetent~~ not competent.

Sec. 12. Section 633A.4213, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

A trustee of an irrevocable trust shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and the material facts necessary to protect the beneficiaries' interests.

Sec. 13. Section 633A.4213, subsections 3 and 4, Code Supplement 2005, are amended to read as follows:

3. ~~A~~ Except as provided in subsection 4, a trustee ~~of an irrevocable trust~~ shall provide annually to each adult beneficiary and the representative of any minor or incompetent beneficiary who may receive a distribution of income or principal during the accounting time period, an accounting, unless an accounting has been waived specifically for that accounting time period.

4. ~~This section does not apply to any trust where the grantor~~ If a settlor has retained the right~~, or has transferred the right,~~ to change the beneficiaries of the trust or if a party is the holder of a presently exercisable general power of appointment, the trustee shall only be required to report to the settlor or the party.

Sec. 14. NEW SECTION. 633A.4707 PERSON CAUSING DEATH.

A person who intentionally and unjustifiably causes or procures the death of another shall not receive any property, benefit, or other interest as a beneficiary of a trust by reason of such death. Any property, benefit, or other interest that such person would have received because of such death shall be distributed as if the person causing the death died before the person whose death was intentionally and unjustifiably caused or procured.

Sec. 15. Section 633A.6301, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A settlor shall not represent and bind a beneficiary under this trust code with respect to the termination or modification of a trust pursuant to section 633A.2202 or 633A.2203.

Sec. 16. APPLICABILITY DATES.

1. The section of this Act amending section 633A.3109 shall apply to trusts of settlors who die on or after July 1, 2006.
2. The sections of this Act amending section 633A.4213 shall apply to trust accounting periods ending on or after July 1, 2006.
3. The section of this Act creating section 633A.4707 shall apply to property, benefit, or other trust interests distributed on or after July 1, 2006.
4. The section of this Act amending section 633A.6301 shall apply to trust terminations or modifications completed on or after July 1, 2006.

Approved April 26, 2006

CHAPTER 1105

STATE MEDICAL EXAMINER — FEES

H.F. 2768

AN ACT authorizing the state medical examiner to collect and retain fees for medical examiner facility expenses and services related to tissue recovery and making an appropriation.

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

Section 1. Section 691.6, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. To collect and retain fees for medical examiner facility expenses and services related to tissue recovery. Fees collected and retained under this subsection are appropriated to the state medical examiner for purposes of supporting the state medical examiner's office and shall not be transferred, used, obligated, or otherwise encumbered. Notwithstanding section 8.33, any fees collected by the state medical examiner shall not revert to the general fund of the state or any other fund.

Approved April 26, 2006

CHAPTER 1106

INJURED VETERANS GRANT PROGRAM

S.F. 2312

AN ACT providing grants on behalf of veterans seriously injured in a combat zone, providing income tax exclusions, and including an effective date and retroactive applicability provision.

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

Section 1. NEW SECTION. 35A.14 INJURED VETERANS GRANT PROGRAM.

1. For the purposes of this section, "veteran" 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 on active duty at any time after September 11, 2001, and, if discharged, was discharged under honorable conditions.

2. An injured veterans grant program is created under the control of the department for the purpose of providing grants to eligible injured veterans. Providing grants to eligible injured veterans pursuant to this section is deemed to serve a vital and valid public purpose of the state by assisting injured veterans and their families.

3. The department may receive and accept donations, grants, gifts, and contributions from any public or private source for the purpose of providing grants under this section. Moneys received by the department pursuant to this subsection shall be deposited in an injured veterans trust fund which shall be created in the state treasury under the control of the department. Moneys credited to the trust fund shall be[1] appropriated to the department for the purpose of providing injured veterans grants under this section and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except as provided in this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the trust fund shall be credited to the trust fund.

4. Moneys appropriated to or received by the department for providing injured veterans grants under this section may be expended for grants of up to ten thousand dollars to a seriously injured veteran to provide financial assistance to the veteran so that family members of the veteran may be with the veteran during the veteran's recovery from an injury received in the line of duty in a combat zone or in a zone where the veteran was receiving hazardous duty pay after September 11, 2001.

5. The department shall adopt rules governing the distribution of grants under this section in accordance with the following:

a. Grants shall be paid in increments of two thousand five hundred dollars, up to a maximum of ten thousand dollars upon proof that the veteran has been evacuated from the operational theater in which the veteran was injured to a military hospital for an injury received in the line of duty and shall continue to be paid, at thirty-day intervals, up to the maximum amount, so long as the veteran is hospitalized or receiving medical care or rehabilitation services authorized by the military and the presence or assistance of family members is necessary.

b. Proof of continued medical care or rehabilitation services may include any reasonably reliable documentation showing that the veteran is receiving continued medical or rehabilitative care as a result of qualifying injuries. Proof that the injury occurred in the line of duty shall be made based upon the circumstances of the injury known at the time of evacuation from the combat zone or zone in which the veteran was receiving hazardous duty pay.

c. Grants for veterans injured after September 11, 2001, but prior to the effective date of this Act shall be payable, upon a showing that the veteran would have been eligible for payment had the injury occurred on or after the effective date of this Act.

---

[1] See chapter 1185, §115 herein

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

NEW SUBSECTION. 45. Subtract, to the extent included, the amount of any grant provided pursuant to the injured veterans grant program pursuant to section 35A.14.

NEW SUBSECTION. 46. Subtract, to the extent not otherwise deducted in computing adjusted gross income, the amounts paid by the taxpayer to the department of veterans affairs for the purpose of providing grants under the injured veterans grant program established in section 35A.14. Amounts subtracted under this subsection shall not be used by the taxpayer in computing the amount of charitable contributions as defined by section 170 of the Internal Revenue Code.

Sec. 3. 2005 Iowa Acts, chapter 175, section 4, subsection 3, as enacted by 2006 Iowa Acts, House File 2080[2], section 3, is amended to read as follows:

3. ~~VETERANS APPRECIATION~~ INJURED VETERANS GRANT PROGRAM

For implementation of a new ~~veterans appreciation~~ injured veterans grant program, contingent upon enactment of law by the Eighty-first General Assembly, 2006 Session, codifying the new program requirements in chapter 35A, for providing ~~hardship~~ grants to military veterans seriously injured in a combat zone since September 11, 2001:

. . . . . $ 1,000,000

If the general assembly enacts law codifying a new fund or other requirements for the new program for which the appropriation is made in this subsection, then 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. However, if the general assembly does not enact such law, the appropriation made in this subsection shall revert as provided in section 8.33.

Sec. 4. EFFECTIVE DATE — RETROACTIVE APPLICABILITY.

1. The section of this Act creating section 35A.14, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to veterans seriously injured after September 11, 2001, and is applicable on and after that date.

2. The section of this Act amending section 422.7, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2006, and is applicable for tax years beginning on and after that date.

Approved May 8, 2006

[2] Chapter 1167 herein

CHAPTER 1107

VETERANS COMMEMORATIVE PROPERTY

S.F. 2333

AN ACT relating to the transfer of veterans commemorative property placed in a cemetery, recodifying a provision regarding veteran markers, and providing a penalty.

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

Section 1. Section 35A.5, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 11. Authorize the sale, trade, or transfer of veterans commemorative property pursuant to chapter 37A.

Sec. 2. NEW SECTION. 37A.1 VETERANS COMMEMORATIVE PROPERTY.

1. For purposes of this chapter, unless the context otherwise requires:

a. "Cemetery" means as defined in section 523I.102, but includes pioneer cemeteries. "Cemetery" does not include religious cemeteries as defined in section 523I.102 that commenced business prior to July 1, 2005.

b. "Department" means the Iowa department of veterans affairs.

c. "Veteran" means a deceased person who served in the armed forces of the United States during a war in which the United States was engaged or served full-time in active duty in a force of an organized state militia, excluding service in the national guard when in an inactive status.

d. "Veterans commemorative property" means any memorial as defined in section 523I.102, including a headstone, plaque, statue, urn, decoration, flag holder, badge, shield, item of memorabilia, or other embellishment, that meets all of the following criteria:

(1) Is over seventy-five years old.

(2) Identifies or commemorates any veteran or group of veterans, including any veterans organization or any military unit, company, battalion, or division.

(3) Has been placed in a cemetery.

e. "Veterans organization" means the grand army of the republic, sons of union veterans of the civil war, sons of confederate veterans, veterans of foreign wars, disabled American veterans, united Spanish war veterans, the Jewish war veterans of the United States, inc., the catholic war veterans, inc., American legion, American veterans of World War II, Italian American war veterans of the United States, inc., or other corporation or association of veterans.

2. A person who owns or controls a cemetery where any veterans commemorative property has been placed shall not sell, trade, or transfer any part of such veterans commemorative property unless the department authorizes the person to do so. The department may authorize the sale, trade, or transfer based upon the following criteria:

a. The veterans commemorative property is at reasonable risk of physically deteriorating so that it will become unrecognizable as identifying or commemorating the veteran or group of veterans originally identified or commemorated.

b. The veterans commemorative property is proposed to be sold, traded, or transferred to a suitable person that will preserve the current condition of the veterans commemorative property and place it in a suitable place that will commemorate the veteran or group of veterans.

c. The person needs to sell, trade, or transfer the veterans commemorative property to ensure that sufficient funds are available to suitably maintain the cemetery where the veterans commemorative property is placed, and the specific lot, plot, grave, burial place, niche, crypt, or other place of interment of such veteran or group of veterans.

d. The veterans commemorative property that is to be sold, traded, or transferred will be replaced at its original site by a fitting replacement commemorative property, monument, or marker that appropriately identifies and commemorates the veteran or group of veterans.

e. If the person reasonably believes that the veterans commemorative property to be sold, traded, or transferred was donated by a veterans organization, the veterans organization consents to the sale, trade, or transfer of the veterans commemorative property.

f. If the person is not the owner of the veterans commemorative property that is to be sold, traded, or transferred, the person is authorized by the owner of such veterans commemorative property, or by operation of law other than this section, to sell, trade, or transfer the veterans commemorative property and to retain and use the proceeds of the sale, trade, or transfer.

3. A person who engages in the sale, trade, or transfer of veterans commemorative property without the authorization of the department pursuant to this section is guilty of a simple misdemeanor.

4. The department may adopt rules in accordance with chapter 17A to administer this chapter.

Sec. 3. CODE EDITOR DIRECTIVE. The Code editor is directed to transfer section 714.7A regarding theft of a veteran's grave marker to chapter 35B as section 35B.16A.

Approved May 8, 2006

CHAPTER 1108

VETERANS LIFETIME FISHING AND HUNTING LICENSES

H.F. 2244

AN ACT relating to hunting and fishing licenses for certain veterans.

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

Section 1. Section 483A.24, subsection 13, Code Supplement 2005, is amended to read as follows:

13. Upon payment of the fee of ~~thirty~~ five dollars for a lifetime fishing license or lifetime hunting and fishing combined license, the department shall issue a lifetime fishing license or lifetime hunting and fishing combined license to a resident of Iowa who is a veteran, as defined in section 35.1, or 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 lifetime fishing license or lifetime hunting and fishing combined license under this subsection. The 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.

Approved May 8, 2006

CHAPTER 1109

VETERANS BENEFITS — HEALTH CARE FACILITIES

H.F. 2363

AN ACT relating to the process utilized in assessing residents of health care facilities for veterans program benefits.

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

Section 1. Section 135C.31A, Code Supplement 2005, is amended to read as follows:

135C.31A ASSESSMENT OF RESIDENTS — PROGRAM ELIGIBILITY.

~~Beginning July 1, 2003, a~~ A health care facility receiving reimbursement through the medical assistance program under chapter 249A shall assist the Iowa department of veterans affairs in identifying, upon admission of a resident, the resident's eligibility for benefits through the ~~federal~~ United States department of veterans affairs. ~~The health care facility shall also assist the Iowa 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~~ United States 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. The rules shall also require the health care facility to request information from a resident or resident's personal representative regarding the resident's veteran status and to report to the Iowa department of veterans affairs only the names of residents identified as potential veterans along with the names of their spouses and any dependents. Information reported by the health care facility shall be verified by the Iowa department of veterans affairs. 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.

Approved May 8, 2006

CHAPTER 1110

VETERANS TRUST FUND — FUNDING

H.F. 2708

AN ACT concerning the veterans trust fund by providing for the minimum balance necessary in order to expend funds from the veterans trust fund, providing an individual income tax checkoff for the fund, and providing for an annual report concerning the fund, and including a retroactive applicability provision.

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

Section 1. Section 35A.13, subsection 5, Code 2005, is amended to read as follows:

5. The minimum balance of the trust fund required prior to expenditure of moneys from the trust fund is fifty million dollars. However, for the fiscal period beginning July 1, 2006, and ending June 30, 2009, the minimum balance of the trust fund required prior to expenditure of

moneys from the trust fund is five million dollars. Once the minimum balance is reached, the interest and earnings on the fund and any moneys received under subsection 3, paragraph "a", are appropriated to the commission to be used to achieve the purposes of this section.

Sec. 2. Section 35A.13, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The commission shall submit an annual report to the general assembly by January 15 of each year concerning the veterans trust fund created by this section. The annual report shall include financial information concerning the moneys in the trust fund and shall also include information on the number, amount, and type of expenditures, if any, from the fund during the prior calendar year for the purposes described in subsection 6.

Sec. 3. NEW SECTION. 422.12G INCOME TAX CHECKOFF FOR VETERANS TRUST FUND.

1. A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate one dollar or more to be credited to the veterans trust fund created in section 35A.13. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the veterans trust fund, the amount designated shall be reduced to the remaining amount of the refund or the remaining amount remitted with the return. The designation of a contribution to the veterans trust fund under this section is irrevocable.

2. The director of revenue shall draft the income tax form to allow the designation of contributions to the veterans trust fund on the tax return. The department of revenue, on or before January 31, shall transfer the total amount designated on the tax return forms due in the preceding calendar year to the veterans trust fund created in section 35A.13. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of revenue and accounts identified as owing under section 421.17 and the political contribution allowed under section 68A.601 shall be satisfied.

3. The department of revenue shall adopt rules to administer this section.

4. This section is subject to repeal under section 422.12E.

Sec. 4. IMPLEMENTATION. The checkoff created in this Act shall be eligible for placement on the individual income tax return form beginning for the tax year commencing January 1, 2006.

Sec. 5. RETROACTIVE APPLICABILITY. The section of this Act enacting section 422.12G applies retroactively to the tax year commencing January 1, 2006.

Approved May 8, 2006

CHAPTER 1111

MILITARY SERVICE TAX CREDIT

H.F. 2751

AN ACT relating to eligibility for the military service property tax credit and exemption and including effective and applicability date provisions.

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

Section 1. Section 426A.11, subsection 4, Code Supplement 2005, is amended to read as follows:

4. 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~~ eighteen months and who was discharged under honorable conditions. However, "veteran" also means a resident of this state who is a former member of the armed forces of the United States and who, after serving fewer than eighteen months, was honorably discharged because of a service-related injury sustained by the veteran.

Sec. 2. 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. 3. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and applies to military service tax exemptions and credits for taxes due and payable for fiscal years beginning on or after July 1, 2006.

Approved May 8, 2006

CHAPTER 1112

INCOME TAXATION OF ELDERLY PERSONS

S.F. 2408

AN ACT relating to elderly income tax relief by providing for an elderly taxpayer income tax exclusion and the phasing out of the income tax on social security benefits and including effective and applicability date provisions.

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

Section 1. Section 422.5, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. However, the tax shall not be imposed on a resident or nonresident who is at least sixty-five years old on December 31 of the tax year and whose net income, as defined in section 422.7, is twenty-four thousand dollars or less in the case of married persons filing jointly or filing separately on a combined return, unmarried heads of household, and surviving spouses or eighteen thousand dollars or less in the case of all other persons; but in the event that the payment of tax under this division would reduce the net income to less than twenty-four thousand dollars or eighteen thousand dollars as applicable, then the tax

shall be reduced to that amount which would result in allowing the taxpayer to retain a net income of twenty-four thousand dollars or eighteen thousand dollars as applicable. The preceding sentence does not apply to estates or trusts. For the purpose of this subsection, the entire net income, including any part of the net income not allocated to Iowa, shall be taken into account. For purposes of this subsection, net income includes all amounts of pensions or other retirement income received from any source which is not taxable under this division as a result of the government pension exclusions in section 422.7, or any other state law. If the combined net income of a husband and wife exceeds twenty-four thousand dollars, neither of them shall receive the benefit of this subsection, and it is immaterial whether they file a joint return or separate returns. However, if a husband and wife file separate returns and have a combined net income of twenty-four thousand dollars or less, neither spouse shall receive the benefit of this paragraph, if one spouse has a net operating loss and elects to carry back or carry forward the loss as provided in section 422.9, subsection 3. A person who is claimed as a dependent by another person as defined in section 422.12 shall not receive the benefit of this subsection if the person claiming the dependent has net income exceeding twenty-four thousand dollars or eighteen thousand dollars as applicable or the person claiming the dependent and the person's spouse have combined net income exceeding twenty-four thousand dollars or eighteen thousand dollars as applicable.

In addition, if the married persons', filing jointly or filing separately on a combined return, unmarried head of household's, or surviving spouse's net income exceeds twenty-four thousand dollars, the regular tax imposed under this division shall be the lesser of the maximum state individual income tax rate times the portion of the net income in excess of twenty-four thousand dollars or the regular tax liability computed without regard to this sentence. Taxpayers electing to file separately shall compute the alternate tax described in this paragraph using the total net income of the husband and wife. The alternate tax described in this paragraph does not apply if one spouse elects to carry back or carry forward the loss as provided in section 422.9, subsection 3.

This subsection applies even though one spouse has not attained the age of sixty-five, if the other spouse is at least sixty-five at the end of the tax year.

This subsection is repealed January 1, 2009.

Sec. 2. Section 422.5, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 2B. However, the tax shall not be imposed on a resident or nonresident who is at least sixty-five years old on December 31 of the tax year and whose net income, as defined in section 422.7, is thirty-two thousand dollars or less in the case of married persons filing jointly or filing separately on a combined return, unmarried heads of household, and surviving spouses or twenty-four thousand dollars or less in the case of all other persons; but in the event that the payment of tax under this division would reduce the net income to less than thirty-two thousand dollars or twenty-four thousand dollars as applicable, then the tax shall be reduced to that amount which would result in allowing the taxpayer to retain a net income of thirty-two thousand dollars or twenty-four thousand dollars as applicable. The preceding sentence does not apply to estates or trusts. For the purpose of this subsection, the entire net income, including any part of the net income not allocated to Iowa, shall be taken into account. For purposes of this subsection, net income includes all amounts of pensions or other retirement income received from any source which is not taxable under this division as a result of the government pension exclusions in section 422.7, or any other state law. If the combined net income of a husband and wife exceeds thirty-two thousand dollars, neither of them shall receive the benefit of this subsection, and it is immaterial whether they file a joint return or separate returns. However, if a husband and wife file separate returns and have a combined net income of thirty-two thousand dollars or less, neither spouse shall receive the benefit of this paragraph, if one spouse has a net operating loss and elects to carry back or carry forward the loss as provided in section 422.9, subsection 3. A person who is claimed as a dependent by another person as defined in section 422.12 shall not receive the benefit of this subsection if the person claiming the dependent has net income exceeding thirty-two thousand dollars or

twenty-four thousand dollars as applicable or the person claiming the dependent and the person's spouse have combined net income exceeding thirty-two thousand dollars or twenty-four thousand dollars as applicable.

In addition, if the married persons', filing jointly or filing separately on a combined return, unmarried head of household's, or surviving spouse's net income exceeds thirty-two thousand dollars, the regular tax imposed under this division shall be the lesser of the maximum state individual income tax rate times the portion of the net income in excess of thirty-two thousand dollars or the regular tax liability computed without regard to this sentence. Taxpayers electing to file separately shall compute the alternate tax described in this paragraph using the total net income of the husband and wife. The alternate tax described in this paragraph does not apply if one spouse elects to carry back or carry forward the loss as provided in section 422.9, subsection 3.

This subsection applies even though one spouse has not attained the age of sixty-five, if the other spouse is at least sixty-five at the end of the tax year.

Sec. 3. Section 422.5, subsection 7, Code 2005, is amended to read as follows:

7. In addition to the other taxes imposed by this section, a tax is imposed on the amount of a lump sum distribution for which the taxpayer has elected under section 402(e) of the Internal Revenue Code to be separately taxed for federal income tax purposes for the tax year. The rate of tax is equal to twenty-five percent of the separate federal tax imposed on the amount of the lump sum distribution. A nonresident is liable for this tax only on that portion of the lump sum distribution allocable to Iowa. The total amount of the lump sum distribution subject to separate federal tax shall be included in net income for purposes of determining eligibility under ~~the thirteen thousand five hundred dollar or less or nine thousand dollar or less exclusion, as applicable~~ subsections 2 and 2A or 2B, as applicable.

Sec. 4. Section 422.7, subsection 13, Code Supplement 2005, is amended to read as follows:

13. a. Subtract, to the extent included, the amount of additional social security benefits taxable under the Internal Revenue Code for tax years beginning on or after January 1, 1994, but before January 1, 2014. The amount of social security benefits taxable as provided in section 86 of the Internal Revenue Code, as amended up to and including January 1, 1993, continues to apply for state income tax purposes for tax years beginning on or after January 1, 1994, but before January 1, 2014.

b. (1) For tax years beginning in the 2007 calendar year, subtract, to the extent included, thirty-two percent of taxable social security benefits remaining after the subtraction in paragraph "a".

(2) For tax years beginning in the 2008 calendar year, subtract, to the extent included, thirty-two percent of taxable social security benefits remaining after the subtraction in paragraph "a".

(3) For tax years beginning in the 2009 calendar year, subtract, to the extent included, forty-three percent of taxable social security benefits remaining after the subtraction in paragraph "a".

(4) For tax years beginning in the 2010 calendar year, subtract, to the extent included, fifty-five percent of taxable social security benefits remaining after the subtraction in paragraph "a".

(5) For tax years beginning in the 2011 calendar year, subtract, to the extent included, sixty-seven percent of taxable social security benefits remaining after the subtraction in paragraph "a".

(6) For tax years beginning in the 2012 calendar year, subtract, to the extent included, seventy-seven percent of taxable social security benefits remaining after the subtraction in paragraph "a".

(7) For tax years beginning in the 2013 calendar year, subtract, to the extent included, eighty-nine percent of taxable social security benefits remaining after the subtraction in paragraph "a".

c. Married taxpayers, who file a joint federal income tax return and who elect to file separate returns or who elect separate filing on a combined return for state income tax purposes, shall allocate between the spouses the amount of benefits subtracted under paragraphs "a" and "b" from net income in the ratio of the social security benefits received by each spouse to the total of these benefits received by both spouses.

d. For tax years beginning on or after January 1, 2014, subtract, to the extent included, the amount of social security benefits taxable under section 86 of the Internal Revenue Code.

Sec. 5. EFFECTIVE AND APPLICABILITY DATE PROVISIONS.

1. The section of this Act enacting section 422.5, subsection 2A, takes effect January 1, 2007, and applies to tax years beginning on or after January 1, 2007, but before January 1, 2009.

2. The section of this Act enacting section 422.5, subsection 2B, takes effect January 1, 2009, for tax years beginning on or after that date.

3. The section of this Act amending section 422.5, subsection 7, takes effect January 1, 2007, for tax years beginning on or after that date.

4. The section of this Act amending section 422.7, subsection 13, takes effect January 1, 2007, for tax years beginning on or after that date.

Approved May 22, 2006

CHAPTER 1113

MEDICAL ASSISTANCE PROGRAM — PERSONAL NEEDS ALLOWANCE

H.F. 2319

AN ACT relating to the personal needs allowance amount for residents of nursing facilities under the medical assistance program.

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

Section 1. NEW SECTION. 249A.30A MEDICAL ASSISTANCE — PERSONAL NEEDS ALLOWANCE.

The personal needs allowance under the medical assistance program, which may be retained by a resident of a nursing facility as defined in section 135C.1, shall be fifty dollars per month.

Approved May 22, 2006

CHAPTER 1114

BRAIN INJURY SERVICES PROGRAM

H.F. 2772

AN ACT creating a brain injury services program and providing for allocation of a previously enacted appropriation.

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

Section 1. NEW SECTION. 135.22B BRAIN INJURY SERVICES PROGRAM.

1. DEFINITIONS. For the purposes of this section:

a. "Brain injury services waiver" means the state's medical assistance home and community-based services waiver for persons with brain injury implemented under chapter 249A.

b. "Program administrator" means the division of the department designated to administer the brain injury services program in accordance with subsection 2.

2. PROGRAM CREATED.

a. A brain injury services program is created and shall be administered by a division of the Iowa department of public health in cooperation with counties and the department of human services.

b. The division of the department assigned to administer the advisory council on brain injuries under section 135.22A shall be the program administrator. The division duties shall include but are not limited to serving as the fiscal agent and contract administrator for the program and providing program oversight.

c. The division shall consult with the advisory council on brain injuries, established pursuant to section 135.22A, regarding the program and shall report to the council concerning the program at least quarterly. The council shall make recommendations to the department concerning the program's operation.

3. PURPOSE. The purpose of the brain injury services program is to provide services, service funding, or other support for persons with a brain injury under one of the program components established pursuant to this section.

4. GENERAL REQUIREMENTS — WAIVER ELIGIBLE COMPONENT.

a. The component of the brain injury services program for persons eligible for the brain injury services waiver is subject to the requirements provided in this subsection.

b. If a person is eligible for the brain injury services waiver and is on the waiting list for the waiver but the appropriation for the medical assistance program does not have sufficient funding designated to pay the nonfederal share of the costs to remove the person from the waiting list, the brain injury services program may provide the funding for the nonfederal share of the costs in order for the person to be removed from the waiting list and receive services under the waiver.

c. A person who receives support under the waiver eligible component is not eligible to receive support under the cost-share component of the program.

d. Provision of funding under the waiver eligible component is not an entitlement. Subject to the department of human services requirements for the brain injury services waiver waiting list, the program administrator shall make the final determination whether funding will be authorized under this component.

5. GENERAL REQUIREMENTS — COST-SHARE COMPONENT. The cost-share component of the brain injury services program shall be directed to persons who have been determined to be ineligible for the brain injury services waiver or persons who are eligible for the waiver but funding was not authorized or available to provide waiver eligibility for the persons under the waiver eligible component. The cost-share component is subject to general requirements which shall include but are not limited to all of the following:

a. Services offered are consistent with the services offered through the brain injury services waiver.

b. Each service consumer has a service plan developed prior to service implementation and the service plan is reviewed and updated at least quarterly.

c. All other funding sources for which the service consumer is eligible are utilized to the greatest extent possible. The funding sources potentially available include but are not limited to community resources and public and private benefit programs.

d. The maximum monthly cost of the services provided shall be based on the maximum monthly amount authorized for the brain injury services waiver.

e. Assistance under the cost-share component shall be made available to a designated number of service consumers who are eligible, as determined from the funding available for the cost-share component, on a first-come, first-served basis.

f. Nothing in this section shall be construed or is intended as, or shall imply, a grant of entitlement to services to persons who are eligible for participation in the cost-share component based upon the eligibility provisions adopted consistent with the requirements of this section. Any obligation to provide services pursuant to this section is limited to the extent of the funds appropriated or provided for the cost-share component.

6. COST-SHARE COMPONENT ELIGIBILITY. An individual must meet all of the following requirements in order to be eligible for the cost-share component of the brain injury services program:

a. The individual is age one month through sixty-four years.

b. The individual has a diagnosed brain injury as defined in section 135.22.

c. The individual is a resident of this state and either a United States citizen or a qualified alien as defined in 8 U.S.C. § 1641.

d. The cost-share component's financial eligibility requirements shall be established in administrative rule. In establishing the requirements, the department shall consider the eligibility and cost-share requirements used for the hawk-i program under chapter 514I. The individual must meet the cost-share component's financial eligibility requirements and be willing to pay a cost-share for the cost-share component.

e. The individual does not receive services or funding under any type of medical assistance home and community-based services waiver.

7. COST-SHARE REQUIREMENTS.

a. An individual's cost-share responsibility for services under the cost-share component shall be determined on a sliding scale based upon the individual's family income. An individual's cost-share shall be assessed as a copayment, which shall not exceed thirty percent of the cost payable for the service.

b. The service provider shall bill the department for the portion of the cost payable for the service that is not covered by the individual's copayment responsibility.

8. APPLICATION PROCESS.

a. The application materials for services under both the waiver eligible and cost-share components of the brain injury services program shall use the application form and other materials of the brain injury services waiver. In order to apply for the brain injury services program, the applicant must authorize the department of human services to provide the applicant's waiver application materials to the brain injury services program. The application materials provided shall include but are not limited to the waiver application, and any denial letter, financial assessment, and functional assessment regarding the person.

b. If a functional assessment for the waiver has not been completed due to a person's financial ineligibility for the waiver, the brain injury services program may provide for a functional assessment to determine the person's needs by reimbursing the department of human services for the assessment.

c. The program administrator shall file copies of the individual's application and needs assessment with the program resource facilitator assigned to the individual's geographic area.

d. The department's program administrator shall make a final determination as to whether program funding will be authorized under the cost-share component.

9. SERVICE PROVIDERS AND REIMBURSEMENT. All of the following requirements apply to service providers and reimbursement rates payable for services under the cost-share component:

a. A service provider must either be certified to provide services under the brain injury services waiver or have a contract with a county to provide services and will become certified to provide services under such waiver within a reasonable period of time specified in rule.

b. The reimbursement rate payable for the cost of a service provided under the cost-share component is the rate payable under the medical assistance program. However, if the service provided does not have a medical assistance program reimbursement rate, the rate shall be the amount payable under the county contract.

10. RESOURCE FACILITATION. The program shall utilize resource facilitators to facilitate program services. The resource facilitator shall be available to provide ongoing support for individuals with brain injury in coping with the issues of living with a brain injury and in assisting such individuals in transitioning back to employment and living in the community. The resource facilitator is intended to provide a linkage to existing services and increase the capacity of the state's providers of services to persons with brain injury by doing all of the following:

a. Providing brain injury-specific information, support, and resources.

b. Enhancing the usage of support commonly available to an individual with brain injury from the community, family, and personal contacts and linking such individuals to appropriate services and community resources.

c. Training service providers to provide appropriate brain injury services.

d. Accessing, securing, and maximizing the private and public funding available to support an individual with a brain injury.

Sec. 2. 2005 Iowa Acts, chapter 179, section 1, subsection 2, paragraph d, is amended to read as follows:

d. For distribution to ~~counties as cost-share for county coverage of services to adult persons with~~ the Iowa department of public health for the brain injury ~~in accordance with the law enacted as a result of the provisions of 2005 Iowa Acts, House File 876, or other law providing for such coverage to commence~~ service program in the fiscal year beginning July 1, 2006, as provided in accordance with section 135.22B, if enacted by the Eighty-first General Assembly, 2006 Session:

. . . . . $ 2,426,893

The amount allocated in this paragraph "d" shall be allocated by the Iowa department of public health as follows:

(1) For state cost-share of services provided under section 135.22B:

. . . . . $ 2,092,665

(2) For contract resource facilitator services:

. . . . . $ 173,125

(3) For a sole source contract with a statewide association representing community providers of mental health, mental retardation, and brain injury services to provide, in collaboration with a statewide organization representing individuals with a brain injury and their families, brain injury training services and recruiting of service providers to increase the capacity within this state to address the needs of individuals with brain injuries and such individuals' families:

. . . . . $ 40,000

(4) For reimbursement for needs assessments performed under section 135.22B:

. . . . . $ 26,750

(5) For match of federal funding, administrative and personnel costs including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 94,353

Notwithstanding section 8.33, the appropriated moneys allocated in this paragraph "d" 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. 3. EMERGENCY RULES. The Iowa department of public health may adopt adminis-

trative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act, and the rules shall become effective immediately upon filing or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 5, and section 17A.8, subsection 9, shall be applicable to a delay imposed under this section, notwithstanding a provision in those sections making them inapplicable to section 17A.5, subsection 2, paragraph "b". Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

Approved May 23, 2006

CHAPTER 1115

MENTAL HEALTH AND DISABILITY SERVICES

H.F. 2780

AN ACT relating to persons with mental illness, mental retardation, developmental disabilities, or brain injury by addressing purposes and quality standards for services and other support available for such persons, establishing basic financial eligibility standards, addressing state and county financial responsibility for the cost of the services and other support, changing the name of a departmental division, providing for an increase in the reimbursement of certain service providers, and providing effective and applicability dates.

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

DIVISION I
PURPOSES AND QUALITY STANDARDS

Section 1. Section 125.82, subsection 3, Code 2005, as amended by 2006 Iowa Acts, Senate File 2362,[1] section 1, if enacted, and 2006 Iowa Acts, Senate File 2217,[2] section 30, if enacted, is amended to read as follows:

3. The person who filed the application and a licensed physician, ~~or qualified~~ mental health professional as defined in section ~~229.1~~ 228.1, or certified alcohol and drug counselor certified by the nongovernmental Iowa board of substance abuse certification who has examined the respondent in connection with the commitment hearing shall be present at the hearing, unless the court for good cause finds that their presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or telephonic appearance of the licensed physician, ~~or qualified~~ mental health professional, or certified alcohol and drug counselor who examined the respondent and agree to submit as evidence the written report of the licensed physician, ~~or qualified~~ mental health professional, or certified alcohol and drug counselor. The respondent's attorney shall inform the court if the respondent's attorney reasonably believes that the respondent, due to diminished capacity, cannot make an adequately considered waiver decision. "Good cause" for finding that the testimony of the licensed physician, ~~or qualified~~ mental health professional, or certified alcohol and drug counselor who ex-

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[1] Chapter 1116 herein

[2] Chapter 1159 herein

amined the respondent is not necessary may include, but is not limited to, such a waiver. If the court determines that the testimony of the licensed physician, ~~or qualified~~ mental health professional, or certified alcohol and drug counselor is necessary, the court may allow the licensed physician, ~~or qualified~~ mental health professional, or certified alcohol and drug counselor to testify by telephone. The respondent shall be present at the hearing unless prior to the hearing the respondent's attorney stipulates in writing that the attorney has conversed with the respondent, and that in the attorney's judgment the respondent cannot make a meaningful contribution to the hearing, or that the respondent has waived the right to be present, and the basis for the attorney's conclusions. A stipulation to the respondent's absence shall be reviewed by the court before the hearing, and may be rejected if it appears that insufficient grounds are stated or that the respondent's interests would not be served by the respondent's absence.

Sec. 2. Section 225C.1, Code 2005, is amended to read as follows:

225C.1 FINDINGS AND PURPOSE.

1. The general assembly finds that services to persons with mental illness, mental retardation, developmental disabilities, or brain injury are provided in many parts of the state by highly autonomous community-based service providers working cooperatively with state and county officials. However, the general assembly recognizes that heavy reliance on property tax funding for mental health and mental retardation services has ~~restricted uniform availability of this care~~ enabled many counties to exceed minimum state standards for the services resulting in an uneven level of services around the state. Consequently, greater efforts should be made to assure close coordination and continuity of care for those persons receiving publicly supported disability services in Iowa. It is the purpose of this chapter to continue and to strengthen the services to persons with disabilities now available in the state of Iowa, to make ~~these~~ disability services conveniently available to all persons in this state upon a reasonably uniform financial basis, and to assure the continued high quality of these services.

2. It is the intent of the general assembly that the service system for persons with disabilities emphasize the ability of persons with disabilities to exercise their own choices about the amounts and types of services received; that all levels of the service system seek to empower persons with disabilities to accept responsibility, exercise choices, and take risks; that disability services are individualized, provided to produce results, flexible, and cost-effective; and that disability services be provided in a manner which supports the ability of persons with disabilities to live, learn, work, and recreate in ~~natural~~ communities of their choice.

Sec. 3. Section 225C.2, subsection 6, Code 2005, is amended to read as follows:

6. "Disability services" means services ~~or~~ and other ~~assistance~~ support available to a person with mental illness, mental retardation or other developmental disability, or brain injury.

Sec. 4. Section 225C.4, subsection 1, paragraph d, Code 2005, is amended to read as follows:

d. Encourage and facilitate coordination of disability services with the objective of developing and maintaining in the state a disability service delivery system to provide disability services to all persons in this state who need the services, regardless of the place of residence or economic circumstances of those persons. The administrator shall work with the commission and other state agencies, including but not limited to the departments of corrections, education, and public health and the state board of regents to develop and implement a strategic plan to expand access to qualified mental health workers across the state.

Sec. 5. Section 225C.4, subsection 1, paragraph j, Code 2005, is amended to read as follows:

j. Establish and maintain a data collection and management information system oriented to the needs of patients, providers, the department, and other programs or facilities. The administrator shall annually submit to the commission information collected by the department indicating the changes and trends in the disability services system.

Sec. 6. Section 225C.6, subsection 1, paragraph n, Code 2005, is amended to read as follows:

n. Identify ~~basic disability services for planning purposes~~ disability services outcomes and indicators to support the ability of eligible persons with a disability to live, learn, work, and recreate in communities of the persons' choice. The identification duty includes but is not limited to responsibility for identifying, collecting, and analyzing data as necessary to issue reports on outcomes and indicators at the county and state levels.

Sec. 7. Section 225C.27, Code 2005, is amended to read as follows:

225C.27 PURPOSE.

Sections 225C.25 through 225C.28B shall be liberally construed and applied to promote their purposes and the stated rights and service quality standards. The commission, in coordination with appropriate agencies, shall adopt rules to implement the purposes of section 225C.28B, subsections 3 and 4, which include, but are not limited to, the following:

1. Promotion of the human dignity and protection of the constitutional and statutory rights of persons with mental retardation, developmental disabilities, brain injury, or chronic mental illness in the state.

2. Encouraging the development of the ability and potential of each person with mental retardation, developmental disabilities, brain injury, or chronic mental illness in the state to the fullest extent possible.

3. Encouraging activities to ensure that recipients of services shall not be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Iowa, or the Constitution of the United States solely on account of the receipt of the services.

4. Promoting access by each person in the state with mental retardation, developmental disabilities, brain injury, or chronic mental illness to effective services and other support and treatment essential for living, working, and participating fully in the community.

Sec. 8. Section 225C.28A, Code 2005, is amended to read as follows:

225C.28A SERVICE QUALITY STANDARDS.

As the state participates more fully in funding services and other support to persons with mental retardation, developmental disabilities, brain injury, or chronic mental illness, it is the intent of the general assembly that the state shall seek to attain the following quality standards in the provision of the services:

1. Provide comprehensive evaluation and diagnosis adapted to the cultural background, primary language, and ethnic origin of the person.

2. Provide an individual treatment, habilitation, and program plan.

3. Provide ~~individualized~~ treatment, habilitation, and program services that are individualized, provided to produce results, flexible, and cost-effective, as appropriate.

4. Provide periodic review of the individual plan.

5. Provide for the least restrictive environment and age-appropriate services.

6. Provide appropriate training and employment opportunities so that the person's ability to contribute to and participate in the community is maximized.

7. Provide an ongoing process to determine the degree of access to and the effectiveness of the services and other support in achieving the disability services outcomes and indicators identified by the commission pursuant to section 225C.6.

Sec. 9. Section 331.439, subsection 1, paragraph b, subparagraphs (2) and (3), Code Supplement 2005, are amended to read as follows:

(2) For informational purposes, the county shall submit a management plan review to the department of human services by ~~April~~ December 1 of each year. The annual review shall incorporate an analysis of the data associated with the services managed during the preceding fiscal year by the county or by a managed care entity on behalf of the county. The annual review shall also identify measurable outcomes and results showing the county's progress in fulfilling the purposes listed in paragraph "bb", and in achieving the disability services outcomes and indicators identified by the commission pursuant to section 225C.6.

(3) For informational purposes, every three years the county shall submit to the department of human services a three-year strategic plan. The strategic plan shall describe how the county will proceed to attain the plan's goals and objectives ~~contained in the strategic plan for the duration of the plan~~, and the measurable outcomes and results necessary for moving the county's service system toward an individualized, community-based focus in accordance with paragraph "bb". The three-year strategic plan shall be submitted by April 1, 2000, and by April 1 of every third year thereafter.

Sec. 10. Section 331.439, subsection 1, Code Supplement 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. bb. The county implements its county management plan under paragraph "b" and other service management functions in a manner that seeks to achieve all of the following purposes identified in section 225C.1 for persons who are covered by the plan or are otherwise subject to the county's service management functions:

(1) The service system seeks to empower persons to exercise their own choices about the amounts and types of services and other support received.

(2) The service system seeks to empower the persons to accept responsibility, exercise choices, and take risks.

(3) The service system seeks to provide services and other support that are individualized, provided to produce results, flexible, and cost-effective.

(4) The service system seeks to provide services and other supports in a manner which supports the ability of the persons to live, learn, work, and recreate in communities of their choice.

NEW PARAGRAPH. bbb. Commencing with the fiscal year beginning July 1, 2007, the county management plan under paragraph "bb" shall do both of the following:

(1) Describe how the county will provide services and other support that are individualized, provided to produce results, flexible, and cost-effective in accordance with paragraph "bb", subparagraph (3).

(2) Describe how the ability of the individuals covered by the plan to live, learn, work, and recreate in communities of the individuals' choice will be enhanced as provided in paragraph "bb", subparagraph (4).

Sec. 11. Section 426B.5, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. INCENTIVE POOL.

a. An incentive pool is created in the property tax relief fund. The incentive pool shall consist of the moneys credited to the incentive pool by law.

b. Moneys available in the incentive pool for a fiscal year shall be distributed to those counties that either meet or show progress toward meeting the purposes described in section 331.439, subsection 1, paragraph "bb". The moneys received by a county from the incentive pool shall be used to build community capacity to support individuals covered by the county's management plan approved under section 331.439, in meeting such purposes.

Sec. 12. APPLICABILITY DATE. The section of this division of this Act amending section 426B.5 is first applicable for allowed growth funding distributed in the fiscal year beginning July 1, 2008.

DIVISION II
FINANCIAL ELIGIBILITY

Sec. 13. Section 225C.6, subsection 1, paragraph m, Code 2005, is amended to read as follows:

m. Identify ~~model~~ basic financial eligibility ~~guidelines~~ standards for disability services. The standards shall include but are not limited to the following:

(1) A financial eligibility standard providing that a person with an income equal to or less than one hundred fifty percent of the federal poverty level, as defined by the most recently re-

vised poverty income guidelines published by the United States department of health and human services, is eligible for disability services paid with public funding. However, a county may apply a copayment requirement for a particular disability service to a person with an income equal to or less than one hundred fifty percent of the federal poverty level, provided the disability service and the copayment amount both comply with rules adopted by the commission applying uniform standards with respect to copayment requirements. A person with an income above one hundred fifty percent of the federal poverty level may be eligible subject to a copayment or other cost-sharing arrangement subject to limitations adopted in rule by the commission.

(2) A requirement that a person who is eligible for federally funded services and other support must apply for the services and support.

(3) Resource limitations that are derived from the federal supplemental security income program limitations. A person with resources above the federal supplemental security income program limitations may be eligible subject to limitations adopted in rule by the commission. If a person does not qualify for federally funded services and other support but meets income, resource, and functional eligibility requirements, the following types of resources shall be disregarded:

(a) A retirement account that is in the accumulation stage.

(b) A burial, medical savings, or assistive technology account.

Sec. 14. ALLOWED GROWTH FUNDING STUDY. A study committee shall be established by the legislative council for the 2006 legislative interim to review the formulas used for distribution of state mental health, mental retardation, and developmental disabilities services allowed growth factor funding to counties and other public funding for the services. The purposes of the review include but are not limited to examining the public sources of the funding and programming for the services and to determine whether the formulas are effective in distributing funds to counties in a manner that best serves Iowans with disabilities while enabling the state and counties to budget effectively for providing the services. The study committee shall hear testimony and provide an opportunity for discussion with counties, advocates for persons with disabilities, and other interested parties. The membership of the study committee shall include at least six members of the senate and five members of the house of representatives. In addition, the membership shall include four ex officio, nonvoting members with two representing the Iowa state association of counties, one representing the department of human services, and one representing the mental health, mental retardation, developmental disabilities, and brain injury commission. It is the intent of the general assembly that the study committee submit a report with findings and recommendations to the governor, the general assembly, and the commission on or before January 1, 2007.

DIVISION III
CENTRAL POINT OF COORDINATION PROCESS — COUNTY OF RESIDENCE RESPONSIBILITIES AND STATE CASES

Sec. 15. Section 249A.12, subsection 8, as enacted by 2006 Iowa Acts, House File 2492,[3] section 1, is amended by striking the subsection and inserting in lieu thereof the following:

8. If a person with mental retardation has no legal settlement or the legal settlement is unknown so that the person is deemed to be a state case and services associated with the mental retardation can be covered under a medical assistance home and community-based waiver or other medical assistance program provision, the nonfederal share of the medical assistance program costs for such coverage shall be paid from the appropriation made for the medical assistance program.

Sec. 16. Section 331.440, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. For the purposes of this section, unless the context otherwise requires:

[3] Chapter 1066 herein

a. "Adult person" means a person who is age eighteen or older and is a United States citizen or a qualified alien as defined in 8 U.S.C. § 1641.

b. "County of residence" means the county in this state in which, at the time an adult person applies for or receives services, the adult person is living and has established an ongoing presence with the declared, good faith intention of living for a permanent or indefinite period of time. The county of residence of an adult person who is a homeless person is the county where the homeless person usually sleeps.

c. "Homeless person" means the same as defined in section 48A.2.

d. "State case services and other support" means the mental health, mental retardation, and developmental disabilities services and other support paid for under the rules and requirements in effect prior to October 1, 2006, from the annual appropriation made to the department of human services for such services and other support provided to persons who have no established county of legal settlement or the legal settlement is unknown so that the person is deemed to be a state case. Such services and other support do not include medical assistance program services or services provided in a state institution.

Sec. 17. Section 331.440, subsection 3, Code 2005, is amended to read as follows:

3. An application for services may be made through the central point of coordination process of ~~a~~ an adult person's county of residence. ~~However, if a~~ Effective July 1, 2007, if an adult person who is subject to a central point of coordination process has legal settlement in another county, ~~or the costs of services or other support provided to the person are the financial responsibility of the state, an authorization through the central point of coordination process shall be coordinated with the person's county of legal settlement or with the state, as applicable. The county of residence and county of legal settlement of a person subject to a central point of coordination process may mutually agree that~~ the central point of coordination process functions shall be performed by the central point of coordination process of the person's county of ~~legal settlement~~ residence in accordance with the county of residence's management plan approved under section 331.439 and the person's county of legal settlement is responsible for the cost of the services or other support authorized at the rates reimbursed by the county of residence. At the time services or other support are authorized, the county of residence shall send the county of legal settlement a copy of the authorization notice.

Sec. 18. Section 331.440, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Effective October 1, 2006, if an adult person has no established county of legal settlement or the legal settlement is unknown so that the person is deemed to be a state case, the person's eligibility and the authorization for state case services and other support shall be determined by the adult person's county of residence in accordance with that county's management plan approved under section 331.439. The costs of the state case services and other support provided for the person shall be the responsibility of the person's county of legal residence. The funding appropriated to the department of human services for purposes of the state case services and other support shall be distributed as provided in the appropriation to the counties of residence responsible for the costs.

Sec. 19. EFFECTIVE DATE — COST PROJECTIONS — LEGISLATIVE INTENT.

1. a. The section of this division of this Act that amends section 331.440, subsection 3, takes effect July 1, 2007.

b. This section, being deemed of immediate importance, takes effect upon enactment, and the department shall begin implementation upon enactment.

2. a. The department of human services and counties, in consultation with the legislative services agency, shall develop a methodology for distributing the funding appropriated for the fiscal year beginning July 1, 2006, for state case services and other support, as defined in this division of this Act, to counties for county residents who receive state case services and other support, on and after October 1, 2006. The methodology shall be based upon historical usage, projected usage, and significant increases anticipated in county costs. The department and

counties shall share with one another names and necessary information concerning the individuals who have been identified by the department or counties. The methodology shall provide for quarterly distributions.

b. The base funding amount used for the distribution methodology to counties shall be 75 percent of the amount appropriated for state case services and other support plus any reversions from the previous fiscal year's appropriation, the amount transferred from block grant funding, and any other source designated by law. The base funding amount may be adjusted for relevant purposes that may include but are not limited to an adjustment to reflect the expenditure savings realized from renegotiation of the contract with the contractor providing managed care for mental health services made pursuant to this division of this Act.

c. Prior to September 1, 2006, the department shall meet with each county to analyze the actual numbers of individuals who are eligible for state case services and other support and who as county residents will be the financial and management responsibility of the county effective October 1, 2006, the historical costs of state case services and other support provided to such individuals by the department, the projected increase in cost of providing state case services and other support to such individuals in accordance with the county management plan, and the projected cost to provide state case services and other support at county reimbursement rates in lieu of the capped reimbursement rates paid by the state. The purpose of the analysis is for the department, in consultation with each county, to determine by September 1, 2006, an amount needed for the county to fund state case services and other support for county residents for the period beginning October 1, 2006, and ending June 30, 2007. If a county disputes the department's determination of the amount needed by the county, the county may appeal the determination to the director of human services. The county shall file the appeal within 30 days of the issuance date of the determination. The director's decision shall be considered to be a final agency decision and may be appealed as provided in chapter 17A. While an appeal is pending, the department shall provide funding to the county for state cases in the amount determined by the department, subject to later adjustment based upon the outcome of the appeal.

d. If the aggregate of the amounts determined for each county, as provided in paragraph "c", exceeds the base funding amount determined under paragraph "b", notwithstanding section 331.440, subsection 3A, as enacted by this division of this Act, the department of human services shall retain responsibility for the costs of state case services and other support for persons deemed to be a state case through June 30, 2007. The department shall report to the governor and general assembly on or before December 1, 2006, recommendations to address the funding shortfall.

e. If the aggregate of the amounts determined for each county, as provided in paragraph "c", is less than the base funding amount determined under paragraph "b", the amounts determined shall be distributed to the counties and the excess amount shall be reserved for distribution as provided in paragraph "f".

f. (1) If a county becomes responsible for a new individual state case whose costs were not included in the amounts determined under paragraph "c", the county shall supply the individual's application and service and other support needs to the department for an eligibility determination and identification of funding availability. If the county disputes the department's determination, the appeal provisions under paragraph "c" shall apply.

(2) If an existing state case has a change in condition that results in significant additional costs that cannot be offset by savings from other state cases or other means, the county may apply to the department for relief to address the additional costs. Relief payments approved by the department shall be paid from the excess amount reserved under paragraph "e" and are limited to that amount. In addition, if a county has such additional costs and either did not apply for relief or the application was denied in whole or in part because at the time of the application the excess amount reserved under paragraph "e" was projected to be insufficient, the county may apply for any funds from any excess amount available under paragraph "e" that would otherwise remain unexpended or unobligated at the close of the fiscal year. Otherwise,

the state liability for the cost of the state case services and other support authorized by a county of residence is limited to the amount distributed to the county.

g. The state's liability for state case services and other support for the fiscal year beginning July 1, 2006, is limited to the amount appropriated.

h. The provisions of this subsection shall be adopted in rule as necessary to implement the provisions. 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 subsection 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 subsection, 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 subsection shall also be published as notice of intended action as provided in section 17A.4.

3. Each county that would need to amend the county's management plan for services approved under section 331.439 in order to implement the provisions of this division of this Act amending section 331.440, subsection 3, to take effect on July 1, 2007, shall develop and submit projections of the costs to the county to implement the provisions. The projections shall identify costs in the initial and succeeding fiscal years. The projections shall be submitted on December 1, 2006, along with the county's expenditure report submitted pursuant to section 331.439, subsection 1, paragraph "a". The projections, along with any findings and recommendations identified by the county, shall be submitted at the same time to the department of human services, the mental health, mental retardation, developmental disabilities, and brain injury commission, and the general assembly.

4. The department of human services shall renegotiate the department's contract with the contractor providing managed care for mental health services under the medical assistance program so that any responsibility for the contractor to manage state case services and other support, as defined by this division of this Act, will end on or before September 30, 2006. The expenditure savings realized from making this change shall remain with the state case appropriation for distribution to counties of residence.

5. The department of human services and counties shall work with the department's consultant to develop a proposal for a case rate system that may be used in subsequent fiscal years for distributing funding to counties for the state case services and other support provided to county residents. The case rate system proposal developed is subject to approval by the mental health, mental retardation, developmental disabilities, and brain injury commission, shall be submitted to the governor and general assembly in January 2007, and shall not be implemented unless a statute specifically authorizing implementation of the system is enacted.

DIVISION IV
DIVISION NAME CHANGE

Sec. 20. Section 135C.25, subsection 1, Code 2005, is amended to read as follows:

1. Each health care facility shall have a resident advocate committee whose members shall be appointed by the director of the department of elder affairs or the director's designee. A person shall not be appointed a member of a resident advocate committee for a health care facility unless the person is a resident of the service area where the facility is located. The resident advocate committee for any facility caring primarily for persons with mental illness, mental retardation, or a developmental disability shall only be appointed after consultation with the administrator of the division of mental health and ~~developmental disabilities~~ disability services of the department of human services on the proposed appointments. Recommendations to the director or the director's designee for membership on resident advocate committees are

encouraged from any agency, organization, or individual. The administrator of the facility shall not be appointed to the resident advocate committee and shall not be present at committee meetings except upon request of the committee.

Sec. 21. Section 217.6, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The department of human services may be initially divided into the following divisions of responsibility: the division of child and family services, the division of mental health and ~~developmental disabilities~~ disability services, the division of administration, and the division of planning, research and statistics.

Sec. 22. Section 217.10, Code 2005, is amended to read as follows:

217.10 ADMINISTRATOR OF DIVISION OF MENTAL HEALTH AND ~~DEVELOPMENTAL DISABILITIES~~ DISABILITY SERVICES.

The administrator of the division of mental health and ~~developmental disabilities~~ disability services shall be qualified as provided in section 225C.3, subsection 3. The administrator's duties are enumerated in section 225C.4.

Sec. 23. Section 221.2, Code 2005, is amended to read as follows:

221.2 ADMINISTRATOR.

Pursuant to the compact, the administrator of the division of mental health and ~~developmental disabilities~~ disability services of the department of human services shall be the compact administrator. The compact administrator may cooperate with all departments, agencies, and officers of this state and its subdivisions in facilitating the proper administration of the compact and of any supplementary agreement entered into by this state under the compact.

Sec. 24. Section 225C.2, subsections 1 and 7, Code 2005, are amended to read as follows:

1. "Administrator" means the administrator of the division ~~of mental health and developmental disabilities of the department of human services~~.

7. "Division" means the division of mental health and ~~developmental disabilities~~ disability services of the department ~~of human services~~.

Sec. 25. Section 225C.13, subsection 2, Code Supplement 2005, is amended to read as follows:

2. The division administrator ~~of the division of mental health and developmental disabilities~~ may work with the appropriate administrator of the department's institutions to establish mental health and mental retardation services for all institutions under the control of the director of human services and to establish an autism unit, following mutual planning and consultation with the medical director of the state psychiatric hospital, at an institution or a facility administered by the department to provide psychiatric and related services and other specific programs to meet the needs of autistic persons, and to furnish appropriate diagnostic evaluation services.

Sec. 26. Section 230A.1, Code 2005, is amended to read as follows:

230A.1 ESTABLISHMENT AND SUPPORT OF COMMUNITY MENTAL HEALTH CENTERS.

A county or affiliated counties, by action of the board or boards of supervisors, with approval of the administrator of the division of mental health and ~~developmental disabilities~~ disability services of the department of human services, may establish a community mental health center under this chapter to serve the county or counties. This section does not limit the authority of the board or boards of supervisors of any county or group of counties to continue to expend money to support operation of the center, and to form agreements with the board of supervisors of any additional county for that county to join in supporting and receiving services from or through the center.

Sec. 27. Section 230A.13, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Release of administrative and diagnostic information, as defined in section 228.1, ~~subsections 1 and 3,~~ and demographic information necessary for aggregated reporting to meet the data requirements established by the department of human services, division of mental health and ~~developmental disabilities~~ disability services, relating to an individual who receives services from a community mental health center through the applicable central point of coordination process, may be made a condition of support of that center by any county under this section.

Sec. 28. Section 230A.16, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The administrator of the division of mental health and ~~developmental disabilities~~ disability services of the department of human services shall recommend and the mental health, mental retardation, developmental disabilities, and brain injury commission shall adopt standards for community mental health centers and comprehensive community mental health programs, with the overall objective of ensuring that each center and each affiliate providing services under contract with a center furnishes high quality mental health services within a framework of accountability to the community it serves. The standards shall be in substantial conformity with those of the psychiatric committee of the joint commission on accreditation of health care organizations and other recognized national standards for evaluation of psychiatric facilities unless in the judgment of the administrator of the division of mental health and ~~developmental disabilities~~ disability services, with approval of the mental health, mental retardation, developmental disabilities, and brain injury commission, there are sound reasons for departing from the standards. When recommending standards under this section, the administrator of the division shall designate an advisory committee representing boards of directors and professional staff of community mental health centers to assist in the formulation or revision of standards. At least a simple majority of the members of the advisory committee shall be lay representatives of community mental health center boards of directors. At least one member of the advisory committee shall be a member of a county board of supervisors. The standards recommended under this section shall include requirements that each community mental health center established or operating as authorized by section 230A.1 shall:

Sec. 29. Section 230A.16, subsection 3, Code 2005, is amended to read as follows:

3. Arrange for the financial condition and transactions of the community mental health center to be audited once each year by the auditor of state. However, in lieu of an audit by state accountants, the local governing body of a community mental health center organized under this chapter may contract with or employ certified public accountants to conduct the audit, pursuant to the applicable terms and conditions prescribed by sections 11.6 and 11.19 and audit format prescribed by the auditor of state. Copies of each audit shall be furnished by the accountant to the administrator of the division of mental health and ~~developmental disabilities,~~ disability services and the board of supervisors supporting the audited community mental health center.

Sec. 30. Section 230A.17, Code 2005, is amended to read as follows:

230A.17 REVIEW AND EVALUATION.

The administrator of the division of mental health and ~~developmental disabilities~~ disability services of the department of human services may review and evaluate any community mental health center upon the recommendation of the mental health, mental retardation, developmental disabilities, and brain injury commission, and shall do so upon the written request of the center's board of directors, its chief medical or administrative officer, or the board of supervisors of any county from which the center receives public funds. The cost of the review shall be paid by the division.

Sec. 31. Section 262.70, Code 2005, is amended to read as follows:

262.70 EDUCATION, PREVENTION, AND RESEARCH PROGRAMS IN MENTAL HEALTH AND ~~MENTAL RETARDATION~~ DISABILITY SERVICES.

The division of mental health and ~~developmental disabilities~~ disability services of the department of human services may contract with the board of regents or any institution under the board's jurisdiction to establish and maintain programs of education, prevention, and research in the fields of mental health, ~~and~~ mental retardation, developmental disabilities, and brain injury. The board may delegate responsibility for these programs to the state psychiatric hospital, the university hospital, or any other appropriate entity under the board's jurisdiction.

Sec. 32. Section 331.440A, subsection 7, paragraph a, subparagraph (3), Code 2005, is amended to read as follows:

(3) One individual designated by the division of medical services of the department of human services and one individual designated by the division of mental health and ~~developmental disabilities~~ disability services of the department of human services.

Sec. 33. Section 331.756, subsection 45, Code Supplement 2005, is amended to read as follows:

45. Appear on behalf of the administrator of the division of mental health and ~~developmental disabilities~~ disability services of the department of human services in support of an application to transfer a person with mental illness who becomes incorrigible and dangerous from a state hospital for persons with mental illness to the Iowa medical and classification center as provided in section 226.30.

Sec. 34. CODE EDITOR — NAME CHANGE DIRECTIVE. The Code editor shall revise the headnote to section 225C.3 to reflect the change in the name of the division of mental health and developmental disabilities to the division of mental health and disability services made pursuant to this division of this Act.

Sec. 35. REQUIREMENT TO REESTABLISH DIVISION. The general assembly finds that the scope and importance of the department of human services' duties under law involving mental health, mental retardation, developmental disabilities, and brain injury services justifies assigning those duties to a separate division in place of the current practice in which the duties are assigned to a division serving many disparate populations. Therefore, during the fiscal year beginning July 1, 2006, contingent upon the appropriation of funding for this purpose, the director of human services shall reestablish a separate division, to be known as the division of mental health and disability services, and shall appropriately assign to that division the department's duties under law involving such services.

DIVISION V
REIMBURSEMENT PROVISIONS

Sec. 36. FY 2006-2007 MEDICAL ASSISTANCE PROGRAM REIMBURSEMENT OF INPATIENT MENTAL HEALTH SERVICES, COMMUNITY MENTAL HEALTH CENTERS, AND PSYCHIATRISTS. In combination with any other reimbursement increases authorized by law for the indicated providers, the department of human services shall seek federal approval to amend the medical assistance program state plan and shall amend the contract with the department's managed care contractor for mental health services under the program, in order to increase medical assistance program reimbursement rates beginning October 1, 2006, to not more than the maximum amounts indicated, for all of the following providers:

1. Inpatient mental health services provided at hospitals at the cost of the services, subject to Medicaid program upper payment limit rules.

2. Community mental health centers and providers of mental health services to county residents pursuant to a waiver approved under section 225C.7, subsection 3, at 100 percent of the reasonable costs for the provision of services to recipients of medical assistance.

3. Psychiatrists at the medical assistance program fee for service rate.

Implementation of the provisions of this section is contingent upon receipt of federal approval and limited to the funding made available through amending the contract with the managed care contractor.

DIVISION VI
STATE MANDATE

Sec. 37. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Approved May 23, 2006

CHAPTER 1116

INVOLUNTARY HOSPITALIZATION PROCEEDINGS

S.F. 2362

AN ACT relating to involuntary hospitalization proceedings for chronic substance abusers and persons with mental illness.

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

Section 1. Section 125.82, subsections 1 and 3, Code 2005, are amended to read as follows:

1. At a commitment hearing, evidence in support of the contentions made in the application ~~shall~~ may be presented by the applicant, or by an attorney for the applicant, or by the county attorney ~~if the county attorney is the applicant~~. During the hearing the applicant and the respondent shall be afforded an opportunity to testify and to present and cross-examine witnesses, and the court may receive the testimony of other interested persons. If the respondent is present at the hearing, as provided in subsection 3, and has been medicated within twelve hours, or a longer period of time as the court may designate, prior to the beginning of the hearing or a session of the hearing, the court shall be informed of that fact and of the probable effects of the medication upon convening of the hearing.

3. The person who filed the application and a physician or professional who has examined the respondent in connection with the commitment hearing shall be present at the hearing, unless prior to the hearing the court for good cause finds that their presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or telephonic appearance of the physician or professional who examined the respondent and agree to submit as evidence the written report of the physician or professional. "Good cause" for finding that the testimony of the physician or professional who examined the respondent is not necessary may include, but is not limited to, such a waiver. If the court determines that the testimony of the physician or professional is necessary, the court may allow the physician or professional to testify by telephone. The respondent shall be present at the hearing unless prior to the hearing the respondent's attorney stipulates in writing that the attorney has conversed with the respondent, and that in the attorney's judgment the respondent cannot make a meaningful contribution to the hearing, or that the respondent has waived the right to be present, and the basis for the attorney's conclusions. A stipulation to the respondent's absence shall be reviewed by the court before the hearing, and may be rejected if it appears

that insufficient grounds are stated or that the respondent's interests would not be served by the respondent's absence.[1]

Sec. 2. Section 229.10, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

An examination of the respondent shall be conducted by one or more licensed physicians, as required by the court's order, within a reasonable time. If the respondent is detained pursuant to section 229.11, subsection 2, the examination shall be conducted within twenty-four hours. If the respondent is detained pursuant to section 229.11, subsection 1 or 3, the examination shall be conducted within forty-eight hours. If the respondent so desires, the respondent shall be entitled to a separate examination by a licensed physician of the respondent's own choice. The reasonable cost of ~~such separate examination~~ the examinations shall, if the respondent lacks sufficient funds to pay the cost, be paid from county funds upon order of the court.

Sec. 3. Section 229.12, subsection 3, Code 2005, is amended to read as follows:

3. The respondent's welfare shall be paramount and the hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, but consistent therewith the issue shall be tried as a civil matter. Such discovery as is permitted under the Iowa rules of civil procedure shall be available to the respondent. The court shall receive all relevant and material evidence which may be offered and need not be bound by the rules of evidence. There shall be a presumption in favor of the respondent, and the burden of evidence in support of the contentions made in the application shall be upon the applicant. The physician or professional who examined the respondent shall be present at the hearing unless prior to the hearing the court for good cause finds that the physician's or professional's presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or the telephonic appearance of the physician or professional who examined the respondent and agree to submit as evidence the written report of the physician or professional. "Good cause" for finding that the testimony of the physician or professional who examined the respondent is not necessary may include, but is not limited to, such a waiver. If the court determines that the testimony of the physician or professional is necessary, the court may allow the physician or the professional to testify by telephone. If upon completion of the hearing the court finds that the contention that the respondent is seriously mentally impaired has not been sustained by clear and convincing evidence, it shall deny the application and terminate the proceeding.[2]

Approved May 24, 2006

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[1] See chapter 1159, §30; chapter 1115, §1 herein

[2] See chapter 1159, §31 herein

CHAPTER 1117

INSURANCE AND OTHER ENTITIES OR SERVICES
REGULATED BY THE COMMISSIONER OF INSURANCE

S.F. 2364

AN ACT relating to various matters under the purview of the insurance division of the department of commerce including the securities and regulated industries bureau, insurance premium taxes, the uniform securities Act, insurance division procedures including fees and an appropriation, regulation of insurance companies and other entities including administrative penalties, motor vehicle service contracts, county and state mutual insurance associations, reciprocal or interinsurance insurers, consolidation, merger and reinsurance contracts, insurance holding company systems, and cemeteries.

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

Section 1. Section 11.6, subsection 1, paragraph b, subparagraph (6), Code Supplement 2005, is amended to read as follows:

(6) A joint investment trust organized pursuant to chapter 28E shall file the audit reports required by this chapter with the administrator of the securities and regulated industries bureau of the insurance division of the department of commerce within ten days of receipt from the auditor. The auditor of a joint investment trust shall provide written notice to the administrator of the time of delivery of the reports to the joint investment trust.

Sec. 2. Section 22.7, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 52. Information obtained and prepared by the commissioner of insurance pursuant to section 507.14.

NEW SUBSECTION. 53. Information obtained and prepared by the commissioner of insurance pursuant to section 507E.5.

Sec. 3. Section 432.1, subsection 3, Code Supplement 2005, is amended to read as follows:

3. The applicable percent, as provided in subsection 4, of the gross amount of premiums, assessments, and fees received during the preceding calendar year by every company or association other than life on contracts of insurance other than life for business done in this state, including all insurance upon property situated in this state, after deducting the amounts returned upon canceled policies, certificates and rejected applications but not including the gross premiums written, assessments, and fees in connection with ocean marine insurance authorized in section 515.48.

Sec. 4. Section 432.5, Code 2005, is amended to read as follows:

432.5 RISK RETENTION GROUPS.

A risk retention group organized and operating pursuant to Pub. L. No. 99-563, also known as the risk retention amendments of 1986, shall pay as taxes to the director of revenue an amount equal to the applicable percent, as provided in section 432.1, subsection 4, of the gross amount of the premiums ~~received~~ written during the previous calendar year for risks placed in this state. A resident or nonresident producer shall report and pay the taxes on the premiums for risks that the producer has placed in this state with or on behalf of a risk retention group. The failure of a risk retention group to pay the tax imposed in this section shall result in the risk retention group being considered an unauthorized insurer under chapter 507A.

Sec. 5. Section 502.102, subsection 5, paragraph b, subparagraph (3), Code Supplement 2005, is amended to read as follows:

(3) An industrial loan company that is not an "insured depository institution" as defined in

section 3(c)(2) of the Federal Deposit Insurance Act, 12 U.S.C. § 1813(c)(2), or any successor federal statute.

Sec. 6. Section 502.102, subsection 27A, Code Supplement 2005, is amended to read as follows:

27A. "Securities and regulated industries bureau" means the securities and regulated industries bureau of the insurance division of the department of commerce.

Sec. 7. Section 502.201, subsection 8A, paragraph b, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A mutual or cooperative organization, including a cooperative association organized in good faith under and for any of the purposes enumerated in chapter 497, 498, 499, ~~or~~ 501, or 501A, that deals in commodities or supplies goods or services in transactions primarily with and for the benefit of its members, if all of the following apply:

Sec. 8. Section 502.304, subsection 2A, Code 2005, is amended to read as follows:

2A. REPORTS AND EXAMINATIONS. The administrator may by rule or order require as a condition of registration by qualification, and at the expense of the applicant or registrant, that a report by an accountant, engineer, appraiser, or other professional person be filed. The administrator may also designate one or more employees of the securities and regulated industries bureau to make an examination of the business and records of an issuer of securities for which a registration statement has been filed by qualification, at the expense of the applicant or registrant.

Sec. 9. Section 502.412, subsection 2, paragraph a, Code Supplement 2005, is amended to read as follows:

a. Institute a revocation or suspension proceeding under this subsection based solely on an order issued under a law of another state that is reported to the administrator or a designee of the administrator more than one year after the date of the order on which it is based.

Sec. 10. Section 502.412, subsection 3, Code Supplement 2005, is amended to read as follows:

3. DISCIPLINARY PENALTIES — REGISTRANTS. If the administrator finds that the order is in the public interest and subsection 4, paragraphs "a" through "f", "h", "i", "j", ~~or~~ "l", ~~and~~ or "m", authorizes the action, an order under this chapter may censure, impose a bar, or impose a civil penalty in an amount not to exceed a maximum of five thousand dollars for a single violation or five hundred thousand dollars for more than one violation, on a registrant, and, if the registrant is a broker-dealer or investment adviser, a partner, officer, director, or person having a similar status or performing similar functions, or a person directly or indirectly in control, of the broker-dealer or investment adviser.

Sec. 11. Section 502.510, subsection 1, paragraph e, Code 2005, is amended to read as follows:

e. If the basis for relief under this section may have been a violation of section 502.509, subsection ~~3~~ 5, an offer to reimburse in cash the consideration paid for the advice and interest at the legal rate from the date of payment.

Sec. 12. Section 502.601, subsection 1, Code Supplement 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 and regulated industries 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 and regulated industries 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 this chapter.

Sec. 13. Section 502A.1, subsection 1, Code 2005, is amended to read as follows:

1. "Administrator" means the administrator of the securities and regulated industries bureau of the insurance division of the department of commerce.

Sec. 14. Section 502A.15, subsection 1, Code 2005, is amended to read as follows:

1. This chapter shall be administered by the administrator of the securities and regulated industries bureau of the insurance division of the department of commerce.

Sec. 15. Section 505.16, subsection 2, Code 2005, is amended to read as follows:

2. The insurance commissioner shall approve rules for carrying out this section including rules relating to the preparation of information to be provided before and after a test and the protection of confidentiality of personal and medical records of insurance applicants and policyholders. The rules shall require a person engaged in the business of insurance who receives results of a positive human immunodeficiency virus test of an insurance applicant or policyholder to report those results to a physician or alternative testing site of the applicant's or policyholder's choice, or if the applicant or policyholder does not choose a physician or alternative testing site to receive the results, to the Iowa department of public health.

Sec. 16. NEW SECTION. 505.27 CONSENT TO JURISDICTION.

A person committing any act governed by chapter 502, 502A, 505 through 523G, or 523I constitutes consent by that person to the jurisdiction of the commissioner of insurance and the district courts of this state.

Sec. 17. NEW SECTION. 505.28 ADMINISTRATIVE HEARINGS.

The commissioner of insurance shall have the authority to appoint as a hearing officer a designee or an independent administrative law judge. Duties of a hearing officer shall include hearing contested cases arising from conduct governed by chapters 502, 502A, 505 through 523G, and 523I. Sections 10A.801 and 17A.11 do not apply to the appointment of a designee or an administrative law judge pursuant to this section.

Sec. 18. NEW SECTION. 505.29 SERVICE OF PROCESS — FEE.

The commissioner of insurance, pursuant to rules adopted pursuant to chapter 17A, may collect a reasonable fee each time process is served on the commissioner as allowed by law. Fees collected by the commissioner under this section shall be used and are appropriated to the insurance division to offset the costs of receiving such service of process. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

Sec. 19. Section 507.10, subsection 5, paragraph b, Code 2005, is amended to read as follows:

b. The commissioner is not prevented from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to the report, to an insurance department of any other state or country, to the national association of insurance commissioners, or to law enforcement officials of this or any other state or an agency of the federal govern-

ment at any time, so long as such agency or office receiving the report, or matters relating to the report, agrees in writing to maintain the confidentiality of the report or such matters in a manner consistent with this chapter.

Sec. 20. Section 507.14, Code 2005, is amended to read as follows:

507.14 CONFIDENTIAL DOCUMENTS — EXCEPTIONS.

1. A preliminary report of an examination of a domestic or foreign insurer, and all notes, work papers, or other documents related to an examination of an insurer are ~~not public~~ confidential records under chapter 22 except when sought by the insurer to whom they relate, an insurance regulator of another state, or the national association of insurance commissioners, and shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

~~1.~~ a. An action commenced by the commissioner under chapter 507C.

~~2.~~ b. An administrative proceeding brought by the insurance division under chapter 17A.

~~3.~~ c. A judicial review proceeding under chapter 17A brought by an insurer to whom the records relate.

~~4.~~ d. An action or proceeding which arises out of the criminal provisions of the laws of this state or the United States.

~~5.~~ e. An action brought in a shareholders' derivative suit against an insurer.

~~6.~~ f. An action brought to recover moneys or to recover upon an indemnity bond for embezzlement, misappropriation, or misuse of insurer funds.

2. A report of an examination of a domestic or foreign insurer which is preliminary under the rules of the division is ~~not a public~~ a confidential record under chapter 22 except when sought by the insurer to which the report relates or an insurance regulator of another state, and is privileged and confidential in any judicial or administrative proceeding.

3. All work papers, notes, recorded information, documents, market conduct annual statements, and copies thereof that are produced or obtained by or disclosed to the commissioner or any other person in the course of analysis by the commissioner of the financial condition or market conduct of an insurer are confidential records under chapter 22 and shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

a. An action commenced by the commissioner under chapter 507C.

b. An administrative proceeding brought by the insurance division under chapter 17A.

c. A judicial review proceeding under chapter 17A brought by an insurer to whom the records relate.

d. An action or proceeding which arises out of the criminal provisions of the laws of this state or the United States.

4. Confidential documents, materials, information, administrative or judicial orders, or other actions may be disclosed to a regulatory official of any state, federal agency, or foreign country provided that the recipients are required, under their law, to maintain their confidentiality. Confidential records may be disclosed to the national association of insurance commissioners provided that the association certifies by written statement that the confidentiality of the records will be maintained.

5. A financial statement filed by an employer self-insuring workers' compensation liability pursuant to section 87.11, or the working papers of an examiner or the division in connection with calculating appropriate security and reserves for the self-insured employer are ~~not public~~ confidential records under chapter 22 except when sought by the employer to which the financial statement or working papers relate or an insurance or workers' compensation self-insurance regulator of another state, and are privileged and confidential in any judicial or administrative proceeding. The financial information of a nonpublicly traded employer which self-insures for workers' compensation liability pursuant to section 87.11 is protected as proprietary trade secrets to the extent consistent with the commissioner's duties to oversee the security of self-insured workers' compensation liability.

6. Analysis notes, work papers, or other documents related to the analysis of an insurer are ~~not public~~ confidential records under chapter 22.

Sec. 21. Section 507A.4, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 10. a. A self-funded health benefit plan sponsored by an employer in this state under the federal Employee Retirement Income Security Act of 1974, as codified in 29 U.S.C. § 1169, which provides health benefits to independent contractors of the employer and to spouses and dependents of the independent contractors, if the plan is granted a waiver from the provisions of this chapter by the commissioner and meets all of the following conditions:

(1) There is a written contract between the sponsor of the health benefit plan and the independent contractor which establishes the relationship between the parties to the contract and provides for the personal services to be provided by the independent contractor to the sponsor of the health benefit plan pursuant to the contract.

(2) The personal services to be provided by the independent contractor pursuant to the contract are directly related to the principal business of the sponsor of the health benefit plan.

(3) The contract provides that the independent contractor will provide services to the sponsor of the health benefit plan on an exclusive basis.

(4) The inclusion of the independent contractor in the sponsor's health benefit plan is incidental to the contractual relationship between the sponsor of the health benefit plan and the independent contractor.

(5) Independent contractors and their spouses and dependents included in an employer-sponsored health benefit plan do not in total equal more than forty-nine percent of the total persons covered by the health benefit plan.

(6) The health benefit plan is administered by an authorized insurer or an authorized third-party administrator.

b. The sponsor of the health benefit plan shall file an application for waiver from the provisions of this chapter with the commissioner as prescribed by the commissioner and shall file periodic statements and information as required by the commissioner. The commissioner shall adopt rules pursuant to chapter 17A implementing this subsection. All statements and information filed with or disclosed to the commissioner pursuant to this subsection are confidential records pursuant to chapter 22.

c. If at any time the commissioner determines that a health benefit plan for which a waiver has been granted does not meet all of the conditions of paragraph "a", and the rules adopted by the commissioner under paragraph "b", the commissioner may terminate the waiver granted to the health benefit plan.

d. A self-funded employer-sponsored health benefit plan which has a valid waiver from the provisions of this chapter shall not be considered any of the following:

(1) An insurance company or association of any kind or character under section 432.1.

(2) A member insurer of the Iowa life and health insurance guaranty association as defined in section 508C.5, subsection 8.

(3) A carrier under chapter 513B.

(4) A member of the Iowa individual health benefit reinsurance association under section 513C.10.

(5) An entity subject to chapter 514C.

(6) A multiple employer welfare arrangement as defined in subsection 9.

e. A self-funded employer-sponsored health benefit plan which has received a waiver from the provisions of this chapter shall be considered to be a self-funded employer-sponsored health benefit plan under the federal Employee Retirement Income Security Act of 1974, as codified in 29 U.S.C. § 1169, and not subject to this title so long as the waiver is in effect.

f. The provision of health benefits to an independent contractor by a self-funded employer-sponsored health benefit plan which meets all of the conditions of paragraph "a" shall not in and of itself create an employer-employee relationship between the independent contractor and the sponsor of the health benefit plan.

Sec. 22. Section 507A.9, subsection 1, Code 2005, is amended to read as follows:

1. ~~Effective with~~ For all premiums collected during the calendar year ~~1967~~, except pre-

miums on lawfully procured surplus lines insurance, every unauthorized insurer shall pay to the commissioner of insurance before March 1, next succeeding the calendar year in which the insurance was so effectuated, continued, or renewed a premium tax ~~of two percent of~~ on gross premiums charged for such insurance on subjects resident, located, or to be performed in this state equal to the applicable percent, as provided in section 432.1. Such insurance whether procured through negotiation or an application, in whole or in part occurring or made within or outside of this state, or for which premiums in whole or in part are remitted directly or indirectly from within or outside of this state, shall be deemed to be insurance procured or continued in this state. The term "premium" includes all premiums, membership fees, assessments, dues, and any other consideration for insurance. If the tax prescribed by this section is not paid within the time stated, the tax shall be increased by a penalty of twenty-five percent and by the amount of an additional penalty computed at the rate of one percent per month or any part thereof from the date such payment was due to the date paid.

Sec. 23. Section 507B.4, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 9A. USE OF INQUIRIES. Considering either of the following events for purposes of surcharging, declining, nonrenewing, or canceling personal lines property and casualty insurance coverage or a binder for personal lines property and casualty insurance coverage:

a. An applicant's or insured's inquiry into the type or level of coverage of a policy, or an inquiry into whether a policy will cover a loss.

b. An insured's inquiry regarding coverage of a policy for a loss if the insured does not file a claim.

NEW SUBSECTION. 9B. HISTORY OF A PROPERTY. Declining to insure a property not previously owned by an applicant for personal lines property and casualty insurance, based solely on the loss history of a previous owner of the property, unless the insurer can provide evidence that the previous owner did not repair damage to the property.

NEW SUBSECTION. 9C. DISCLOSURE OF USE OF CLAIMS HISTORY. Failing to inform an applicant at the time that an application for personal lines property and casualty insurance is made, in writing or in the same medium as the application is made, that the insurer will consider the applicant's or insured's claims history in determining whether to decline, cancel, nonrenew, or surcharge such a policy, and that a claim made by an insured will be reported to an insurance support organization.

NEW SUBSECTION. 15. INFORMATION. Failing or refusing to furnish any policyholder or applicant, upon reasonable request, information to which that individual is entitled.

Sec. 24. Section 507B.4, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of subsections 9A, 9B, and 9C, "personal lines property and casualty insurance" means insurance sold to individuals and families primarily for noncommercial purposes as provided in chapter 522B.

Sec. 25. NEW SECTION. 507B.4B SUITABILITY.

1. A person shall not recommend to any individual the purchase, sale, or exchange of any annuity contract, or any rider, endorsement, or amendment thereto, unless the person has reasonable grounds to believe that the recommendation is suitable for the individual based on a reasonable inquiry into the individual's financial status, investment objectives, and other relevant information.

2. A person engaged in the business of annuities shall establish and maintain a system to monitor recommendations made, that is reasonably designed to achieve compliance with subsection 1.

3. The commissioner shall adopt rules pursuant to chapter 17A establishing procedures and standards for implementation of the suitability requirements of subsection 1.

Sec. 26. NEW SECTION. 507B.15 ADMINISTRATIVE HEARINGS.

Section 505.28 is applicable to hearings required by sections 507B.6, 507B.6A, and 507B.7.

Sec. 27. Section 507C.2, subsection 13, Code Supplement 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "General assets" does not include that portion of the assets of the insurer allocated to and accumulated in a separate account established pursuant to section 508A.1, unless otherwise provided by the applicable policy, annuity, agreement, instrument, or contract. However, if any assets allocated to and accumulated in a separate account, after the satisfaction of any liabilities with regard to the operation of the separate account, are in excess of an amount equal to the reserves and other liabilities with respect to the separate account, the excess shall be treated as part of the general assets of the insurer.

Sec. 28. Section 507C.42, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth. Claims in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. Subclasses shall not be established within a class. As used in this section, "insurer's estate" means the general assets of the insurer. The order of distribution of claims is:

Sec. 29. Section 507C.42, subsection 2, Code 2005, is amended to read as follows:

2. CLASS 2. Claims under policies, including claims of the federal or any state or local government, for losses incurred, including third-party claims, claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies, claims of a guaranty association or foreign guaranty association, claims under funding agreements as provided in section 508.31A, subsection 3, claims for an insufficiency in the assets allocated to and accumulated in a separate account as provided in section 508A.1, subsection 8, and claims for unearned premium. Claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of a loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. A payment by an employer to an employee is not a gratuity.

Sec. 30. Section 507E.5, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

507E.5 CONFIDENTIALITY.

1. All investigation files, investigation reports, and all other investigative information in the possession of the bureau are confidential records under chapter 22 except as specifically provided in this section and are not subject to discovery, subpoena, or other means of legal compulsion for their release until opened for public inspection by the bureau, or upon the consent of the bureau, or until a court of competent jurisdiction determines, after notice to the bureau and hearing, that the bureau will not be unnecessarily hindered in accomplishing the purposes of this chapter by their opening for public inspection. However, investigative information in the possession of the bureau may be disclosed, in the commissioner's discretion, to appropriate licensing authorities within this state, another state or the District of Columbia, or a territory or country in which a licensee is licensed or has applied for a license.

2. The commissioner may share documents, materials, or other information, including confidential and privileged documents, materials, or other information, with other state, federal, and international regulatory agencies, with the national association of insurance commissioners and its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidential and privileged status of the document, material, or other information, pursuant to Iowa law.

3. The commissioner may receive documents, materials, or other information, including otherwise confidential and privileged documents, materials, or other information, from other local, state, federal, and international regulatory agencies, the national association of insur-

ance commissioners and its affiliates or subsidiaries, and local, state, federal, and international law enforcement authorities, and shall maintain as confidential and privileged any document, material, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

4. The commissioner may enter into agreements governing the sharing and use of documents, materials, or other information consistent with this section.

5. An investigator or other staff member of the bureau is not subject to subpoena in a civil action concerning any matter of which the investigator or other staff member has knowledge pursuant to a pending or continuing investigation being conducted by the bureau pursuant to this chapter.

Sec. 31. Section 508.13, Code 2005, is amended to read as follows:

508.13 ANNUAL CERTIFICATE OF AUTHORITY.

1. On receipt of an application for a certificate of authority or renewal of a certificate of authority, fees, the deposit provided in section 511.8, subsection 16, and the statement, and the statement and evidence of investment of foreign companies, ~~all of which shall be renewed annually, by the first day of March,~~ the commissioner of insurance shall issue a certificate or a renewal of a certificate setting forth the corporate name of the company, its home office, that it has fully complied with the laws of the state and is authorized to transact the business of life insurance for the ensuing year, which certificate shall expire on the first day of June of the ensuing year, or sooner upon thirty days' notice given by the commissioner, of the next annual valuation of its policies. ~~Such certificate shall be renewed annually, upon the renewal of the deposit and statement by a domestic company, or of the statement and evidence of investment by a foreign company, and compliance with the conditions above required, and be subject to revocation as the original certificate.~~

2. A company shall submit annually on or before March 1 a completed application for renewal of its certificate of authority. A certificate of authority shall expire on the first day of June next succeeding its issue and shall be renewed annually so long as the company transacts business in accordance with all legal requirements of the state.

3. A company that fails to timely file an application for renewal of its certificate of authority shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

4. A copy of a certificate of authority, when certified by the commissioner, shall be admissible in evidence for or against a company, with the same effect as the original.

Sec. 32. Section 508A.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. If the assets of an insurer allocated to and accumulated in a separate account in connection with any policy, annuity, agreement, instrument, or contract, after the satisfaction of any liabilities with regard to the operation of the separate account, are insufficient to fully satisfy the insurer's express obligations under the policy, annuity, agreement, instrument, or contract, then claims for the unsatisfied portions of the insurer's obligations shall be class 2 claims under section 507C.42, subsection 2.

Sec. 33. Section 509.1, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. The premium for the group ~~life~~ policy shall be paid by the policyholder, either ~~wholly~~ from the employer's funds or funds contributed by ~~the employer, or partly from such funds and partly from funds contributed by~~ the insured employees, or from both. ~~No~~ A policy, ~~except~~ of group accident and health~~, may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy~~ insurance on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five percent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contribu-

tions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. As used in this paragraph, "accident and health insurance" does not include disability income insurance.

Sec. 34. Section 509A.15, subsection 1, paragraph d, Code 2005, is amended to read as follows:

d. That the governing body has contracted or otherwise arranged with a third-party administrator who holds a current certificate of registration issued by the commissioner pursuant to section 510.21, or with a person not required to obtain the certificate as ~~an~~ a third-party administrator as defined in section 510.11, subsection 1.

Sec. 35. Section 509A.15, subsection 4, Code 2005, is amended to read as follows:

4. One or more political subdivisions of the state or one or more school corporations maintaining self-insured plans with yearly claims that do not exceed ~~one~~ two percent of each entity's general fund budget shall be exempt from the requirements of this section where the plan insures employees for all or part of a deductible, coinsurance payments, drug costs, short-term disability benefits, vision benefits, or dental benefits.

The yearly claim amount shall be determined annually on the policy renewal date, or an alternative date established by rule, by a plan administrator or political subdivision or school corporation employee to be designated by the plan administrator. The exemption shall not apply for the year following a year in which yearly claims are determined to exceed ~~one~~ two percent of the political subdivision's or school corporation's general fund budget.

Sec. 36. Section 509B.1, subsection 4, Code 2005, is amended by striking the subsection.

Sec. 37. Section 509B.5, subsection 1, Code 2005, is amended to read as follows:

1. Employers or group policyholders shall notify all employees or members of their continuation ~~and conversion~~ rights within ten days of termination of employment or membership. The notice shall be in writing and delivered in person or mailed to the person's last known address. However, continuation ~~and conversion~~ rights shall not be denied because of failure to provide proper notice. After receiving proper notice the employee or member may request and shall receive continuation ~~or conversion~~ coverage in accordance with this chapter within ten days of the request, notwithstanding any other time limitation provided by this chapter. Notification as provided in this section supersedes section 515.80 as that section relates to accident and health insurance.

Sec. 38. Section 510.11, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

510.11 DEFINITIONS.

1. "Life or health insurance" includes but is not limited to the following:

a. Individual or group accident and sickness insurance providing coverage on an expense-incurred basis.

b. An individual or group hospital or medical service contract issued pursuant to chapter 509, 514, or 514A.

c. An individual or group health maintenance organization contract regulated under chapter 514B.

d. An individual or group Medicare supplemental policy.

e. A long-term care policy.

f. An individual or group life insurance policy or annuity issued pursuant to chapter 508, 508A, or 509A.

2. "Third-party administrator" means a person who collects charges or premiums from, or who adjusts or settles claims on, residents of this state in connection with life or health insurance coverage or annuities other than any of the following:

a. A union or association on behalf of its members.

b. An insurance company which is either licensed in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer was authorized to do insurance business.

c. An entity licensed under chapter 514, including its sales representatives licensed in this state when engaged in the performance of their duties as sales representatives.

d. A life or health agent or broker licensed in this state, whose activities are limited exclusively to the sale of insurance.

e. A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors.

f. A trust, its trustees, agents, and employees acting under the trust, established in conformity with 29 U.S.C. § 186.

g. A trust exempt from taxation under section 501(a) of the Internal Revenue Code, its trustees, and employees acting under the trust.

h. A custodian, its agents, and employees acting pursuant to a custodial account which meets the requirements of section 401(f) of the Internal Revenue Code.

i. A bank, credit union, or other financial institution which is subject to supervision or examination by federal or state banking authorities.

j. A credit card-issuing company which advances for and collects premiums or charges from its credit card holders who have authorized it to do so, if the company does not adjust or settle claims.

k. A person who adjusts or settles claims in the normal course of the person's practice or employment as an attorney, and who does not collect charges or premiums in connection with life or health insurance coverage or annuities.

Sec. 39. Section 510.12, Code 2005, is amended to read as follows:

510.12 WRITTEN AGREEMENT NECESSARY.

A person shall not act as ~~an~~ a third-party administrator without a written agreement between the third-party administrator and the insurer, and the written agreement shall be retained as part of the official records of both the insurer and the third-party administrator for the duration of the agreement plus five years. The written agreement shall contain provisions which include the requirements of sections 510.11 through 510.16, except insofar as those requirements do not apply to the functions performed by the third-party administrator.

When a policy is issued to a trustee, a copy of the trust agreement and any amendments to the trust agreement shall be furnished to the insurer by the third-party administrator and shall be retained as part of the official records of both the insurer and the third-party administrator for the duration of the policy plus five years.

Sec. 40. Section 510.13, Code 2005, is amended to read as follows:

510.13 PAYMENT TO THIRD-PARTY ADMINISTRATOR.

If an insurer uses the services of ~~an~~ a third-party administrator under the terms of a written contract as required in section 510.12, payment to the third-party administrator of any premiums or charges for insurance by or on behalf of the insured shall be deemed to have been received by the insurer, and the payment of return premiums or claims by the insurer to the third-party administrator shall not be deemed payment to the insured or claimant until the payments are received by the insured or claimant. This section does not limit any right of the insurer against the third-party administrator resulting from the third-party administrator's failure to make payments to the insurer, insureds, or claimants.

Sec. 41. Section 510.14, Code 2005, is amended to read as follows:

510.14 MAINTENANCE OF INFORMATION.

~~An~~ A third-party administrator shall maintain at its principal administrative office for the duration of the written agreement referred to in section 510.12 plus five years, adequate books and records of all transactions between it, insurers, and insured persons. The third-party administrator's books and records shall be maintained in accordance with prudent standards of

insurance recordkeeping. The commissioner shall have access to such books and records for the purpose of examination, audit, and inspection. Trade secrets contained in ~~an~~ a third-party administrator's books and records, including but not limited to the identity and addresses of policyholders and certificate holders, shall be confidential, except the commissioner may use trade secret information in any proceeding instituted against the third-party administrator. The insurer retains the right to continuing access to the third-party administrator's books and records sufficient to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the insurer and third-party administrator on the proprietary rights of the parties in the third-party administrator's books and records.

Sec. 42. Section 510.15, Code 2005, is amended to read as follows:

510.15 APPROVAL OF ADVERTISING.

~~An~~ A third-party administrator may use only such advertising pertaining to the business underwritten by an insurer as has been approved by the insurer in advance of its use.

Sec. 43. Section 510.17, Code 2005, is amended to read as follows:

510.17 PREMIUM COLLECTION.

1. All insurance charges or premiums collected by ~~an~~ a third-party administrator on behalf of or for an insurer, and return premiums received from the insurer, shall be held by the third-party administrator in a fiduciary capacity. Such funds shall be immediately remitted to the person or persons entitled to them, or shall be deposited promptly in a fiduciary bank account established and maintained by the third-party administrator. If charges or premiums so deposited have been collected on behalf of or for more than one insurer, the third-party administrator shall cause the bank in which the fiduciary account is maintained to keep records clearly recording the deposits in and withdrawals from the account on behalf of or for each insurer. The third-party administrator shall promptly obtain and keep copies of all such records and, upon request of an insurer, shall furnish the insurer with copies of the records pertaining to deposits and withdrawals on behalf of or for that insurer.

2. The third-party administrator shall not pay a claim by withdrawal from the fiduciary account. Withdrawals from the fiduciary account shall be made, as provided in the written agreement between the third-party administrator and the insurer, for any of the following:

a. Remittance to an insurer entitled thereto.

b. Deposit in an account maintained in the name of the insurer.

c. Transfer to and deposit in a claims-paying account, with claims to be paid as provided in section 510.18.

d. Payment to a group policyholder for remittance to the insurer entitled thereto.

e. Payment to the third-party administrator of its commission, fees, or charges.

f. Remittance of return premiums to the persons entitled thereto.

Sec. 44. Section 510.18, Code 2005, is amended to read as follows:

510.18 PAYMENT OF CLAIMS.

A claim paid by the third-party administrator from funds collected on behalf of the insurer shall be paid only on a draft, check, or by electronic funds transfer as authorized by the insurer.

Sec. 45. Section 510.19, Code 2005, is amended to read as follows:

510.19 CLAIM ADJUSTMENT AND SETTLEMENT.

The compensation paid to ~~an~~ a third-party administrator shall not be contingent on claim experience on policies for which the third-party administrator adjusts or settles claims. This section does not prevent the compensation of ~~an~~ a third-party administrator from being based on premiums or charges collected or number of claims paid or processed.

Sec. 46. Section 510.20, Code 2005, is amended to read as follows:

510.20 NOTIFICATION REQUIRED.

When the services of ~~an~~ a third-party administrator are used, the third-party administrator

shall provide a written notice, approved by the insurer, to insured individuals, advising them of the identity of and relationship among the third-party administrator, the policyholder, and the insurer. When ~~an~~ a third-party administrator collects funds, it ~~must~~ shall identify and state separately in writing to the person paying to the third-party administrator any charge or premium for insurance coverage the amount of any such charge or premium specified by the insurer for such insurance coverage.

Sec. 47. Section 510.21, Code 2005, is amended to read as follows:

510.21 CERTIFICATE OF REGISTRATION REQUIRED.

A person shall not act as or represent oneself to be ~~an~~ a third-party administrator in this state, other than an adjuster licensed in this state for the kinds of business for which the person is acting as ~~an~~ a third-party administrator, unless the person holds a current certificate of registration as ~~an~~ a third-party administrator issued by the commissioner of insurance. A certificate of registration as ~~an~~ a third-party administrator is renewable every three years. Failure to hold a certificate subjects the third-party administrator to the sanctions set out in section 507B.7. The certificate shall be issued by the commissioner to ~~an~~ a third-party administrator unless the commissioner, after due notice and hearing, determines that the third-party administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation, or has had a previous application for an insurance license denied for cause within the preceding five years.

An application for registration shall be accompanied by a filing fee of one hundred dollars. After notice and hearing, the commissioner may impose any or all of the sanctions set out in section 507B.7, upon finding that either the third-party administrator violated any of the requirements of section 515.134 and sections 510.1A through 510.20 and this section, or the third-party administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation.

Sec. 48. Section 510.22, subsections 1 and 3, Code 2005, are amended to read as follows:

1. The person acting as ~~an~~ a third-party administrator is primarily in a business other than that of a third-party administrator.

3. The regular duties being performed as ~~an~~ a third-party administrator are such that the covered persons are not likely to be injured by a waiver of such requirements.

Sec. 49. Section 510.23, Code 2005, is amended to read as follows:

510.23 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

~~An~~ A third-party administrator is subject to chapter 507B relating to unfair insurance trade practices.

Sec. 50. Section 511.8, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or 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)~~ 80a-1 et seq., and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States government obligations described in paragraph "a", and which are included in the national association of insurance commissioners' securities valuation office's United States direct obligations – full faith and credit exempt list.

Sec. 51. Section 511.8, subsection 18, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Common stocks or shares issued by any federal home loan bank under the Federal Home Loan Bank Act, 12 U.S.C. § 1421 et seq., and the Acts amendatory there-

of, are eligible if the total investment in those stocks or shares does not exceed one-half of one percent of the legal reserve.

Sec. 52. Section 511.8, subsection 22, paragraph b, Code 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

b. To be eligible as investments, financial instruments used in hedging transactions shall be either of the following:

(1) Be between an insurer and a counterparty that meets the qualifications established in subsection 5 for an issuer, obligor, or guarantor of bonds or other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of the United States or of any state, district, or insular or territorial possession thereof, or Canada, or that meets the qualifications established in subsection 19 for an issuer, obligor, or guarantor of bonds or other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of a foreign government other than Canada.

(2) Be between an insurer and a conduit and be collateralized by cash or obligations which are eligible under subsection 1, 2, 3, 5, 19, or 24, are deposited with a custodian bank as defined in subsection 21, and are held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted. Paragraphs "c", "d", and "e" of this subsection are not applicable to investments in financial instruments used in hedging transactions eligible pursuant to this subparagraph. As used in this subparagraph, "conduit" means a person within an insurer's insurance holding company system, as defined in section 521A.1, subsection 5, which aggregates hedging transactions by other persons within the insurance holding company system and replicates them with counterparties.

(a) Financial instruments used in hedging transactions between an insurer and a conduit which are collateralized by obligations eligible under subsection 5, 19, or 24 are eligible only to the extent that such securities deposited as collateral are not in excess of two percent of the legal reserve in the securities of any one corporation, less any securities of that corporation owned by the insurer or which are the subject of hedging transactions by the insurer, that are included in the insurer's legal reserve.

(b) Financial instruments used in hedging transactions between an insurer and a conduit which are collateralized by obligations eligible under subsection 5 or by cash equivalents eligible under subsection 24, other than a class one money market fund, are eligible only to the extent that such securities deposited as collateral are not in excess of ten percent of the legal reserve, less any obligations eligible under subsection 5 or cash equivalents eligible under subsection 24, other than a class one money market fund, owned by the insurer or which are the subject of hedging transactions by the insurer, that are included in the insurer's legal reserve.

(c) Financial instruments used in hedging transactions between an insurer and a conduit which are collateralized by obligations eligible under subsection 19 are eligible only to the extent that such securities deposited as collateral are not in excess of twenty percent of the legal reserve, less any securities eligible under subsection 19 owned by the insurer or which are the subject of hedging transactions by the insurer, that are included in the insurer's legal reserve.

(3) Financial instruments used in hedging transactions shall be eligible only as provided by this paragraph "b" and rules adopted by the commission pursuant to chapter 17A setting standards for hedging transactions between an insurer and a conduit as authorized under section 521A.5, subsection 1, paragraph "b".

Sec. 53. Section 511.8, subsection 22, paragraph e, Code 2005, is amended to read as follows:

e. Investments in financial instruments of foreign governments or foreign corporate obligations, other than Canada, used in hedging transactions ~~are not eligible in excess of~~ shall be

included in the limitation contained in subsection 19 that allows only twenty percent of the legal reserve~~, less any foreign investment authorized by subsection 19 owned by the company or association and in which its legal reserve is invested~~ of the company or association to be invested in such foreign investments, except insofar as the financial instruments are collateralized by cash or United States government obligations as authorized by subsection 1 deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted.

This paragraph "e" does not authorize the inclusion of financial instruments used in hedging transactions in an insurer's legal reserve that are in excess of the eligibility limitation provided in paragraph "d" unless the financial instruments are collateralized as provided in this paragraph "e".

Sec. 54. Section 511.8, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 24. CASH EQUIVALENTS.

a. As used in this subsection, unless the context otherwise requires:

(1) "Cash equivalents" means highly liquid investments with an original term to maturity of ninety days or less that are all of the following:

(a) Readily convertible to a known amount of cash without penalty.

(b) So near maturity that the investment presents an insignificant risk of change in value.

(c) Rated any of the following:

(i) "P-1" by Moody's investors services, inc.

(ii) "A-1" by Standard and Poor's division of McGraw-Hill companies, inc., or by the national association of insurance commissioners' securities valuation office.

(iii) Equivalent by a nationally recognized statistical rating organization that is recognized by the national association of insurance commissioners' securities valuation office.

(2) "Class one money market fund" means 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. § 80a-1 et seq., and operated in accordance with 17 C.F.R. § 270.2a-7, that qualifies for investment using the bond class one reserve factor under the purposes and procedures of the national association of insurance commissioners' securities valuation office.

b. Cash equivalents include a class one money market fund.

c. Cash equivalents, other than a class one money market fund, are not eligible in excess of two percent of the legal reserve in the obligations of any one corporation, and are not eligible in excess of ten percent of the legal reserve.

Sec. 55. Section 512B.25, Code 2005, is amended to read as follows:

512B.25 ANNUAL LICENSE — RENEWAL.

~~A society which is authorized to transact business in this state on January 1, 1991, and a society licensed on or after January 1, 1991, may continue in business until June 1, 1991.~~ The authority of ~~the~~ a society to transact business in this state may ~~thereafter~~ be renewed annually. A license terminates on the succeeding June 1. ~~However, a license issued shall continue in full force and effect until a new license is issued or specifically refused.~~ A society shall submit annually on or before March 1 a completed application for renewal of its license. For each license or renewal the society shall pay the commissioner a fee of fifty dollars. A society that fails to timely file an application for renewal shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7. A duly certified copy or duplicate of the license is prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

Sec. 56. Section 513C.9, subsection 1, Code 2005, is amended by striking the subsection.

Sec. 57. NEW SECTION. 514.9A CERTIFICATE OF AUTHORITY — RENEWAL.

A certificate of authority of a corporation formed under this chapter expires on June 1 succeeding its issue and shall be renewed annually so long as the corporation transacts its business in accordance with all legal requirements. A corporation shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority. A corporation that fails to timely file an application for renewal shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7. A duly certified copy or duplicate of the certificate is admissible in evidence for or against the corporation with the same effect as the original.

Sec. 58. NEW SECTION. 514B.3B CERTIFICATE OF AUTHORITY — RENEWAL.

A certificate of authority of a health maintenance organization formed under this chapter expires on June 1 succeeding its issue and shall be renewed annually so long as the organization transacts its business in accordance with all legal requirements. A health maintenance organization shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority. A health maintenance organization that fails to timely file an application for renewal shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7. A duly certified copy or duplicate of the certificate is admissible in evidence for or against the organization with the same effect as the original.

Sec. 59. Section 514B.12, Code 2005, is amended to read as follows:

514B.12 ANNUAL REPORT.

1. A health maintenance organization shall annually on or before the first day of March file with the commissioner or a depository designated by the commissioner a report verified by at least two of the principal officers of the health maintenance organization and covering the preceding calendar year. The report shall be on forms prescribed by the commissioner and shall include:

~~1.~~ a. Financial statements of the organization including a balance sheet as of the end of the preceding calendar year and statement of profit and loss for the year then ended, certified by a certified public accountant or an independent public accountant.

~~2.~~ b. Any material changes in the information submitted pursuant to section 514B.3.

~~3.~~ c. The number of persons enrolled during the year, the number of enrollees as of the end of the year and the number of enrollments terminated during the year.

~~4.~~ d. Other information relating to the performance of the health maintenance organization as is necessary to enable the commissioner to carry out the commissioner's duties under this chapter.

2. The commissioner shall refuse to renew a certificate of authority of a health maintenance organization that fails to comply with the provisions of this section and the organization's right to transact new business in this state shall immediately cease until the organization has so complied.

3. A health maintenance organization that fails to timely file the report required under subsection 1 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

4. The commissioner may give notice to a health maintenance organization that the organization has not timely filed the report required under subsection 1 and is in violation of this section. If the organization fails to file the required report and comply with this section within ten days of the date of the notice, the organization shall pay an additional administrative penalty of one hundred dollars for each day that the failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 60. Section 514B.22, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

514B.22 FEES.

When not otherwise provided, a foreign or domestic health maintenance organization doing business in this state shall pay the commissioner of insurance the fees as required in section 511.24.

Sec. 61. Section 514B.33, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Sections 514B.3B and 514B.12 apply to all foreign and domestic limited service organizations authorized to do business in this state.

Sec. 62. Section 514C.1, Code 2005, is amended to read as follows:

514C.1 SUPPLEMENTAL COVERAGE FOR ADOPTED OR NEWLY BORN CHILDREN.

1. Any policy of individual or group accident and sickness insurance providing coverage on an expense incurred basis, and any individual or group hospital or medical service contracts issued pursuant to chapters 509, 514, and 514A, which provide coverage for a family member of the insured or subscriber shall also provide that the health insurance benefits applicable for children shall, subject to the enrollment requirements of this section, be payable with respect to a newly born child of the insured or subscriber from the moment of birth, or, in the situation of a newly adopted child of a covered person, such child shall be covered from the earlier of any of the following:

a. The date of placement of the child for the purpose of adoption and continuing in the same manner as for other dependents of the covered person, unless the placement is disrupted prior to legal adoption and the child is removed from placement.

b. The date of entry of an order granting the covered person custody of the child for purposes of adoption.

c. The effective date of adoption.

2. The coverage for adopted or newly born children shall consist of coverage for injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities and is not subject to any preexisting condition exclusion.

3. If payment of a specific premium or subscription fee is required to provide coverage for a newly born child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within ~~thirty-one~~ sixty days after the date of birth ~~in order to have coverage continue beyond such thirty-one day period~~.

4. If payment of a specific premium or subscription fee is not required to provide coverage for a newly born child, the policy or contract may require that notification of birth of a newly born child must be furnished to the insurer or nonprofit service or indemnity corporation within sixty days after the date of birth in order for coverage to be provided for the child from the date of birth.

5. a. If payment of a specific premium or subscription fee is required to provide coverage for a newly adopted child or child placed for adoption, the policy or contract may require that notification of the adoption or placement for adoption and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within sixty days after the coverage is required to begin under this section.

b. If payment of a specific premium or subscription fee is not required to provide coverage for a newly adopted child or child placed for adoption, the policy or contract may require that notification of the adoption or placement for adoption must be furnished to the insurer or nonprofit service or indemnity corporation within sixty days after the coverage is required to begin under this section.

c. If a covered person fails to provide the required notice or to make payment of premium or subscription fees within the sixty-day period required in this subsection, the newly adopted child or child placed for adoption shall be treated no less favorably by a health carrier than other dependents of the covered person, other than newly born children, who seek coverage

under a policy or contract at a time other than the time when the dependent is first eligible to apply for coverage.

Sec. 63. Section 514C.3, Code 2005, is amended to read as follows:

514C.3 DENTIST'S SERVICES UNDER ACCIDENT AND SICKNESS INSURANCE POLICIES.

A policy of accident and sickness insurance issued in this state which provides payment or reimbursement for any service which is within the lawful scope of practice of a licensed dentist shall provide benefits for the service whether the service is performed by a licensed physician or a licensed dentist. As used in this section, "licensed physician" includes persons licensed under chapter 148, 150, or 150A and "policy of accident and sickness insurance" includes individual policies or contracts issued pursuant to chapter 514, 514A, or 514B, and group policies as defined in section 509B.1, ~~subsections~~ subsection 3 ~~and 4~~.

Sec. 64. Section 514E.7, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The association is not required to make plan coverage available to an individual who is covered or is eligible for any continued group coverage under Internal Revenue Code § 4980B, the federal Employee Retirement Income Security Act of 1974, codified at 29 U.S.C. § 1001 et seq., the federal Public Health Service Act of July 1, 1944, codified at 42 U.S.C. § 201 et seq., or any continued group coverage required by the state. For purposes of this subsection, an individual who would have been eligible for such continuation of group coverage, but is not eligible solely because the individual or other responsible party failed to make the required election of coverage during the applicable time period, or terminated such coverage prior to the end of such applicable time period, shall be deemed to be eligible for such group coverage until the date on which the individual's continuing group coverage would have expired had an election been made or a termination not occurred.

Sec. 65. Section 514J.7, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 9. If an enrollee dies before the completion of the external review process, the process shall continue to completion if there is potential liability of a carrier or organized delivery system to the estate of the enrollee.

NEW SUBSECTION. 10. a. If an enrollee who has already received a service or treatment under a plan requests external review of the plan's coverage decision and changes to another plan before the external review process is completed, the carrier or organized delivery system whose coverage was in effect at the time the service or treatment was received is responsible for completing the external review process.

b. If an enrollee who has not yet received service or treatment requests external review of a plan's coverage decision and then changes to another plan prior to receipt of the service or treatment and completion of the external review process, the external review process shall begin anew with the enrollee's current carrier or organized delivery system. In this instance, the external review process shall be conducted in an expedited manner.

Sec. 66. Section 515.24, Code 2005, is amended to read as follows:

515.24 TAX — COMPUTATION.

For the purpose of determining the basis of any tax upon the "gross amount of premiums", or "gross receipts from premiums, assessments, fees, and promissory obligations", now or hereafter imposed upon any fire or casualty insurance company under any law of this state, such gross amount or gross receipts shall consist of the gross written premiums or receipts for direct insurance, without including or deducting any amounts received or paid for reinsurance except that any company reinsuring windstorm or hail risks written by county mutual insurance associations shall be required to pay ~~a two percent tax on~~ as a tax, the applicable percent provided in section 432.1, calculated upon the gross amount of reinsurance premiums received upon such risks, but with such other deductions as provided by law, and in addition de-

ducting any so-called dividend or return of savings or gains to policyholders; provided that as to any deposits or deposit premiums received by any such company, the taxable premiums shall be the portion of such deposits or deposit premiums earned during the year with such deductions therefrom as provided by law.

Sec. 67. Section 515.42, Code 2005, is amended to read as follows:

515.42 TENURE OF CERTIFICATE — RENEWAL — EVIDENCE.

~~Such~~ A certificate of authority shall expire on the first day of June next succeeding its issue, and shall be renewed annually so long as such company shall transact business in accordance with the requirements of law; a copy of which certificate, when certified to by the commissioner of insurance, shall be admissible in evidence for or against a company with the same effect as the original. A company shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority. A company that fails to timely file an application for renewal shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 68. NEW SECTION. 515.147A ADMINISTRATIVE PENALTY.

1. An excess and surplus lines insurance agent that fails to timely file the report required in section 515.147 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

2. The commissioner shall refuse to renew the license of an agent that fails to comply with the provisions of section 515.147 and this section and the agent's right to transact new business in this state shall immediately cease until the agent has so complied.

3. The commissioner may give notice to an agent that the agent has not timely filed the report required under section 515.147 and is in violation of this section. If the agent fails to file the required report within ten days of the date of the notice, the agent shall pay an additional administrative penalty of one hundred dollars for each day that the failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 69. Section 515A.6, subsection 1, Code 2005, is amended to read as follows:

1. a. A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the commissioner for license as a rating organization for such kinds of insurance, or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file ~~therewith (a) a~~ with the application all of the following:

(1) A copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business~~, (b) a~~.

(2) A list of its members and subscribers~~, (c) the~~.

(3) The name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such rating organization may be served ~~and (d) a~~.

(4) A statement of its qualifications as a rating organization.

b. If the commissioner finds that the applicant is competent, trustworthy, and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business conform to the requirements of law, the commissioner shall issue a license specifying the kinds of insurance, or subdivisions or classes of risks or parts or combinations thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the commissioner within sixty days of the date of its filing with the commissioner.

c. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the commissioner. The fee for said license shall be twenty-five dollars.

d. Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection.

e. Every rating organization shall notify the commissioner promptly of every change in ~~(a)~~ ~~its~~ any of the following:

(1) Its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business~~, (b) its~~.

(2) Its list of members and subscribers ~~and (c) the~~.

(3) The name and address of the resident of this state designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

Sec. 70. Section 515A.9, Code 2005, is amended to read as follows:

515A.9 INFORMATION TO BE FURNISHED INSUREDS — HEARINGS AND APPEALS OF INSUREDS.

Every rating organization and every insurer which makes its own rate shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate. Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by the person's authorized representative, on the person's written request to review the manner in which such rating system has been applied in connection with the insurance afforded the person. Such review of the manner in which a rating system has been applied is not a contested case under chapter 17A. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, applicant may proceed in the same manner as if the application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the commissioner, who, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action. Such appeal to the commissioner of the manner in which a rating system has been applied is not a contested case under chapter 17A.

Sec. 71. Section 515A.10, subsection 2, Code 2005, is amended to read as follows:

2. Every advisory organization shall file with the commissioner ~~(a) a~~ all of the following:

a. A copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its bylaws, rules and regulations governing its activities~~, (b) a~~.

b. A list of its members~~, (c) the~~.

c. The name and address of a resident of this state upon whom notices or orders of the commissioner or process issued at the commissioner's direction may be served~~, and (d) an~~.

d. An agreement that the commissioner may examine such advisory organization in accordance with the provisions of section 515A.12.

Sec. 72. NEW SECTION. 515E.3A FOREIGN RISK RETENTION GROUP MAY BECOME DOMESTIC.

1. A risk retention group that is organized under the laws of any other state for the purpose of writing insurance, as authorized by this chapter, may redomesticate to this state by doing all of the following:

a. Complying with section 490.902.

b. Complying with all of the requirements of law relative to the organization and licensing of a domestic risk retention group and the capital and surplus requirement set forth in subsection 4.

c. Designating its principal place of business in this state.

2. A risk retention group that meets the requirements of subsection 1 shall be entitled to a certificate of its corporate existence and a license to transact business in this state, and be subject in all respects to the authority and jurisdiction of this state.

3. The certificate of authority, producer appointments and licenses, rates, and other items which are in existence at the time a risk retention group transfers its corporate domicile to this state pursuant to this section shall continue in full force and effect upon such transfer. For purposes of existing authorizations and all other corporate purposes, the risk retention group is deemed to be the same entity as it was prior to the transfer of its domicile. All outstanding policies of any transferring risk retention group shall remain in full force and effect.

4. A risk retention group redomesticating to this state pursuant to this chapter shall comply with the minimum capital and surplus requirements of chapter 521E or five million dollars, whichever is greater. If the risk retention group's prior domestic regulator allowed the use of letters of credit to meet that regulator's surplus requirements, the risk retention group may continue to use the letters of credit to meet this state's minimum surplus requirements for up to five years from the date of redomestication in this state. The risk retention group shall eliminate a minimum of twenty percent of the letters of credit being used each year based upon the aggregate amount of letters of credit being used to meet surplus requirements at the time of redomestication in this state.

5. Letters of credit used by a risk retention group to meet surplus requirements shall be clean, irrevocable, and unconditionally issued or confirmed by a qualified United States financial institution as defined in section 521B.4, subsection 2. The beneficiary of each letter of credit being used shall be the commissioner.

6. If a risk retention group redomesticating to this state fails to comply with the provisions of this section, the commissioner shall take action as prescribed in chapter 507C.

7. The commissioner shall adopt rules pursuant to chapter 17A to implement this section.

Sec. 73. Section 515F.4, subsection 5, Code 2005, is amended to read as follows:

5. The rates may contain a provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of the profit, consideration shall be given to investment income attributable to unearned premium and loss reserves. ~~Income from other sources shall not be considered.~~

Sec. 74. Section 515G.1, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Eligible policyholder" means a policyholder who had a policy in force with a mutual insurer at any time during the three-year period immediately preceding the date of the adoption of a plan of conversion by the mutual insurer's board of directors, including the date of adoption of the plan of conversion, and who, therefore, is eligible to receive an equitable share of the remaining statutory surplus of the mutual insurer, after provision for the base value for voting policyholders, as a result of the conversion.

NEW SUBSECTION. 5. "Voting policyholder" means a policyholder who had a policy in force as provided in section 515G.4.

Sec. 75. Section 515G.2, Code 2005, is amended to read as follows:

515G.2 MUTUAL INSURER BECOMING STOCK COMPANY — AUTHORIZATION.

1. A mutual insurer may become a stock insurance company pursuant to a plan of conversion established and approved in the manner provided by this chapter. The plan of conversion shall be adopted by the board of directors of the insurer to become effective on a future stated date.

2. A plan of conversion may provide that a mutual insurance company may convert into a domestic stock insurance company, convert and merge, or convert and consolidate with a domestic stock insurance company, as provided in chapter 490 or chapter 491, whichever is applicable. However, a mutual insurance company is not required to comply with sections 490.1102 and 490.1104 or sections 491.102 through 491.105 relating to approval of merger or consolidation plans by boards of directors and shareholders.

3. If conversion from a mutual insurer to a stock company is to be undertaken by a transaction which would be governed by chapter 521 or 521A, but the plan of conversion adopted by the board of directors of the insurer includes approval of an acquisition of control, merger, con-

solidation, or reinsurance, then chapter 521 or 521A shall not be applicable to the transaction. However, in that case, the commissioner may require any information from the person or persons acquiring control of the insurer as could be required under chapter 521 or 521A, and may disapprove the transaction on any basis on which it could be disapproved under chapter 521 or 521A.

Sec. 76. Section 515G.3, subsection 3, Code 2005, is amended to read as follows:

3. The manner and basis of exchanging the ~~equitable share of each mutual policyholder with a policy in force as provided in section 515G.4 for securities or other consideration, or both, of the stock corporation or an affiliate into which the mutual insurer is to be converted and the disposition of any unclaimed shares. The plan shall also provide that each person who had a policy of insurance in effect on the date of adoption of the plan is entitled to receive in exchange for an equitable share, without additional payment, consideration payable in voting common shares of the insurer, or other consideration, or both. The equitable share of the policyholder in the mutual insurer may include a~~ rights of each voting policyholder and each eligible policyholder of the mutual insurer to be converted to a stock company pursuant to this chapter. Such exchange may include a base value for each voting policyholder in recognition of the voting policyholder's voting rights as a mutual policyholder as well as consideration to be provided to each eligible policyholder in exchange for the eligible policyholder's rights as a mutual policyholder of the mutual insurer to be converted. After determining the base value ~~for~~ to be provided to each voting policyholder in recognition of the voting rights of the voting policyholder ~~and the balance of such~~, the equitable share of ~~its~~ each eligible policyholder in the remaining statutory surplus of the mutual insurer, plus any adjustments for nonadmitted assets or additional value permitted by the commissioner, to be provided to each eligible policyholder shall be determined by the ratio which the net earned premiums the eligible policyholder has properly and timely paid to the mutual insurer on insurance policies in effect during the ~~three years~~ three-year period immediately preceding the adoption of the plan of conversion, including the date of the adoption of the plan of conversion, bears to the total net earned premiums received by the mutual insurer from all eligible policyholders during that three-year period. The base value to be provided to each voting policyholder in recognition of voting rights and the equitable share of each eligible policyholder may be exchanged, without additional payment, for securities or other consideration, or both, of the stock corporation or an affiliate into which the mutual insurer is to be converted. If the base value for each voting policyholder or the equitable share of ~~the~~ each eligible policyholder entitles the policyholder to the purchase of a fractional share of stock, the policyholder has the option to receive the value of the fractional share in cash or purchase a full share by paying the balance in cash. However, policyholders due a de minimus amount, as established by the commissioner, need not be offered the value of the fractional share or the option to purchase a full share. The plan shall also provide for the disposition of any unclaimed shares.

Sec. 77. Section 516E.1, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Financial institution" means an institution that is all of the following:

a. Organized or, in the case of the office of a foreign banking organization located in the United States, licensed, under the laws of the United States or any state, and granted authority to operate with fiduciary powers.

b. Regulated, supervised, and examined by federal or state authorities empowered to regulate banks and trust companies.

NEW SUBSECTION. 5A. "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.

NEW SUBSECTION. 9A. "Service company fee" means the consideration paid for a service contract.

Sec. 78. Section 516E.1, subsection 8, Code Supplement 2005, is amended to read as follows:

8. "Reimbursement insurance policy" means a contractual liability insurance 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~~ that either provides reimbursement to a service company under the terms of insured service contracts issued or sold by the service company, or, in the event of nonperformance by the service company, pays, on behalf of the service company, all covered contractual obligations incurred by the service company under the terms of the insured service contracts issued or sold by the service company.

Sec. 79. Section 516E.2, subsection 3, Code Supplement 2005, is amended to read as follows:

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~~ service contracts shall be secured by a reimbursement insurance policy in compliance with the requirements set forth in section 516E.4 or the service company shall comply with the financial responsibility and security standards set forth in section 516E.21.

Sec. 80. Section 516E.2, subsection 4, paragraph f, Code Supplement 2005, is amended by striking the paragraph.

Sec. 81. Section 516E.3, subsection 1, paragraph a, Code Supplement 2005, is amended to read as follows:

a. A 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 service company's reimbursement insurance policy, if applicable, have been filed with the commissioner by the service company.

Sec. 82. Section 516E.3, subsection 2, paragraph b, Code Supplement 2005, is amended to read as follows:

b. A provider shall file a consent to service of process on the commissioner, a notice with the name and ownership of the provider, 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.

Sec. 83. Section 516E.4, subsection 1, Code Supplement 2005, is amended by striking the subsection and inserting in lieu thereof the following:

1. REQUIREMENTS. A reimbursement insurance policy insuring a service contract issued, sold, or offered for sale in this state shall provide for all of the following:

a. The reimbursement insurance policy shall, in the event of the service company's failure to perform under the service contract or otherwise, either reimburse or pay on behalf of the service company any covered amounts that the service company is legally obligated to pay un-

der the service contract, including the return of any unearned service company fee owed by the service company to the service contract holder.

b. An insurer that issues a reimbursement insurance policy shall assume full responsibility for the administration of claims made pursuant to a service contract in the event that the service company is unable to do so.

c. If a service covered under a service contract is not provided by the service company within sixty days of proof of loss by the service contract holder, the service contract holder is entitled to apply directly against the reimbursement insurance policy of the service company.

Sec. 84. Section 516E.4, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 4. OBLIGATIONS INSURED. If a service company secures its service contracts with a reimbursement insurance policy, the reimbursement insurance policy shall insure one hundred percent of the obligations of all service contracts sold by the service company.

NEW SUBSECTION. 5. QUALIFICATIONS OF INSURER. An insurer issuing a reimbursement insurance policy under this chapter shall be authorized, registered, or otherwise permitted to transact business in this state, or shall be an excess and surplus lines insurer authorized, registered, or otherwise permitted to transact business in this state, and shall meet one of the following requirements:

a. At the time the policy is filed with the commissioner, and continuously thereafter, the insurer maintains surplus as to policyholders and paid-in capital of at least fifteen million dollars and annually files copies of the insurer's financial statements, national association of insurance commissioners annual statement, and actuarial certification, if required and filed in the insurer's state of domicile.

b. At the time the policy is filed with the commissioner and continuously thereafter, the insurer does all of the following:

(1) Maintains surplus as to policyholders and paid-in capital of less than fifteen million dollars but at least ten million dollars.

(2) Demonstrates to the satisfaction of the commissioner that the insurer maintains a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than three to one.

(3) Files copies annually of the insurer's financial statements, national association of insurance commissioners annual statement, and actuarial certification, if required and filed in the insurer's state of domicile.

Sec. 85. Section 516E.5, subsection 1, Code Supplement 2005, is amended to read as follows:

1. a. A service contract insured by a reimbursement insurance policy shall not be issued, sold, or offered for sale in this state unless the contract conspicuously states that the obligations of the service company to the service contract holder are guaranteed under a reimbursement insurance policy, 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."

b. A claim against a reimbursement insurance policy shall also include a claim for return of the unearned ~~consideration~~ service company fee paid for the service contract ~~in excess of the premium paid~~. A service contract shall conspicuously state the name and address of the issuer of the reimbursement insurance policy for that service contract.

c. A service contract issued, sold, or offered for sale in this state that is not insured under a reimbursement insurance policy shall contain a statement in substantially the following form:

"Obligations of the service company under this service contract are backed by the full faith and credit of the service company."

Sec. 86. Section 516E.5, subsection 2, paragraphs a and b, Code Supplement 2005, are amended to read as follows:

a. Clearly and conspicuously states the name and address of the service company~~,~~ and 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 service company to the service contract holder are guaranteed under a reimbursement insurance policy~~.

b. Clearly and conspicuously states the name and address of the issuer of the reimbursement insurance policy, if applicable.

Sec. 87. Section 516E.9, Code Supplement 2005, is amended to read as follows:

516E.9 MISREPRESENTATIONS OF STATE APPROVAL.

A service company shall not represent or imply in any manner that the service company has been sponsored, recommended, or approved or that the 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 and regulated industries bureau.

Sec. 88. Section 516E.15, subsection 1, paragraph b, Code Supplement 2005, is amended to read as follows:

b. A provider~~,~~ or service 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 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 name or the termination of the business of a provider~~,~~ or 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. 89. NEW SECTION. 516E.20 APPLICATION OF INSURANCE LAWS.

The sale of a service contract under this chapter shall not be deemed to include the sale of insurance. Unless a service company, third-party administrator, or provider is otherwise engaged in the sale of insurance, the insurance laws of this state are not applicable to the service company, third-party administrator, or provider of such a service contract.

Sec. 90. NEW SECTION. 516E.21 FINANCIAL RESPONSIBILITY AND SECURITY REQUIREMENTS IN LIEU OF REIMBURSEMENT INSURANCE POLICY.

1. In lieu of obtaining a reimbursement insurance policy as provided in section 516E.2, subsection 3, a service company may secure its service contracts by maintaining a funded reserve account which complies with all of the following:

a. The reserve account shall be in a custodial account at a financial institution that is dedicated to the service company's outstanding obligations under service contracts issued and outstanding in this state.

b. The reserve account shall comply with rules adopted by the commissioner pursuant to chapter 17A establishing requirements for reserve accounts, reserve account agreements, or the method of valuing marketable securities as necessary to protect holders of service contracts issued and outstanding in this state. The commissioner may require amendments to reserve account agreements that are not in compliance with the provisions of this section.

c. The reserve account shall not be an amount that is less than forty percent of the gross consideration received, less claims paid, on the sale of service contracts issued and outstanding by the service company in this state.

d. The reserve account shall be subject to examination and review by the commissioner or a designee on the premises of the financial institution where the account is located and the

financial institution shall, upon request, produce documents or records as necessary to allow the commissioner or a designee to verify the value and safety of the assets of the reserve account.

2. The service company shall annually provide the commissioner with one of the following:

a. A copy of the service company's financial statements.

b. If the service company's financial statements are consolidated with those of its parent company, a copy of the parent company's most recent form 10-K or form 20-F filed with the federal securities and exchange commission within the last calendar year, or if the parent company does not file with the federal securities and exchange commission, a copy of the parent company's audited financial statements showing a net worth of at least one hundred million dollars. If the service company's financial statements are consolidated with those of its parent company, the service company shall also provide a copy of a written agreement by the parent company guaranteeing the obligations of the service company under service contracts issued and outstanding by the service company in this state.

3. If a service contract company[1] secures its contracts by maintaining a funded reserve account as provided in subsection 1 but does not have or maintain a minimum net worth or stockholders equity of one hundred million dollars or more, the service company shall also meet one of the following requirements:

a. Maintain a security deposit trust fund which complies with all of the following:

(1) The security deposit trust fund shall be in an account at a financial institution.

(2) The security deposit trust fund shall be held, invested, and administered for the benefit and protection of service contract holders in this state in the event of nonperformance of the service contract by the service company.

(3) The security deposit trust fund shall comply with rules adopted by the commissioner pursuant to chapter 17A, establishing the form, terms, and conditions of security deposit trust fund agreements established pursuant to this paragraph "a".

(4) The security deposit trust fund shall be subject to recovery by any service contract holder sustaining actionable injury due to the failure of the service company to perform its obligations under the service contract. A holder of a service contract issued in this state may, in the event of nonperformance by the service company, maintain an action and file a claim against the security deposit trust fund maintained by the service company.

(5) The security deposit trust fund shall not be commingled with other funds of the service company.

(6) The security deposit trust fund shall have a value of not less than five percent of the gross consideration received by the service company, less claims paid, for the sale of all service contracts issued and in force in this state, but not less than twenty-five thousand dollars, and consists of one or more of the following:

(a) Cash.

(b) Securities of the type eligible for deposit by insurers authorized to transact business in this state.

(c) Certificates of deposit.

(d) Another form of security as prescribed by the commissioner by rule.

b. File a surety bond with the commissioner that is issued by a surety company authorized to do business in this state, and that complies with all of the following:

(1) The surety bond is conditioned upon the service company's faithful performance of service contracts subject to this chapter.

(2) The surety bond is for the benefit of and subject to recovery by any service contract holder sustaining actionable injury due to the failure of the service company to perform its obligations under a service contract. The surety's liability shall extend to all service contracts issued by the service company and outstanding in this state. A holder of a service contract issued in this state may, in the event of nonperformance of the contract by the service company, maintain an action and file a claim against the surety bond filed by the service company.

(3) The surety bond is for an amount that is not less than five percent of the gross consider-

[1] The phrase "service company" probably intended

ation received by the service company, less claims paid, for the sale of all service contracts issued and in force in this state, but not less than twenty-five thousand dollars.

(4) The surety bond cannot be canceled by the surety except upon written notice of cancellation by the surety to the commissioner by restricted certified mail, and not prior to the expiration of sixty days after receipt of the notice by the commissioner.

Sec. 91. Section 518.15, Code 2005, is amended to read as follows:

518.15 REPORTS, ~~AND~~ EXAMINATIONS, AND RENEWALS.

1. The president or the vice president and secretary of each association authorized to do business under this chapter shall annually before the first day of March prepare under oath and file with the commissioner of insurance a full, true and complete statement of the condition of such association on the last day of the preceding year. The commissioner of insurance shall prescribe the report forms and shall determine the information and data to be reported.

2. Such associations shall pay the same expenses of any examination made or ordered to be made by the commissioner of insurance and the same fees for the annual reports and annual certificates of authority as are required to be paid by domestic companies organized and doing business under chapter 515~~, which certificates shall expire June 1 of the year following the date of issue~~.

3. A certificate of authority of an association formed under this chapter expires on June 1 succeeding its issue and shall be renewed annually so long as the association transacts its business in accordance with all legal requirements. An association shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority.

4. The commissioner shall refuse to renew the certificate of authority of an association that fails to comply with the provisions of this chapter.

5. An association formed under this chapter that fails to timely file the statement required under subsection 1 or the application for renewal required under subsection 3 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7. The association's right to transact new business in this state shall immediately cease until the association has fully complied with this chapter.

6. The commissioner may give notice to an association that the association has not timely filed the statement required under subsection 1 or an application for renewal under subsection 3 and is in violation of this section. If the association fails to file the required statement or application and comply with this section within ten days of the date of the notice, the association shall pay an additional administrative penalty of one hundred dollars for each day that the failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 92. Section 518A.18, Code 2005, is amended to read as follows:

518A.18 ANNUAL REPORT — PENALTIES.

1. An association doing business under this chapter, on or before March 1 of each year, shall prepare under oath and file with the commissioner of insurance an accurate and complete statement of the condition of the association as of the last day of the preceding calendar year. The statement shall conform to the annual statement blank prepared pursuant to instructions prescribed by the commissioner. All financial information reflected in the annual report shall be kept and prepared pursuant to accounting practices and procedures prescribed by the commissioner. Statements filed with the commissioner pursuant to this section shall be tabulated and published by the commissioner of insurance in the annual report of insurance.

2. An association that fails to timely file the statement required under subsection 1 is in violation of this section and shall pay an administrative penalty of five hundred dollars for each violation to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

3. The commissioner may give notice to an association that the association has not timely filed the statement required under subsection 1 and is in violation of this section. If the associa-

tion fails to file the required statement and comply with this section within ten days of the date of the notice, the association shall pay an additional administrative penalty of one hundred dollars for each day that each failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

4. The association's right to transact new business in this state shall immediately cease until the association has fully complied with this chapter.

Sec. 93. Section 518A.35, subsection 1, Code 2005, is amended to read as follows:

1. A state mutual insurance association doing business under this chapter shall on or before the first day of March, each year, pay to the director of revenue, or a depository designated by the director, a sum equivalent to the applicable percent of the gross receipts from premiums and fees for business done within the state, including all insurance upon property situated in the state without including or deducting any amounts received or paid for reinsurance. However, a company reinsuring windstorm or hail risks written by county mutual insurance associations is required to pay the applicable percent tax on the gross amount of reinsurance premiums ~~received~~ written upon such risks, but after deducting the amount returned upon canceled policies and rejected applications covering property situated within the state, and dividends returned to policyholders on property situated within the state. For purposes of this section, "applicable percent" means the same as specified in section 432.1, subsection 4.

Sec. 94. Section 518A.40, Code 2005, is amended to read as follows:

518A.40 ANNUAL FEES — RENEWALS — PENALTIES.

1. Such associations shall pay the same fees for annual reports and annual certificates of authority as are required to be paid by domestic companies organized and doing business under chapter 515, which certificates shall expire May 1 of the year following the date of issue.

2. A certificate of authority of an association formed under this chapter shall be renewed annually so long as the organization transacts its business in accordance with all legal requirements. Such an association shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority.

3. The commissioner shall refuse to renew the certificate of authority of a state mutual insurance association that fails to comply with the provisions of this chapter and the association's right to transact new business in this state shall immediately cease until the association has so complied.

4. An association that fails to timely file the application for renewal required under subsection 2 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 95. Section 518C.17, Code 2005, is amended to read as follows:

518C.17 ACTIONS AGAINST THE ASSOCIATION.

An action against the association shall be brought against it in the association's own name and only in the Polk county district court. Service of original notice in an action against the association ~~may~~ shall be made on any officer of the association or upon the commissioner of insurance on its behalf. The commissioner shall promptly transmit any notice served upon the commissioner to the association.

Sec. 96. Section 520.10, Code 2005, is amended to read as follows:

520.10 ANNUAL REPORT — EXAMINATION — PENALTIES.

1. Such attorney shall, within the time limited for filing the annual statement by insurance companies transacting the same kind of business, make a report, under oath, to the commissioner of insurance for each calendar year, showing the financial condition of affairs at the office where such contracts are issued and shall, at any and all times, furnish such additional information and reports as may be required; provided, however, that the attorney shall not be required to furnish the names and addresses of any subscribers except in case of an unpaid

final judgment. The business affairs, records, and assets of any such organization shall be subject to examination by the commissioner of insurance at any reasonable time, and such examination shall be at the expense of the organization examined.

2. A certificate of authority of a reciprocal or interinsurance insurer authorized under this chapter shall be renewed annually in accordance with section 520.12 so long as the insurer transacts its business in accordance with all legal requirements.

3. The commissioner shall refuse to renew the certificate of authority of a reciprocal or interinsurance insurer that fails to comply with the provisions of this chapter and the insurer's right to transact new business in this state shall immediately cease until the insurer has so complied.

4. A reciprocal or interinsurance insurer that fails to timely file the report required under subsection 1 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

5. The commissioner may give notice to a reciprocal or interinsurance insurer that the insurer has not timely filed the report required under subsection 1 and is in violation of this section. If the insurer fails to file the required report and comply with this section within ten days of the date of the notice, the insurer shall pay an additional administrative penalty of one hundred dollars for each day that the failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 97. Section 520.12, Code 2005, is amended to read as follows:

520.12 CERTIFICATE OF AUTHORITY — RENEWAL — PENALTIES.

1. Upon compliance with the requirements of this chapter, the commissioner of insurance shall issue a certificate of authority or a license to the attorney, authorizing the attorney to make such contracts of insurance, which license shall specify the kind or kinds of insurance and shall contain the name of the attorney, the location of the principal office and the name or designation under which such contracts of insurance are issued. The certificate of authority shall expire on the first day of June next succeeding its issue, and shall be renewed annually as long as the company transacts business in accordance with the requirements of law. A copy of the certificate, when certified by the commissioner of insurance, shall be admissible in evidence for or against a company with the same effect as the original.

2. A reciprocal or interinsurance insurer shall submit annually, on or before March 1, a completed application for renewal of the insurer's certificate of authority. An insurer that fails to timely file an application for renewal shall pay an administrative fee of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 98. Section 521.1, Code 2005, is amended to read as follows:

521.1 DEFINITIONS.

For the purposes of this chapter:

1. "Affected company" or "affected mutual company" means the company being merged with and into the surviving company.

2. "Commission" means the commission created in section 521.5.

3. "Commissioner" means the commissioner of insurance.

4. "Company" ~~or "companies"~~ when used in this chapter means a company or association organized under chapter 508, 511, 515, 518, 518A, or 520, and includes a mutual insurance holding company organized pursuant to section 521A.14.

Sec. 99. Section 521.2, Code 2005, is amended to read as follows:

521.2 ~~LIFE COMPANIES —~~ CONSOLIDATION, MERGER, AND REINSURANCE.

1. One or more domestic mutual insurance companies organized under chapter 491 may merge or consolidate with a domestic or foreign mutual insurance company as provided in this chapter. Sections 491.101 through 491.105 shall not be applicable to a merger or consolidation of a domestic mutual insurance company pursuant to this chapter.

2. One or more domestic insurance companies organized under chapter 490 may merge

with a domestic or foreign insurance company as provided in chapter 490 with the approval of the commission pursuant to this chapter.

3. The provisions of this chapter shall not be applicable to the merger or consolidation of a domestic mutual company with a stock company pursuant to chapter 508B or chapter 515G.

4. A domestic mutual insurance company ~~organized under the laws of this state to do the business of life insurance, either on the stock, mutual, stipulated premium, or assessment plan,~~ shall not ~~consolidate with any other company or reinsure its risks, or any part of such risks, with any other company, or~~ assume or reinsure the whole or any part of the risks of any other company, except as provided in this chapter. However, this chapter shall not be construed to prevent any company, as defined in section 521.1, from reinsuring a fractional part of any ~~single~~ risk.

Sec. 100. Section 521.3, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

521.3 SUBMISSION OF PLAN AND APPLICATION TO COMMISSIONER OF INSURANCE.

Any company proposing to consolidate, merge, or enter into any reinsurance contract with another company shall file a plan and an application in support of the plan with the commissioner. The plan shall set forth the terms of the proposed contract of consolidation, merger, or reinsurance, along with any other information requested by the commissioner.

Sec. 101. Section 521.4, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

521.4 PROCEDURE — NOTICE.

The commission may hear and determine an application, and approve, disapprove, or require modification of a plan submitted under section 521.3 without notice and without public hearing. The commission may require a public hearing when necessary to conserve the interests of the members, policyholders, or shareholders of the affected company. In such cases the commission shall require the affected company to mail to all of its members, policyholders, or shareholders written notice of the public hearing stating that an application and plan have been filed with the commission, the nature of the plan, and the date, time, and place of the public hearing on the application and plan. The commission shall determine the number of days prior to the public hearing that notice is required to be given to the members or shareholders, which shall be no fewer than ten nor more than sixty days.

Sec. 102. Section 521.5, Code 2005, is amended to read as follows:

521.5 COMMISSION ~~TO HEAR PETITION~~ CREATED.

~~For the purpose of hearing and determining such petition, a~~ A commission consisting of the commissioner of insurance and the attorney general is hereby created to hear and determine the application and to approve, disapprove, or require modification of the plan prior to approval.

Sec. 103. Section 521.6, Code 2005, is amended to read as follows:

521.6 EXAMINATION.

The commission may ~~make such examination into~~ examine the affairs and condition of any company ~~or companies~~ as it ~~may deem~~ deems proper, and shall have the power to summon and compel the attendance and testimony of witnesses, and the production of books and papers before ~~said~~ the commission and may administer oaths.

Sec. 104. Section 521.7, Code 2005, is amended to read as follows:

521.7 APPEARANCE BY MEMBERS, POLICYHOLDERS, OR SHAREHOLDERS.

When notice ~~shall have been~~ is given as ~~above~~ provided in section 521.4, any member, policyholder, or ~~stockholder~~ shareholder of ~~said~~ the affected company ~~or companies~~ shall have the right to appear before ~~said~~ the commission and be heard ~~with reference to said petition~~ regarding the application and plan.

Sec. 105. Section 521.8, Code 2005, is amended to read as follows:

521.8 AUTHORIZATION.

~~Said~~ The commission, if satisfied that the interests of the members, policyholders, or shareholders of ~~said~~ the affected company ~~or companies~~ are properly protected and no reasonable objection to ~~said petition~~ the application and plan exists, may ~~authorize~~ approve, disapprove, or require modification of the proposed plan of consolidation, merger, or reinsurance ~~or may direct such modification thereof as may seem to it best for the interests of the policyholders; and said~~ prior to approval. The commission may make such order and disposition of the assets of any such company thereafter remaining as shall be just and equitable.

Sec. 106. Section 521.10, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

521.10 ELECTION CALLED.

1. The commission may require an affected company to submit the plan of consolidation, merger, or reinsurance to a vote by its members. The plan shall be submitted at a meeting called for that purpose, upon not less than thirty days' notice. Member approval of the plan requires the affirmative vote of two-thirds of all members voting in person, by ballot, or by proxy.

2. Approval by the members of a mutual company of a plan of merger or reinsurance is not required if all of the following conditions are satisfied:

a. The company will survive the merger or is the reinsurer.

b. At the time of the merger or reinsurance, the number of members of the surviving company is greater than the number of members of the affected company.

c. At the time of the merger or reinsurance, the surplus of the surviving company is greater than the surplus of the affected company.

Sec. 107. Section 521.13, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

521.13 REINSURANCE TRANSACTIONS — EXEMPTION.

Reinsurance as provided in sections 515.49, 518.17, 518A.44, and 520.21 is exempt from the requirements of this chapter.

Sec. 108. Section 521.14, Code 2005, is amended to read as follows:

521.14 EXPENSES AND COSTS — HOW PAID.

All expenses and costs incident to proceedings under ~~the provisions of~~ this chapter~~,~~ shall be paid by the company ~~or companies bringing~~ filing the ~~petition~~ application and plan.

Sec. 109. Section 521.16, Code 2005, is amended to read as follows:

521.16 APPLICABILITY OF ~~CHAPTER~~ SECTION 521A.3.

~~Chapter 521A is~~ The provisions of section 521A.3 shall also be applicable to a merger or consolidation ~~made pursuant~~ subject to this chapter~~, and the provisions of chapter 521A and this chapter shall apply exclusively with respect to such merger or consolidation~~.

Sec. 110. NEW SECTION. 521.17 ADDITIONAL FILING REQUIREMENTS — PLANS AND ARTICLES OF MERGER OR CONSOLIDATION.

A company filing a plan to merge or consolidate shall, in addition to and after meeting the requirements of this chapter, make all appropriate filings with and pay appropriate fees to the secretary of state required under chapter 490 or 491.

Sec. 111. NEW SECTION. 521.18 ARTICLES OF MERGER OR CONSOLIDATION — FILING FEES AND APPROVAL.

A company filing a plan to merge or consolidate under the provisions of this chapter shall file its articles of merger or consolidation with the commission for its approval. The fee for filing articles of merger or consolidation with the commission is fifty dollars.

Sec. 112. Section 521A.1, subsection 6, Code 2005, is amended to read as follows:

6. "Insurer" means a company qualified and licensed by the insurance division to transact the business of insurance in this state by certificate issued pursuant to chapters 508, 512B, 514, 514B, 515, 515E, and 520, except that it shall not include:

~~a. Agencies~~ agencies, authorities, or instrumentalities of the United States, its possessions and territories, the commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

~~b. Fraternal benefit societies.~~

~~c. Nonprofit medical, hospital or dental service associations.~~

Sec. 113. Section 521A.2, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. Investing, reinvesting, or trading in securities and financial instruments as defined in section 511.8, subsection 22, for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary.

Sec. 114. Section 521A.2, subsection 3, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Invest, reinvest, and trade in financial instruments as defined in section 511.8, subsection 22, for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary.

Sec. 115. NEW SECTION. 522B.16B WRITTEN CONSENT TO ENGAGE OR PARTICIPATE IN BUSINESS OF INSURANCE.

1. A person who is prohibited by 18 U.S.C. § 1033 from engaging or participating in the business of insurance because that person has been convicted of a crime under that statute or of a felony involving dishonesty or breach of trust may apply to the commissioner for written consent to engage or participate in the business of insurance in this state.

2. The commissioner, by rule, shall establish a procedure and standards for issuing such a written consent.

3. The commissioner shall not issue an insurance producer license to an applicant who has been convicted of a crime as set forth in subsection 1 unless the applicant has first obtained a written consent from the commissioner to engage or participate in the business of insurance in this state.

4. The commissioner shall not renew or issue an insurance producer license to an insurance producer licensee who has been convicted of a crime as set forth in subsection 1, unless that licensee has first obtained a written consent from the commissioner to engage or participate in the business of insurance in this state.

Sec. 116. Section 523A.601, subsection 1, paragraph i, Code 2005, is amended to read as follows:

i. Include an explanation of regulatory oversight by the insurance division in twelve point boldface type, in substantially the following language:

THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION AT ~~(. . . .) . . . . . .~~ (515)281-4441. WRITTEN INQUIRIES OR COMPLAINTS SHOULD BE MAILED TO THE IOWA SECURITIES AND REGULATED INDUSTRIES BUREAU, ~~(STREET ADDRESS), (CITY)~~ 330 MAPLE STREET, DES MOINES, IOWA ~~(ZIP CODE)~~ 50319.

Sec. 117. Section 523A.602, subsection 2, paragraph b, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (1A) If a purchase agreement is canceled before the purchase price is paid in full, a purchaser requests a transfer of the trust assets upon cancellation of a purchase agreement before the purchase price is paid in full, or another establishment pro-

vides cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, designated in a purchase agreement before the purchase price is paid in full, the seller shall refund or transfer within thirty days of receiving a written demand no less than the amount paid by the purchaser, less any actual expenses incurred by the seller pursuant to the purchase agreement as set forth in the purchase agreement under section 523A.601, subsection 1, paragraph "f". The amount of the actual expenses deducted by the seller shall not exceed ten percent of the total original purchase price of the applicable cemetery merchandise, funeral merchandise, funeral services, or a combination thereof. The seller may also deduct the value of the cemetery merchandise, funeral merchandise, and funeral services already received by, delivered to, or warehoused for the purchaser.

Sec. 118. Section 523I.102, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 49. "Veterans cemetery" means a cemetery that is owned or operated by the state of Iowa or by the United States for the burial of veterans.

Sec. 119. Section 523I.103, subsection 1, paragraph a, Code Supplement 2005, is amended to read as follows:

a. All cemeteries, except religious cemeteries that commenced business prior to July 1, 2005, and veterans cemeteries.

Sec. 120. Section 523I.201, subsection 1, Code Supplement 2005, is amended to read as follows:

1. This chapter shall be administered by the commissioner. The deputy administrator appointed pursuant to section ~~523A.801~~ 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 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.

Sec. 121. Section 523I.309, subsection 1, Code Supplement 2005, is amended to read as follows:

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.~~ a. The surviving spouse of the decedent, if not legally separated from the decedent.

~~c.~~ b. 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. Alternatively, a majority of the surviving adult children of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.

~~d.~~ c. ~~A~~ The surviving ~~parent~~ parents of the decedent whose whereabouts are reasonably ascertainable.

d. A surviving adult grandchild of the decedent. If there is more than one surviving adult grandchild, any adult grandchild who can confirm, in writing, that all other adult grandchildren 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 grandchild of the decedent. Alternatively, a majority of the surviving adult grandchildren of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.

e. A surviving adult sibling of the decedent. If there is more than one surviving adult sibling, any adult sibling who can confirm, in writing, that all other adult siblings 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 sibling of the decedent. Alternatively, a majority of the surviving adult siblings of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.

f. A surviving grandparent of the decedent. If there is more than one surviving grandparent, any grandparent who can confirm, in writing, that all other grandparents 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 grandparent of the decedent. Alternatively, a majority of the surviving grandparents of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.

g. ~~The legal guardian of the decedent at the time of the decedent's death.~~ An adult person in the next degree of kinship to the decedent in the order named by law to inherit the estate of the decedent under the rules of inheritance for intestate succession.

h. The county medical examiner, if responsible for the decedent's remains.

A cemetery may await a court order before proceeding with the interment, relocation, or disinterment of a decedent's remains within or from a cemetery if the cemetery is aware of a dispute between an authorized person under this section and the executor named in the decedent's will or a personal representative appointed by a court, or is aware of a dispute among authorized persons with the same priority under this subsection.

Sec. 122. Section 523I.312, subsection 2, paragraph n, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

n. Include an explanation of regulatory oversight by the insurance division in twelve point boldface type, in substantially the following language:

THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION WITH INQUIRIES OR COMPLAINTS AT (515)281-4441. WRITTEN INQUIRIES OR COMPLAINTS SHOULD BE MAILED TO: IOWA SECURITIES AND REGULATED INDUSTRIES BUREAU, 330 MAPLE STREET, DES MOINES, IOWA 50319.

Sec. 123. Section 523I.316, subsection 3, Code Supplement 2005, is amended to read as follows:

3. DUTY TO PRESERVE AND PROTECT.

a. 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~~ a written agreement to delegate the responsibility for the preservation and protection of the cemetery or burial site to ~~a~~ the owner of the property on which the cemetery or burial site is located or to a public or private organization interested in historical preservation. The governmental subdivision shall not enter into an agreement with a public or private organization to preserve and protect the cemetery or burial site unless the property owner has been offered the opportunity to enter into such an agreement and has declined to do so.

b. A governmental subdivision is authorized to expend public funds, in any manner authorized by law, in connection with such a cemetery or burial site.

c. If a governmental subdivision proposes to enter into an agreement with a public or private organization pursuant to this subsection to preserve and protect a cemetery or burial site that is located on property owned by another person within the jurisdiction of the governmental subdivision, the proposed agreement shall be written, and the governmental subdivision shall

provide written notice by ordinary mail of the proposed agreement to the property owner at least fourteen days prior to the date of the meeting at which such proposed agreement will be authorized. The notice shall include the location of the cemetery or burial site and a copy of the proposed agreement, and explain that the property owner is required to permit members of the public or private organization reasonable ingress and egress for the purposes of preserving and protecting the cemetery or burial site pursuant to the proposed agreement. The notice shall also include the date, time, and place of the meeting and a statement that the property owner has a right to attend the meeting and to comment regarding the proposed agreement.

d. Subject to chapter 670, a governmental subdivision that enters into an agreement with a public or private organization pursuant to this subsection is liable for any personal injury or property damage that occurs in connection with the preservation or protection of the cemetery or burial site or access to the cemetery or burial site by the governmental subdivision or the public or private organization.

For the purposes of this paragraph, "liable" means liability for every civil wrong which results in wrongful death or injury to a person or injury to property or injury to personal or property rights and includes but is not restricted to actions based upon negligence; error or omission; nuisance; breach of duty, whether statutory or other duty; or denial or impairment of any right under any constitutional provision, statute, or rule of law.

e. A property owner who is required to permit members of a public or private organization reasonable ingress and egress for the purpose or[2] preserving or protecting a cemetery or burial site on that owner's property and who acts in good faith and in a reasonable manner pursuant to this subsection is not liable for any personal injury or property damage that occurs in connection with the preservation or protection of the cemetery or burial site or access to the cemetery or burial site.

f. For the purposes of this subsection, reasonable ingress and egress to a cemetery or burial site shall include the following:

(1) A member of a public or private organization that has entered into a written agreement with the governmental subdivision who desires to visit such a cemetery or burial site shall give the property owner at least ten days' written notice of the intended visit.

(2) If the property owner cannot provide reasonable access to the cemetery or burial site on the desired date, the property owner shall provide reasonable alternative dates when the property owner can provide access to the member.

(3) A property owner is not required to make any improvements to that person's property to satisfy the requirement to provide reasonable access to a cemetery or burial site pursuant to this subsection.

Sec. 124. NEW SECTION. 523I.317 DUTY TO PROVIDE PUBLIC ACCESS.

A cemetery shall provide or permit public access to the cemetery, at reasonable times and subject to reasonable regulations, so that owners of interment rights and other members of the public have reasonable ingress and egress to the cemetery.

Sec. 125. Section 523I.508, subsection 4, Code Supplement 2005, is amended to read as follows:

4. DELEGATES TO CONVENTIONS. A township having one or more cemeteries under its control may designate~~, not~~ up to ~~exceed~~ two~~,~~ officials from each cemetery as delegates to attend meetings of cemetery officials, and certain expenses~~, including association dues,~~ of the delegates not ~~to exceed~~ exceeding twenty-five dollars for each delegate, ~~of the delegates~~ including association dues, may be paid out of the cemetery fund of the township.

Sec. 126. Section 616.15, Code 2005, is amended to read as follows:

616.15 SURETY COMPANIES.

1. Suit may be brought against any company or corporation furnishing or pretending to furnish surety, fidelity, or other bonds in this state, in any county in which the principal place of business of such company or corporation is maintained in this state, or in any county wherein

[2] According to enrolled Act; the word "of" probably intended

is maintained its general office for the transaction of its Iowa business, or in the county where the principal resides at the time of bringing suit, or in the county where the principal did reside at the time the bond or other undertaking was executed; and in the case of bonds furnished by any such company or corporation for any building or improvement, either public or private, action may be brought in the county wherein said building or improvement, or any part thereof is located.

2. The secretary of state shall serve as the agent for service of process for the purposes of 31 U.S.C. § 9306, of any surety company or corporation for a surety bond written by that surety company or corporation for the federal government and issued in this state as required or permitted under federal law, if the surety company or corporation is licensed in this state and cannot be otherwise served with process. Notwithstanding section 507.14, upon request of the secretary of state, the commissioner of insurance shall provide the secretary of state with the name and address of the person designated for consent to service of process by the surety company or corporation which is on file with the commissioner.

Sec. 127. Sections 509B.4, 521.9, 521.11, and 521.12, Code 2005, are repealed.

Sec. 128. Section 516E.17, Code Supplement 2005, is repealed.

Approved May 24, 2006

CHAPTER 1118

APPOINTMENT OF CHIEF JUVENILE COURT OFFICERS

H.F. 711

AN ACT relating to the appointment of a chief juvenile court officer.

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

Section 1. Section 602.1217, subsection 1, Code 2005, is amended to read as follows:

1. The ~~district judges within a~~ chief judge of each judicial district, ~~by majority vote,~~ after consultation with the judges of the judicial district, shall appoint a chief juvenile court officer and may remove the officer for cause.

Approved May 24, 2006

CHAPTER 1119

CHILD SUPPORT

H.F. 2332

AN ACT relating to child support, including processing and disbursement of support payments, modification of support based upon permanency orders of the juvenile court, income withholding and information sharing under the child support recovery program, nonsupport of a child or ward, providing for and making criminal penalties applicable, providing penalties, and providing for applicability and retroactive applicability.

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

Section 1. Section 252B.9, subsection 1, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Notwithstanding any provision of law making this information confidential, data provided to the department by an insurance carrier under section 505.25 shall also be provided to the unit. Provision of data to the unit under this paragraph shall not require an agreement or modification of an agreement between the department and an insurance carrier, but the provisions of this section applicable to information received by the unit shall apply to the data received pursuant to section 505.25 in lieu of any confidentiality, privacy, disclosure, use, or other provisions of an agreement between the department and an insurance carrier.

Sec. 2. Section 252B.15, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Chapter 556 shall not apply to payments received by the collection services center.

Sec. 3. NEW SECTION. 252D.16A INCOME WITHHOLDING ORDER — CHILD SUPPORT RECOVERY UNIT.

If support payments are ordered under this chapter, chapter 232, 234, 252A, 252C, 252E, 252F, 252H, 598, 600B, or any other applicable chapter, or under a comparable statute of a foreign jurisdiction, and if income withholding relative to such support payments is allowed under this chapter, the child support recovery unit may enter an ex parte order notifying the person whose income is to be withheld of the procedure to file a motion to quash the order for income withholding, and ordering the withholding of sums to be deducted from the delinquent person's income as defined in section 252D.16 sufficient to pay the support obligation and requiring the payment of such sums to the collection services center. The child support recovery unit shall include the amount of any delinquency and the amount to be withheld in the notice provided to the obligor pursuant to section 252D.17A. Notice of income withholding shall be provided to the obligor and to the payor of income pursuant to sections 252D.17 and 252D.17A.

Sec. 4. Section 252D.17, subsection 8, Code 2005, is amended to read as follows:

8. If the payor ~~knowingly~~, with actual knowledge and intent to avoid legal obligation, fails to withhold income or to pay the amounts withheld to the collection services center or the clerk of court in accordance with the provisions of the order, the notice of the order, or the notification of payors of income provisions established in section 252B.13A, the payor commits a simple misdemeanor for a first offense and is liable for the accumulated amount which should have been withheld, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the payor. For each subsequent offense prescribed under this subsection, the payor commits a serious misdemeanor and is liable for the accumulated amount which should have been withheld, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the payor.

Sec. 5. Section 252D.18, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. The child support recovery unit may modify an amount specified

in an income withholding order or notice of income withholding by providing notice to the payor of income and the obligor pursuant to sections 252D.17 and 252D.17A.

Sec. 6. Section 505.25, Code Supplement 2005, is amended to read as follows:

505.25 INFORMATION PROVIDED TO MEDICAL ASSISTANCE AND HAWK-I PROGRAMS AND THE CHILD SUPPORT RECOVERY UNIT.

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, individuals under the purview of the child support recovery unit pursuant to chapter 252B, or enrollees of the hawk-i program under chapter 514I.

Sec. 7. Section 598.21C, subsection 1, paragraph k, Code Supplement 2005, is amended to read as follows:

k. Entry of a dispositional or permanency 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. Any filing fees or court costs for a modification filed or ordered pursuant to this paragraph are waived.

Sec. 8. Section 726.5, Code 2005, is amended to read as follows:

726.5 NONSUPPORT.

A person, who being able to do so, fails or refuses to provide support for the person's child or ward under the age of eighteen years for a period longer than one year or in an amount greater than five thousand dollars commits nonsupport; provided that no person shall be held to have violated this section who fails to support any child or ward under the age of eighteen who has left the home of the parent or other person having legal custody of the child or ward without the consent of that parent or person having legal custody of the child or ward. Support, for the purposes of this section, means any support which has been fixed by court order, or, in the absence of any such order or decree, the minimal requirements of food, clothing or shelter. Nonsupport is a class "D" felony.

Sec. 9. CHILD SUPPORT RECOVERY UNIT REPORT ON EFFECTS OF NONSUPPORT PROVISION. The child support recovery unit shall submit a report to the governor and the general assembly by January 15, 2007, regarding the effects of section 726.5, as amended in this Act. The report shall include, for the period of July 1, 2006, through January 1, 2007, the total number of individuals who met the elements of nonsupport under section 726.5 and could have been charged with nonsupport, the number of individuals actually charged and prosecuted under section 726.5, and any increase in compliance with payment of support attributable to section 726.5, as amended in this Act.[1]

Sec. 10. APPLICABILITY. The section of this Act amending section 598.21C applies to permanency orders entered by the juvenile court on or after July 1, 2006.

Sec. 11. RETROACTIVE APPLICABILITY — AMENDING RULES. The sections of this Act creating section 252D.16A and amending section 252D.18 are retroactively applicable to support orders and income withholding orders entered or pending before July 1, 2006. Until the department of human services amends rules pursuant to chapter 17A to conform to those sections of this Act, any existing rule regarding an amount to be withheld or an amount of a delinquency in an income withholding order shall be interpreted to also mean that the unit may specify such an amount in a notice of income withholding in lieu of an income withholding order. Any existing rule providing a right to contest a new or modified income withholding order through the unit shall be interpreted to also mean a right to contest each notice of income withholding which specifies a new or modified total amount to withhold.

Approved May 24, 2006

[1] See chapter 1184, §121 herein

CHAPTER 1120

RECYCLING AND SALVAGE
OF MOTOR VEHICLES AND VEHICLE COMPONENTS

H.F. 2362

AN ACT relating to end-of-life and salvage vehicles by providing for the removal, replacement, collection, and recovery of mercury-added vehicle components and providing for reassignment of a salvage certificate of title for a motor vehicle.

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

DIVISION I
MERCURY-FREE RECYCLING ACT

Section 1. LEGISLATIVE FINDINGS AND PURPOSES.

1. The general assembly finds all of the following:

a. That switches containing mercury have been used for convenience lighting in vehicles sold in Iowa.

b. That mercury from vehicle light switches may be released into the environment when end-of-life vehicles are flattened, crushed, shredded, melted, or otherwise processed for recycling.

c. That removing mercury-added switches from end-of-life vehicles is an effective method to prevent mercury from being released into the environment.

d. That it is in the public interest of the residents of this state to reduce the quantity of mercury entering the environment by removing mercury-added switches from end-of-life vehicles.

2. The general assembly declares that the purpose of this Act is to reduce the quantity of mercury in the environment by doing all of the following:

a. Removing mercury-added switches from end-of-life vehicles in Iowa.

b. Creating a collection, recovery, and incentive program for mercury-added switches removed from vehicles in Iowa.

Sec. 2. NEW SECTION. 455B.801 SHORT TITLE.

This division shall be known and may be cited as the "Mercury-Free Recycling Act".

Sec. 3. NEW SECTION. 455B.802 DEFINITIONS.

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

1. "Capture rate" means the amount of mercury removed, collected, and recovered from end-of-life vehicles, expressed as a percentage of the mercury available from mercury-added switches in end-of-life vehicles annually.

2. "End-of-life vehicle" means any vehicle which is sold, given, or otherwise conveyed to a vehicle recycler or scrap recycling facility for the purpose of recycling and that does not exceed ten thousand pounds gross vehicle weight.

3. "Manufacturer" means any person that is the last person to produce or assemble a new vehicle that utilizes mercury-added switches, or in the case of an imported vehicle, the importer or domestic distributor of such vehicle. "Manufacturer" does not include a person that has never utilized a mercury-added switch in the production or assembly of a new vehicle.

4. "Mercury-added switch" means a light switch that contains mercury which was installed by a manufacturer in a motor vehicle.

5. "Scrap recycling facility" means a fixed location where machinery and equipment are utilized for processing and manufacturing scrap metal into prepared grades and whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap for sale for remelting purposes.

6. "Vehicle recycler" means any person engaged in the business of acquiring, dismantling, or destroying six or more vehicles in a calendar year for the primary purpose of resale of the vehicles' parts.

Sec. 4. NEW SECTION. 455B.803 PLANS FOR REMOVAL, COLLECTION, AND RECOVERY OF VEHICLE MERCURY-ADDED SWITCHES.

1. Within ninety days of the effective date of this Act, each manufacturer of vehicles sold in this state shall, individually or as part of a group, develop and publish a plan for a system to remove, collect, and recover mercury-added switches from end-of-life vehicles that were manufactured by the manufacturer. Publication shall be in accordance with section 455B.807, subsection 2.

2. a. The manufacturer shall implement a system to remove, collect, and recover mercury-added switches from end-of-life vehicles within ninety days of publication of the plan.

b. The system developed and implemented pursuant to this section shall provide, at a minimum, all of the following:

(1) Educational materials about the program to inform the public and other stakeholders about the purpose of the collection program and how to participate in the program.

(2) A method for implementing, operating, maintaining, and monitoring the system, in accordance with subsection 3. This may include the use of third-party contractors that are qualified and fully insured to perform these tasks.

(3) Information about mercury-added switches identifying all of the following:

(a) The make, model, and year of vehicles potentially containing mercury-added switches.

(b) A description of the mercury-added switches.

(c) The location of the mercury-added switches.

(d) The safe, cost-effective, and environmentally sound methods for the removal of the mercury-added switches from end-of-life vehicles.

(4) A method to arrange and pay for the transportation of the collected mercury-added switches to permitted facilities.

(5) A method to arrange and pay for the recycling of the mercury-added switches.

(6) A method to track participation and publish the progress of the mercury-added switch collection in accordance with section 455B.807, subsection 2.

(7) A database of participating vehicle recyclers, including all of the following:

(a) Documentation that the vehicle recycler joined the program.

(b) Records of all submissions by a vehicle recycler of any information required pursuant to subparagraph (6).

(c) Confirmation that the vehicle recycler has submitted switches at least every twelve months since joining the program.

(8) A target mercury-added switch capture rate for vehicles manufactured by the manufacturer of ninety percent. A description of additional or alternative actions that shall be implemented by the manufacturer to improve the system and its operation in the event that the target capture rate is not met shall be published with the required tracking information no less than annually.

(9) The program shall not include inaccessible mercury-added switches from end-of-life vehicles with significant damage to the vehicle in the area surrounding the mercury-added switch location. All accessible mercury-added switches are expected to be collected under the provisions of this division.

c. In developing a removal, collection, and recovery system for end-of-life vehicles, a manufacturer shall, to the extent practicable, utilize the existing end-of-life vehicle recycling infrastructure.

d. If the commission determines that the manufacturer's plan for a system to remove, collect, and recover mercury-added switches from end-of-life vehicles does not comply with this section, the commission may require the manufacturer to make any necessary modification to the plan.

e. On July 1, 2020, the commission shall cease enforcement of the removal, collection, and recovery plans under this section. On or before July 1, 2020, the commission shall review the mercury-added switch removal, collection, and recovery portion of this division and submit a recommendation to the general assembly regarding the necessity of continuing the enforcement of the removal, collection, and recovery plans under this section.

3. The total cost of the removal, collection, and recovery system for mercury-added switches shall be paid by the manufacturer. Costs shall include but not be limited to all of the following:

a. Labor to remove mercury-added switches. Labor shall be reimbursed at a minimum rate of four dollars per mercury-added switch removed, or if the vehicle identification number of the source vehicle is required for reimbursement, at a minimum rate of five dollars.

b. Training.

c. Packaging in which to transport mercury-added switches to recycling, storage, or disposal facilities.

d. Shipping of mercury-added switches to recycling, storage, or disposal facilities.

e. Recycling, storage, or disposal of the mercury-added switches.

f. Public education materials and presentations.

g. Maintenance of all appropriate systems and procedures to protect the environment from mercury contamination from collected mercury-added switches.

4. A vehicle recycler that performs as required under a removal, collection, and recovery plan shall be afforded the protections provided in section 613.18.

Sec. 5. NEW SECTION. 455B.804 PROHIBITION AND PROPER MANAGEMENT OF MERCURY-ADDED VEHICLE SWITCHES.

1. Prior to delivery to a scrap recycling facility, a person who sells, gives, or otherwise conveys ownership of an end-of-life vehicle to the scrap recycling facility for recycling shall remove all mercury-added switches from such end-of-life vehicle unless the mercury-added switch is inaccessible due to significant damage to the end-of-life vehicle in the area where the mercury-added switch is located.

2. A person shall not represent that mercury-added switches have been removed from a vehicle or vehicle hulk being sold, given, or otherwise conveyed for recycling if that person has not removed such mercury-added switches or arranged with another person to remove such switches.

Sec. 6. NEW SECTION. 455B.805 GENERAL COMPLIANCE WITH OTHER PROVISIONS.

Except as expressly provided in this division, compliance with this division shall not exempt a person from compliance with any other law.

Sec. 7. NEW SECTION. 455B.806 REGULATIONS.

The commission shall adopt rules pursuant to chapter 17A as necessary to implement the provisions of this division.

Sec. 8. NEW SECTION. 455B.807 PUBLIC NOTIFICATION.

1. The department shall make available to the general public in an electronic format the plan of a manufacturer for a system to remove, collect, and recover mercury-added switches from end-of-life vehicles and any report required under section 455B.808.

2. Publication of all required plans, information, reports, and educational materials under this division shall be through no less than two types of media available to the general public. One medium must be available twenty-four hours per day, seven days per week, and maintained with current information. Acceptable types of media include but are not limited to internet websites, periodicals, journals, and other publicly available media in the state.

Sec. 9. NEW SECTION. 455B.808 REPORTING.

One year after the implementation of a removal, collection, and recovery system, and annually thereafter, a manufacturer subject to section 455B.803 shall report to the department concerning the performance under the manufacturer's plan. The report shall include statistical information received under section 455B.803. The report shall also include but not be limited to all of the following:

1. The number of mercury-added switches collected.

2. An estimate of the amount of mercury contained in the collected switches.

3. The capture rate as defined in section 455B.802.

4. The estimated number of vehicles manufactured by the manufacturer containing mercury-added switches.

5. The estimated number of vehicles manufactured by the manufacturer that have been processed for recycling by vehicle recyclers.

Sec. 10. NEW SECTION. 455B.809 STATE PROCUREMENT.

Notwithstanding other policies and guidelines for the procurement of vehicles, the state shall, within one year of the effective date of this Act, revise its policies, rules, and procedures to give priority and preference to the purchase of vehicles free of mercury-added components taking into consideration competition, price, availability, and performance.

Sec. 11. FUTURE REPEAL OF MERCURY-FREE RECYCLING ACT — IMPLEMENTATION OF NATIONAL PROGRAM.

1. If a national mercury switch recovery program is developed and implemented with the cooperation and approval of the United States environmental protection agency, the provisions of this division shall be superseded by the provisions of the national program, and sections 455B.801 through 455B.809, as enacted in this division of this Act, are repealed, provided the following conditions are met:

a. The national program includes a target mercury-added switch capture rate for this state that meets or exceeds the target capture rate established in section 455B.803, as enacted in this division of this Act.

b. The national program includes a funding mechanism that provides for the total costs of the national mercury switch recovery program implemented in this state to be paid for by program participants or with federal moneys.

2. The director of the department of natural resources shall notify the Code editor of the date when the national mercury switch recovery program is implemented.

DIVISION II
SALVAGE VEHICLE TITLES

Sec. 12. Section 321.52, subsection 4, paragraph a, Code Supplement 2005, is amended to read as follows:

a. A vehicle rebuilder or a person engaged in the business of buying, selling, or exchanging vehicles of a type required to be registered in this state, upon acquisition of a wrecked or salvage vehicle, shall surrender the certificate of title or manufacturer's or importer's statement of origin properly assigned, together with an application for a salvage certificate of title, to the county treasurer of the county of residence of the purchaser or transferee within thirty days after the date of assignment of the certificate of title for the wrecked or salvage motor vehicle. This subsection applies only to vehicles with a fair market value of five hundred dollars or more, based on the value before the vehicle became wrecked or salvage. Upon payment of a fee of two dollars, the county treasurer shall issue a salvage certificate of title which shall bear the word "SALVAGE" stamped or printed on the face of the title in a manner prescribed by the department. A salvage certificate of title may be assigned to an educational institution, a new motor vehicle dealer licensed under chapter 322, a person engaged in the business of purchasing bodies, parts of bodies, frames or component parts of vehicles for sale as scrap metal, a salvage pool, or an authorized vehicle recycler licensed under chapter 321H. An authorized vehicle recycler licensed under chapter 321H or a new motor vehicle dealer licensed under chapter 322 may assign or reassign a salvage certificate of title to any person. A vehicle on which ownership has transferred to an insurer of the vehicle as a result of a settlement with the owner of the vehicle arising out of damage to, or unrecovered theft of, the vehicle shall be deemed to be a wrecked or salvage vehicle and the insurer shall comply with this subsection to obtain a salvage certificate of title within thirty days after the date of assignment of the certificate of title of the vehicle.

Approved May 24, 2006

CHAPTER 1121

URBAN DEER CONTROL — MISCELLANEOUS PROVISIONS

H.F. 2546

AN ACT allowing private landowners limited immunity from premises liability during urban deer control hunts.

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

Section 1. Section 461C.1, Code 2005, is amended to read as follows:

461C.1 PURPOSE.

The purpose of this chapter is to encourage private owners of land to make land and water areas available to the public for recreational purposes and for urban deer control by limiting their liability toward persons entering thereon for such purposes.

Sec. 2. Section 461C.2, subsection 3, Code 2005, is amended to read as follows:

3. "Land" means private land located in a municipality including abandoned or inactive surface mines, caves, and land used for agricultural purposes, including marshlands, timber, grasslands and the privately owned roads, water, water courses, private ways and buildings, structures and machinery or equipment appurtenant thereto.

Sec. 3. Section 461C.2, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. "Municipality" means any city or county in the state.

NEW SUBSECTION. 5. "Urban deer control" means deer hunting with a bow and arrow on private land in a municipality, without charge, as authorized by a municipal ordinance, for the purpose of reducing or stabilizing an urban deer population in the municipality.

Sec. 4. Section 461C.3, Code 2005, is amended to read as follows:

461C.3 LIABILITY OF OWNER LIMITED.

Except as specifically recognized by or provided in section 461C.6, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes or urban deer control, or to give any warning of a dangerous condition, use, structure, or activity on such premises to persons entering for such purposes.

Sec. 5. Section 461C.4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Except as specifically recognized by or provided in section 461C.6, a holder of land who either directly or indirectly invites or permits without charge any person to use such property for recreational purposes or urban deer control does not thereby:

Sec. 6. Section 461C.5, Code 2005, is amended to read as follows:

461C.5 DUTIES AND ABILITIES[1] OF OWNER OF LEASED LAND.

Unless otherwise agreed in writing, the provisions of sections 461C.3 and 461C.4 shall be deemed applicable to the duties and liability of an owner of land leased, or any interest or right therein transferred to, or the subject of any agreement with, the United States or any agency thereof, or the state or any agency or subdivision thereof, for recreational purposes or urban deer control.

Sec. 7. Section 461C.6, subsection 2, Code 2005, is amended to read as follows:

2. For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof or for deer hunting, except that in the case of land or any interest or right therein, leased or transferred to, or the subject of any agreement with, the United States or any agency thereof or the state or any agency thereof

[1] According to enrolled Act; the word "LIABILITIES" probably intended

or subdivision thereof, any consideration received by the holder for such lease, interest, right or agreement, shall not be deemed a charge within the meaning of this section.

Sec. 8. Section 461C.7, subsection 2, Code 2005, is amended to read as follows:

2. Relieve any person using the land of another for recreational purposes or urban deer control from any obligation which the person may have in the absence of this chapter to exercise care in the use of such land and in the person's activities thereon, or from the legal consequences of failure to employ such care.

Sec. 9. NEW SECTION. 461C.8 URBAN DEER CONTROL — MUNICIPAL ORDINANCE.

1. A municipality may adopt an ordinance authorizing trained, volunteer hunters to hunt deer with a bow and arrow on private land within the municipality, without charge, for the purpose of urban deer control.

2. The ordinance shall specify all of the following:

a. How a person qualifies to participate in urban deer control.

b. Where urban deer control can occur.

c. Conditions under which urban deer control can be conducted, which are intended to minimize the risk of injury to persons and property.

3. A hunter who participates in urban deer control pursuant to this section shall be otherwise qualified to hunt deer in this state, have a hunting license and pay the wildlife habitat fee, and obtain a special deer hunting license valid only for the dates, locations, and type of deer specified on the license. Special deer hunting licenses issued pursuant to this section shall be available only to residents and shall cost the same as deer hunting licenses issued during general deer seasons. The commission may establish procedures for issuing more than one license per person as necessary to achieve the purposes of urban deer control, and the cost of each additional license shall be ten dollars.

4. An urban deer control ordinance is not effective until it has been approved by the department of natural resources.

5. The department of natural resources shall adopt rules in accordance with chapter 17A necessary for the administration of this section.

Approved May 24, 2006

CHAPTER 1122

LAW ENFORCEMENT AGENCY ELECTRONIC MAIL
AND TELEPHONE BILLING RECORDS

H.F. 2562

AN ACT to make electronic mail and telephone billing records of law enforcement agencies confidential if that information is part of an investigation.

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

Section 1. Section 22.7, subsection 5, Code Supplement 2005, is amended to read as follows:

5. Peace officers' investigative reports, and specific portions of electronic mail and telephone billing records of law enforcement agencies if that information is part of an ongoing investigation, except where disclosure is authorized elsewhere in this Code. However, the date,

time, specific location, and immediate facts and circumstances surrounding a crime or incident shall not be kept confidential under this section, except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual. Specific portions of electronic mail and telephone billing records may be kept confidential under this subsection only for as long as the statute of limitations would have run on a respective crime that is under investigation.

Approved May 24, 2006

CHAPTER 1123

MULTIDIMENSIONAL TREATMENT LEVEL FOSTER CARE PROGRAM

H.F. 2567

AN ACT creating a multidimensional treatment level foster care program.

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

Section 1. MULTIDIMENSIONAL TREATMENT LEVEL FOSTER CARE PROGRAM.

1. PURPOSE. The department of human services shall establish a multidimensional treatment level foster care program on a pilot project basis in accordance with this section. The purpose of the multidimensional treatment level foster care program is to provide a family-based treatment and support program for children who are transitioning from a psychiatric medical institution for children to a family foster care placement while preparing for family reunification.

2. DEFINITIONS. For the purposes of this section:

a. "Department" means the department of human services.

b. "Family foster care" means foster care provided by an individual person or a married couple who is licensed under chapter 237 to provide child foster care in a single-family home environment.

c. "Multidimensional treatment level foster care program" or "treatment program" means the program established pursuant to this section.

d. "Psychiatric institution" means a psychiatric medical institution for children licensed under chapter 135H.

3. ELIGIBILITY. A child is eligible for the treatment program if at the time of discharge from a psychiatric institution the child is unable to return to the child's family home and one of the following conditions is applicable:

a. The child has treatment issues which cause the child to be at high risk of failing in a foster care placement unless targeted support services are provided.

b. The child has had multiple previous out-of-home placements.

4. ELIGIBILITY DETERMINATION. Children who are potentially eligible for a treatment program shall be identified by the administrator of a treatment program at the time of the child's admission to a psychiatric institution. In order to be admitted to the treatment program, the treatment program administrator must determine the child has a need that can be met by the program, the child can be placed with an appropriate family foster care provider, and appropriate services to support the child are available in the family foster care placement. The determination shall be made in coordination with the child's family, department staff, and other persons involved with decision making for the child's out-of-home placement.

5. SERVICES. The services provided by a treatment program shall include but are not limited to all of the following:

a. Foster family recruitment, training, and retention, which may include support groups, family recreational activities, and certification programs.

b. Placement services, which may include intake screening and initial assessment of children and foster families, matching of child and foster family needs and strengths, transition assistance, placement staffing, and an initial treatment plan.

c. Foster care treatment-related services, which may include any of the following:

(1) Making home visits to monitor progress in implementing the child's treatment plan.

(2) Providing counseling to the child, the child's family, and the foster family.

(3) Making an initial visit within two business days of the child's placement in the foster family.

(4) Providing weekly treatment sessions with the child and the foster family.

(5) Providing later treatment sessions involving the child, the child's family, and the foster family as provided in the child's treatment or case permanency plan.

(6) Providing services to support the child's successful reunification with the child's family, which may include parent training, supervised visitation, intensive reunification work, and psychological or psychiatric consultation.

d. Indirect services, which may include any of the following:

(1) Developing a child and family treatment plan.

(2) Developing a foster family care plan designed to assist the child in having a successful family foster care placement.

(3) Providing for the treatment program administrator to attend child-related court hearings and school conferences.

(4) Preparing written reports on the initial thirty days of the child's treatment program participation, each quarter, and a summary of the child's treatment program participation upon the child's discharge from the treatment program.

(5) Assembling a life book for the child.

e. Crisis intervention available on a twenty-four-hours-per-day, seven-days-per-week basis and respite services available to participating family foster care providers of at least five hours per month.

6. AGENCY QUALIFICATIONS. The department shall select two psychiatric medical institutions for children licensed under chapter 135H to implement the treatment program pilot project.

7. REIMBURSEMENT PROVISIONS. The families providing the family foster care services under the treatment program shall be directly reimbursed by the department in accordance with the requirements for family foster care reimbursement. In addition, the treatment program shall provide a per diem reimbursement to the family foster care providers participating in the treatment program.

8. EVALUATION. The treatment program shall be evaluated over a twenty-four-month period commencing on the implementation date of the pilot project which shall be as close to July 1, 2006, as possible. The evaluation shall be conducted by a person who is independent of the department and the agencies participating in the pilot project. The evaluation components shall include but are not limited to the following information associated with the children and families participating in the treatment program pilot project: quantity and quality of out-of-home placements, family foster care retention and satisfaction, and the participating children's relative length of stay in a psychiatric institution.

Approved May 24, 2006

CHAPTER 1124

MARINE ACCIDENTS — VESSEL OPERATOR
FAILURE TO RENDER INFORMATION AND ASSISTANCE

H.F. 2612

AN ACT providing criminal penalties for the failure of a vessel operator to offer assistance and information at the scene of a collision, accident, or casualty.

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

Section 1. Section 462A.7, subsection 5, Code 2005, is amended to read as follows:

5. Failure of the operator of any vessel involved in a collision, ~~reportable~~ accident, or other casualty, to offer assistance and aid to other persons affected by such collision, accident, or casualty, as set forth in this chapter, ~~shall constitute a serious misdemeanor~~ or to otherwise comply with the requirements of subsection 1, is punishable as follows:

a. In the event of a collision, accident, or other casualty resulting only in property damage, the operator is guilty upon conviction of a simple misdemeanor.

b. In the event of a collision, accident, or other casualty resulting in an injury to a person, the operator is guilty upon conviction of a serious misdemeanor.

c. In the event of a collision, accident, or other casualty resulting in a serious injury to a person, the operator is guilty upon conviction of an aggravated misdemeanor.

d. In the event of a collision, accident, or other casualty resulting in the death of a person, the operator is guilty upon conviction of a class "D" felony.

Approved May 24, 2006

CHAPTER 1125

WASTE GLASS RECYCLING — TAX EXEMPTION

H.F. 2633

AN ACT relating to the definition of recycling property for purposes of the property tax exemption for pollution-control or recycling property and providing an applicability date.

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

Section 1. Section 427.1, subsection 19, unnumbered paragraph 8, Code Supplement 2005, is amended to read as follows:

For the purposes of this subsection, "pollution-control property" means personal property or improvements to real property, or any portion thereof, used primarily to control or abate pollution of any air or water of this state or used primarily to enhance the quality of any air or water of this state and "recycling property" means personal property or improvements to real property or any portion of the property, used primarily in the manufacturing process and resulting directly in the conversion of waste glass, waste plastic, wastepaper products, waste paperboard, or waste wood products into new raw materials or products composed primarily of recycled material. In the event such property shall also serve other purposes or uses of productive benefit to the owner of the property, only such portion of the assessed valuation thereof

as may reasonably be calculated to be necessary for and devoted to the control or abatement of pollution, to the enhancement of the quality of the air or water of this state, or for recycling shall be exempt from taxation under this subsection.

Sec. 2. APPLICABILITY DATE. This Act applies to taxes due and payable in fiscal years beginning on or after July 1, 2007.

Approved May 24, 2006

CHAPTER 1126

IOWA COMMUNICATIONS NETWORK — MISCELLANEOUS CHANGES

H.F. 2686

AN ACT providing for technical and substantive changes relating to the Iowa communications network, and relating to funding of the network.

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

Section 1. Section 8D.3, subsection 3, paragraph f, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

f. Include in the commission's annual report related to the network the actual income and expenses for the network for the preceding fiscal year and estimates for income and expenses for the network for the two-year fiscal period that includes the fiscal year during which the report is submitted. The report shall include the amount of any general fund appropriations to be requested, any recommendations of the commission related to changes in the system, and other items as deemed appropriate by the commission.

Sec. 2. Section 8D.6, subsection 1, Code 2005, is amended by striking the subsection.

Sec. 3. Section 8D.6, subsection 2, Code 2005, is amended to read as follows:

~~2.~~ The commission may establish ~~other~~ and abolish advisory committees as necessary representing authorized users of the network and providing other expertise needed to assist the commission in performing its duties.

Sec. 4. Section 8D.14, Code 2005, is amended to read as follows:

8D.14 IOWA COMMUNICATIONS NETWORK FUND.

1. There is created in the office of the treasurer of state a fund to be known as the Iowa communications network fund under the control of the Iowa telecommunications and technology commission. There shall be deposited into the Iowa communications network fund proceeds from bonds issued for purposes of projects authorized pursuant to section 8D.13, funds received from leases pursuant to section 8D.11, and other moneys by law credited to or designated by a person for deposit into the fund. Amounts deposited into the fund are appropriated to and for the use of the commission. Notwithstanding section 12C.7, interest earned on amounts deposited in the fund shall be credited to the fund. Notwithstanding section 8.33, moneys deposited into and appropriated from the fund 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.

2. The commission shall be required to repay one million dollars of start-up funding from the Iowa communications network fund to the general fund of the state. For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the commission shall repay two hundred fifty thousand dollars of start-up funding at the end of that fiscal year, and for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the commission shall repay two hundred fifty thousand dollars of start-up funding at the end of that fiscal year. The remaining five hundred thousand dollars shall be repaid in a reasonable period of time thereafter as provided in this subsection. The commission shall conduct a review of the operation of the fund and the extent to which a continued need for funding for cash flow support exists, and shall provide a report summarizing the results of the review to the general assembly by January 1, 2010. The report shall also include a plan regarding repayment of the remaining five hundred thousand dollars in start-up funding in a manner which will not adversely affect network operations, and any other recommendations relating to the fund and the operation of the network deemed appropriate by the commission.

Sec. 5. Section 8D.7, Code 2005, is repealed.

Approved May 24, 2006

CHAPTER 1127

CONFIDENTIALITY OF CHARITABLE DONATION RECORDS

H.F. 2706

AN ACT providing for the confidentiality of certain records relating to charitable donations made to a foundation acting solely for the support of an institution governed by the state board of regents, to a private foundation as defined in section 509 of the Internal Revenue Code organized for the support of a government body, or to an endow Iowa qualified community foundation, as defined in section 15E.303, organized for the support of a government body.

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

Section 1. Section 22.7, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 52. The following records relating to a charitable donation made to a foundation acting solely for the support of an institution governed by the state board of regents,[1] to a private foundation as defined in section 509 of the Internal Revenue Code organized for the support of a government body, or to an endow Iowa qualified community foundation, as defined in section 15E.303, organized for the support of a government body:

a. Portions of records that disclose a donor's or prospective donor's personal, financial, estate planning, or gift planning matters.

b. Records received from a donor or prospective donor regarding such donor's prospective gift or pledge.

c. Records containing information about a donor or a prospective donor in regard to the appropriateness of the solicitation and dollar amount of the gift or pledge.

d. Portions of records that identify a prospective donor and that provide information on the appropriateness of the solicitation, the form of the gift or dollar amount requested by the solicitor, and the name of the solicitor.

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[1] See chapter 1185, §57 herein

e. Portions of records disclosing the identity of a donor or prospective donor, including the specific form of gift or pledge that could identify a donor or prospective donor, directly or indirectly, when such donor has requested anonymity in connection with the gift or pledge. This paragraph does not apply to a gift or pledge from a publicly held business corporation.

f. The confidential records described in paragraphs "a" through "e" shall not be construed to make confidential those portions of records disclosing any of the following:

(1) The amount and date of the donation.

(2) Any donor-designated use or purpose of the donation.

(3) Any other donor-imposed restrictions on the use of the donation.

(4) When a pledge or donation is made expressly conditioned on receipt by the donor, or any person related to the donor by blood or marriage within the third degree of consanguinity, of any privilege, benefit, employment, program admission, or other special consideration from the government body, a description of any and all such consideration offered or given in exchange for the pledge or donation.

g. Except as provided in paragraphs "a" through "f", portions of records relating to the receipt, holding, and disbursement of gifts made for the benefit of regents institutions and made through foundations established for support of regents institutions, including but not limited to written fund-raising policies and documents evidencing fund-raising practices, shall be subject to this chapter.

This subsection does not apply to a report filed with the ethics and campaign disclosure board pursuant to section 8.7.

Approved May 24, 2006

CHAPTER 1128

REPORTS AND INFORMATION
RELATING TO MEDICAL CONDITION AND TREATMENT

H.F. 2716

AN ACT relating to civil actions for personal injury or death, including certain evidentiary, reporting, and study information requirements.

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

Section 1. Section 135.40, Code 2005, is amended to read as follows:

135.40 COLLECTION AND DISTRIBUTION OF INFORMATION.

Any person, hospital, sanatorium, nursing or rest home or other organization may provide information, interviews, reports, statements, memoranda, or other data relating to the condition and treatment of any person to the department, the Iowa medical society or any of its allied medical societies, ~~or~~ the Iowa osteopathic medical association, ~~or~~ any in-hospital staff committee, or the Iowa healthcare collaborative, to be used in the course of any study for the purpose of reducing morbidity or mortality, and no liability of any kind or character for damages or other relief shall arise or be enforced against any person or organization that has acted reasonably and in good faith, by reason of having provided such information or material, or by reason of having released or published the findings and conclusions of such groups to advance medical research and medical education, or by reason of having released or published generally a summary of such studies.

For the purposes of this section, and section 135.41, the "Iowa healthcare collaborative" means an organization which is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code and which is established to provide direction to promote quality, safety, and value improvement collaborative efforts by hospitals and physicians.

Sec. 2. Section 135.41, Code 2005, is amended to read as follows:

135.41 PUBLICATION.

The department, the Iowa medical society or any of its allied medical societies, ~~or~~ the Iowa osteopathic medical association, ~~or~~ any in-hospital staff committee, or the Iowa healthcare collaborative shall use or publish said material only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released by any such group for general publication. In all events the identity of any person whose condition or treatment has been studied shall be confidential and shall not be revealed under any circumstances. A violation of this section shall constitute a simple misdemeanor.

Sec. 3. NEW SECTION. 505.27 MEDICAL MALPRACTICE INSURANCE — REPORTS REQUIRED.

1. An insurer providing medical malpractice insurance coverage to Iowa health care providers shall file annually on or before June 1 with the commissioner a report of all medical malpractice insurance claims, both open claims and closed claims filed during the reporting period, against any such Iowa insureds during the preceding calendar year.

2. The report shall be in writing and contain all of the following information aggregated by specialty area and paid loss and paid expense categories established by the commissioner:

a. The total number of claims in the reporting period and the nature and substance of such claims.

b. The total amounts paid within six months after final disposition of the claims.

c. The total amount reserved for the payment of claims incurred and reported but not disposed.

d. The expenses, as set forth by rule, related to the claims.

e. Any other additional information as required by the commissioner by rule.

3. The commissioner shall compile annually the data included in reports filed by insurers pursuant to this section into an aggregate form by insurer, except that such data shall not include information that directly or indirectly identifies any individual, including a patient, an insured, or a health care provider. The commissioner shall submit a written report summarizing such data along with any recommendations to the general assembly and the governor by December 1, 2007, with subsequent reports submitted to the general assembly and the governor annually thereafter.

4. A report prepared pursuant to subsection 1 or 3 shall be open to the public and shall be made available to a requesting party by the commissioner at no charge, except that any identifying information of any individual, including a patient, an insured, or health care provider, shall remain confidential.

5. For purposes of this section, "health care provider" means the same as defined in section 135.61, a hospital licensed pursuant to chapter 135B, or a health care facility licensed pursuant to chapter 135C, and "insurer" means an insurance company authorized to transact insurance business in this state. "Insurer" does not include a health care provider who maintains professional liability insurance coverage through a self-insurance plan, an unauthorized insurance company transacting business with an insured person in this state, or a person not authorized to transact insurance business in this state.

Sec. 4. NEW SECTION. 622.31 EVIDENCE OF REGRET OR SORROW.

In any civil action for professional negligence, personal injury, or wrongful death or in any arbitration proceeding for professional negligence, personal injury, or wrongful death against a person in a profession represented by the examining boards listed in section 272C.1 and any

other licensed profession recognized in this state, a hospital licensed pursuant to chapter 135B, or a health care facility licensed pursuant to chapter 135C, based upon the alleged negligence in the practice of that profession or occupation, that portion of a statement, affirmation, gesture, or conduct expressing sorrow, sympathy, commiseration, condolence, compassion, or a general sense of benevolence that was made by the person to the plaintiff, relative of the plaintiff, or decision maker for the plaintiff that relates to the discomfort, pain, suffering, injury, or death of the plaintiff as a result of an alleged breach of the applicable standard of care is inadmissible as evidence. Any response by the plaintiff, relative of the plaintiff, or decision maker for the plaintiff to such statement, affirmation, gesture, or conduct is similarly inadmissible as evidence.

Approved May 24, 2006

CHAPTER 1129

COURT ADMINISTRATION AND PROCEDURE

H.F. 2740

AN ACT relating to the judicial branch and court administration and procedure and providing a penalty.

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

Section 1. Section 232.133, subsection 2, Code 2005, is amended to read as follows:

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

Sec. 2. Section 236.5, subsection 5, Code 2005, is amended to read as follows:

5. A copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant, the county sheriff ~~having jurisdiction to enforce the order or consent agreement~~ of the county in which the order or consent decree is initially entered, and the twenty-four hour dispatcher for the county sheriff. Any subsequent amendment or revocation of an order or consent agreement shall be forwarded by the clerk to all individuals and the county sheriff previously notified. The clerk shall notify the county sheriff and the twenty-four hour dispatcher for the county sheriff in writing so that the county sheriff and the county sheriff's dispatcher receive written notice within six hours of filing the order, approved consent agreement, amendment, or revocation. The clerk may fulfill this requirement by sending the notice by facsimile or other electronic transmission which reproduces the notice in writing within six hours of filing the order. The county sheriff's dispatcher shall notify all law enforcement agencies having jurisdiction over the matter and the twenty-four hour dispatcher for the law enforcement agencies upon notification by the clerk.

Sec. 3. Section 558.66, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon receipt of a certificate ~~from~~ issued by the clerk of the district court or ~~an appellate~~ clerk

of the supreme court indicating that the title to real estate has been finally established in any named person by judgment or decree or by will or by affidavit of or on behalf of a surviving spouse that has been recorded by the recorder, the auditor shall enter the information in the certificate upon the transfer books, upon payment of a fee in the amount specified in section 331.507, subsection 2, paragraph "a". ~~In the case of a certificate from the clerk of the district court or an appellate court, the fee shall be taxed as court costs, collected by the clerk, and paid to the treasurer as provided in section 331.902, subsection 3.~~ In the case of the affidavit filed with the recorder, the fee set forth in section 331.507, subsection 2, paragraph "a", and the fee set forth in section 331.604, shall be collected by the recorder and paid to the treasurer as provided in section 331.902, subsection 3.

Sec. 4. Section 602.3101, subsection 2, Code 2005, is amended to read as follows:

2. The state court administrator or a designee of the state court administrator shall act as ~~secretary~~ administrator to the board.

Sec. 5. Section 602.4102, subsection 5, Code 2005, is amended to read as follows:

5. The court of appeals shall extend the time for filing of an application if the court of appeals determines that a failure to timely file an application was due to the failure of the clerk of the court of appeals to notify the prospective applicant of the filing of the decision. ~~If an application for further review is not acted upon by the supreme court within thirty days after the application was filed, the application is deemed denied, the supreme court loses jurisdiction, and the decision of the court of appeals is conclusive.~~

Sec. 6. Section 602.5106, subsection 2, Code 2005, is amended to read as follows:

2. A decision of the court of appeals is final and shall not be reviewed by any other court except upon the granting by the supreme court of an application for further review as provided in section 602.4102. Upon the filing of the application, the judgment and mandate of the court of appeals is stayed pending action of the supreme court ~~or until the expiration of the time specified in section 602.4102, subsections 4 and 5~~.

Sec. 7. Section 602.6401, subsection 2, Code Supplement 2005, is amended to read as follows:

2. By February of each year in which magistrates' terms expire, the state court administrator shall apportion magistrate offices among the counties in accordance with the following criteria:

~~a. The number and type of proceedings contained in the administrative reports required by section 602.6606.~~

~~b.~~ a. The existence of either permanent, temporary, or seasonal populations not included in the current census figures.

~~c.~~ b. The geographical area to be served.

~~d.~~ c. Any inordinate number of cases over which magistrates have jurisdiction that were pending at the end of the preceding year.

~~e.~~ d. The number and types of juvenile proceedings handled by district associate judges.

Sec. 8. Section 602.8102, subsections 44, 79, and 113, Code Supplement 2005, are amended by striking the subsections.

Sec. 9. Section 602.8102, subsection 106, Code Supplement 2005, is amended to read as follows:

106. Carry out duties relating to the administration of small estates as provided in sections 635.1, 635.7, and 635.9~~, and 635.11~~.

Sec. 10. Section 626.16, Code 2005, is amended to read as follows:

626.16 RECEIPT AND RETURN.

Every officer ~~to whose hands~~ who receives an execution ~~may come~~ shall ~~give~~ provide a receipt ~~therefor~~, if required, stating the hour when the same was received, and shall make suffi-

cient return ~~thereof~~ of the execution, together with the money collected, on or before the ~~seventieth~~ one hundred twentieth day from the date of its issuance.

Sec. 11. Section 633.305, Code 2005, is amended to read as follows:

633.305 NOTICE IF NO ADMINISTRATION.

On admission of a will to probate without administration of the estate, ~~and upon advanced payment of the costs by~~ the proponent~~, the clerk~~ shall cause to be published, in the manner prescribed in the preceding section, a notice of the admission of the will to probate. As soon as practicable following the admission of the will to probate, the proponent shall give notice of the admission of the will to probate by ordinary mail addressed to the surviving spouse, each heir of the decedent, and each devisee under the will admitted to probate whose identities are reasonably ascertainable, at such persons' last known addresses. The notice of the admission of the will to probate shall include a notice that any action to set aside the will must be brought within the later to occur of four months from the date of the second publication of the notice or one month from the date of mailing of this notice, or thereafter be barred.

As used in this section, "heir" means only such person as would, in an intestate estate, be entitled to a share under section 633.219.

The notice shall be substantially in the following form:

Notice of Proof of Will Without Administration

In the District Court of Iowa
in and for . . . . . County. Probate No.
. . . . . .

In the Estate of . . . . . , Deceased

To All Persons Interested in the Estate of . . . . . , Deceased, who died on or about . . . . . (date):

You are hereby notified that on the . . . . . day of . . . . . (month), ... (year), the last will and testament of . . . . . , deceased, bearing date of the . . . . . day of . . . . . (month), ... (year), was admitted to probate in the above named court and there will be no present administration of the estate. Any action to set aside the will must be brought in the district court of the county within the later to occur of four months from the date of the second publication of this notice or one month from the date of mailing of this notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, or thereafter be forever barred.

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

. . . . . .
~~Clerk of the district court~~ Proponent

. . . . . .
Attorney for estate

. . . . . .
Address
Date of second publication
. . . . . day of . . . . . (month), ... (year)
(Date to be inserted by publisher)

Sec. 12. Section 642.23, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Notwithstanding the ~~seventy-day~~ one hundred twenty-day period in section 626.16 for the return of an execution in garnishment for the payment of a support obligation, the sheriff shall promptly deposit any amounts collected with the clerk of the district court, and the clerk shall disburse the amounts, after subtracting applicable fees, within two working days of the filing of an order condemning funds as follows:

Sec. 13. Section 655.4, Code 2005, is amended to read as follows:

655.4 ENTRY OF FORECLOSURE.

When a judgment of foreclosure is entered in any court, the ~~clerk~~ mortgagee shall record with the recorder an instrument in writing referring to the mortgage and duly acknowledging

that the mortgage was foreclosed and giving the date of the decree. A mortgagee who fails to record such instrument within thirty days of receiving a written request to record shall be subject to a penalty of one hundred dollars plus reasonable attorney fees incurred by the party aggrieved, to be recovered in an action for the satisfaction or acknowledgement[1] by the party aggrieved. The fee for recording and indexing an instrument shall be as provided in section 331.604.

Sec. 14. Section 655.5, Code 2005, is amended to read as follows:

655.5 INSTRUMENT OF SATISFACTION.

When the judgment is fully paid and satisfied upon the judgment docket of the court, the ~~clerk~~ mortgagee shall record with the recorder an instrument in writing, referring to the mortgage and duly acknowledging a satisfaction of the mortgage. A mortgagee who fails to record such instrument within thirty days of receiving a written request to record shall be subject to a penalty of one hundred dollars plus reasonable attorney fees incurred by the party aggrieved, to be recovered in an action for the satisfaction or acknowledgement[2] by the party aggrieved. The fee for recording and indexing an instrument shall be as provided in section 331.604.

Sec. 15. Sections 602.6605, 602.6606, and 635.11, Code 2005, are repealed.

Approved May 24, 2006

CHAPTER 1130

CITY EMPLOYEE PENSIONS AND BENEFITS — EMPLOYER CONTRIBUTIONS

H.F. 2774

AN ACT relating to trust and agency funds by allowing city contributions for pension and related employee benefits pursuant to contracted public safety services.

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

Section 1. Section 384.6, subsection 1, Code 2005, is amended to read as follows:

1. Accounting for pension and related employee benefit funds as provided by the city finance committee. A city may certify taxes to be levied for a trust and agency fund in the amount necessary to meet its obligations.

a. A city may make contributions to a retirement system other than the Iowa public employees' retirement system for its city manager, or city administrator performing the duties of city manager, in an annual amount not to exceed the amount that would have been contributed by the employer under section 97B.11.

b. If a police chief or fire chief has submitted a written request to the board of trustees to be exempt from chapter 411, authorized in section 411.3, subsection 1, a city shall make contributions for the chief, in an amount not to exceed the amount that would have been contributed by the city under section 411.8, subsection 1, paragraph "a", to the international city management association/retirement corporation. ~~A city may certify taxes to be levied for a trust and agency fund in the amount necessary to meet its obligations.~~

c. A city which has contracted with another city or governmental entity for the provision of public safety services, including but not limited to police protection, fire protection, ambulance, or hazardous materials response, may, pursuant to contract, make contributions for

[1] According to enrolled Act

[2] According to enrolled Act

pension and related employee benefits for personnel of the other city or governmental entity providing such services to the city. The city may make such contributions in an annual amount not to exceed the amount of contributions for pension and related employee benefits that would otherwise be paid by the other city or governmental entity for such personnel.

Approved May 24, 2006

CHAPTER 1131

URBAN RENEWAL — CERTIFICATIONS OF AMOUNTS OF LOANS, ADVANCES, INDEBTEDNESS, OR BONDS

H.F. 2777

AN ACT relating to certification to the county auditor of the amount of loans, advances, indebtedness, or bonds issued or incurred for urban renewal purposes.

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

Section 1. Section 403.19, subsection 5, Code 2005, is amended to read as follows:

5. a. A municipality shall certify to the county auditor on or before December 1 the amount of loans, advances, indebtedness, or bonds which qualify for payment from the special fund referred to in subsection 2, for each urban renewal area in the municipality, and the filing of the certificate shall make it a duty of the auditor to provide for the division of taxes in each subsequent year without further certification, except as provided in paragraphs "b" and "c", until the amount of the loans, advances, indebtedness, or bonds is paid to the special fund. If any loans, advances, indebtedness, or bonds are issued which qualify for payment from the special fund and which are in addition to amounts already certified, the municipality shall certify the amount of the additional obligations on or before December 1 of the year such obligations were issued, and the filing of the certificate shall make it a duty of the auditor to provide for the division of taxes in each subsequent year without further certification, except as provided in paragraphs "b" and "c", until the amount of the loans, advances, indebtedness, or bonds is paid to the special fund. Any subsequent certifications under this subsection shall not include amounts previously certified.

A certification made under this paragraph "a" shall include the date that the individual loans, advances, indebtedness, or bonds were initially approved by the governing body of the municipality.

b. If the amount certified in paragraph "a" is reduced by payment from sources other than the division of taxes, by a refunding or refinancing of the obligation which results in lowered principal and interest on the amount of the obligation, or for any other reason, the municipality on or before December 1 of the year the action was taken which resulted in the reduction shall certify the amount of the reduction to the county auditor.

c. In any year, the county auditor shall, upon receipt of a certified request from a municipality filed on or before December 1, increase the amount to be allocated under subsection 1 in order to reduce the amount to be allocated in the following fiscal year to the special fund, to the extent that the municipality does not request allocation to the special fund of the full portion of taxes which could be collected. Upon receipt of a certificate from a municipality, the auditor shall mail a copy of the certificate to each affected taxing district.

Approved May 24, 2006

CHAPTER 1132

CIVIL ACTIONS AND FORECLOSURES AGAINST REAL ESTATE

H.F. 2786

AN ACT relating to civil actions and the foreclosure of real estate mortgages, and providing fees and applicability provisions.

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

Section 1. Section 602.8102, subsection 113, Code Supplement 2005, is amended by striking the subsection.

Sec. 2. Section 615.1, Code 2005, is amended to read as follows:

615.1 EXECUTION ON CERTAIN JUDGMENTS PROHIBITED.

~~From and after January 1, 1934, no~~ A judgment in an action for the foreclosure of a real estate mortgage, deed of trust, or real estate contract upon property which at the time of judgment is either used for an agricultural purpose as defined in section 535.13 or a one-family or two-family dwelling which is the residence of the mortgagor, or in any action on a claim for rent ~~or judgment assigned by a receiver of a closed bank or rendered upon credits assigned by the receiver of a closed bank when the assignee is not a trustee for depositors or creditors of the bank, the reconstruction finance corporation or any other federal governmental agency to which the bank or the receiver is or may be indebted~~ shall be ~~enforced~~ null and void, all liens shall be extinguished, and no execution shall be issued ~~thereon and no force or vitality given thereto~~ for any purpose other than as a setoff or counterclaim after the expiration of a period of two years, exclusive of any time during which execution on the judgment was stayed pending a bankruptcy action, from the entry thereof. As used in this section, "mortgagor" means a mortgagor or a borrower executing a deed of trust as provided in chapter 654 or a vendee of a real estate contract.

Sec. 3. Section 615.2, Code 2005, is amended to read as follows:

615.2 REVIVAL OF CERTAIN JUDGMENTS PROHIBITED.

~~After January 1, 1934, no~~ An action or proceedings shall not be brought in any court of this state for the purpose of renewing or extending such judgment ~~or prolonging the life thereof~~. Provided, however, that nothing herein shall prevent the continuance of such judgment in force against the property subject to foreclosure only for a longer period by the voluntary written stipulation of the ~~parties~~ judgment creditor and the equitable titleholders, filed in ~~said cause~~ the action or proceedings.

Sec. 4. Section 624.23, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If a case file has been sealed by the court, or if by law the court records in a case are not available to the general public, any judgments entered in the case shall not become a lien on real property until either the identity of the judgment creditor becomes public record, or until the judgment creditor, in a public document in the case in which judgment is entered, designates an agent and office, consistent with the requirements of section 490.501, on which process on the judgment creditor may be served. Service may be made on the agent in the same manner as service may be made on a corporate agent pursuant to section 490.504. An agent who has resigned without designating a successor agent and office and who is otherwise unavailable for service may be served in the manner provided in section 490.504, subsection 2, at the agent's office of record.

Sec. 5. Section 626.78, Code 2005, is amended to read as follows:

626.78 NOTICE TO DEFENDANT.

If the debtor is in actual occupation and possession of any part of the land levied on, the offi-

cer having the execution shall, at least twenty days previous to such sale, serve the debtor with written notice, stating that the execution is levied on said land, and mentioning the time and place of sale, which notice shall be served in the manner provided by rule of civil procedure 1.305(1). However, upon the filing of an affidavit that the debtor is intentionally evading service of process or otherwise cannot be served despite repeated and diligent attempts, the notice may be served by placing the notice in a plain opaque envelope, addressed to the defendant and marked personal and confidential, by affixing the envelope to a main entrance of the premises subject to sale, and by mailing a copy of the notice to the debtor at the debtor's last known address by ordinary mail.

Sec. 6. Section 626.80, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The sheriff shall receive and give a receipt for a sealed written bid submitted prior to the public auction. The sheriff may require all sealed written bids to be accompanied by payment of any fees required to be paid at the public auction by the purchaser, to be returned if the person submitting the sealed written bid is not the purchaser. The sheriff shall keep all written bids sealed until the commencement of the public auction, at which time the sheriff shall open and announce the written bids as though made in person. A party who has appeared in the foreclosure may submit a written bid, which shall include a facsimile number or electronic mail address where the party can be notified of the results of the sale. If a party submitting a winning written bid does not pay the amount of the bid in certified funds in the manner in which the sheriff in the notice directs, such bid shall be deemed canceled and the sheriff shall certify the next highest bidder as the successful bidder of the sale either within twenty-four hours for an electronic funds transfer or forty-eight hours otherwise, of notification of the sale results. A sheriff may refuse to accept written bids from a bidder other than the judgment creditor if the bidder or the bidder's agent in the action has demonstrated a pattern of nonpayment on previously accepted bids.

Sec. 7. NEW SECTION. 654.9A RELEASE OF SUPERIOR LIENS BY BOND.

At any time prior to the court's decree, the plaintiff, or a person guaranteeing title of the plaintiff's mortgage, may post a bond with sureties to be approved by the clerk and apply to the court to release the claim against the property of any person claiming a lien superior to that of the plaintiff in the property subject to foreclosure. The bond shall be in an amount not less than twice the amount of the claim, and notice of the bond and the court's order of release shall be served on the claimant. Unless the claimant has appeared in the foreclosure action, the service shall be by personal service. Unless the claimant files an action on the bond within twelve months from service of the notice, the claimant shall be barred from any further remedy. In a successful action on the bond, the court may award the claimant reasonable attorney fees. A guarantor filing such a bond shall be subrogated to any defenses which the plaintiff may have against the adverse claimant, including but not limited to a defense of lack of equity in the mortgaged property to secure the adverse claim in its proper priority.

Sec. 8. NEW SECTION. 654.15A NOTICE OF SALE TO JUNIOR CREDITORS.

A junior creditor may file and serve on the judgment creditor a request for notice of the sheriff's sale. Such notice shall include a facsimile number or electronic mail address where the creditor shall be notified of the sale. At least ten days prior to the date of sale, the attorney for the junior creditor shall file proof of service of such request for notice. Upon motion filed within thirty days of the sale, the court may set aside a sale in which a junior creditor who requests notice is damaged by the failure of the sheriff or the judgment creditor to give notice pursuant to this section.

Sec. 9. NEW SECTION. 654.15B RIGHT TO INTERVENE — NOTICE.

A lender may serve a judgment creditor in a foreclosure action with notice in substantially the following form advising the creditor that the property that is the subject of the foreclosure

action shall be foreclosed and describing the creditor's interest in the action and that unless such creditor intervenes in the foreclosure action such creditor shall lose the creditor's interest in the mortgaged property. Unless the creditor intervenes within thirty days of the service of notice, the court may adjudicate the creditor's rights against the property as if the creditor had been added as a defendant and default had been entered against the defendant. If a creditor cannot be located for personal service, the plaintiff may, at any time prior to sixty days before the date of trial, amend the petition as a matter of right to add the creditor as a defendant for service by publication as provided by rule. The notice prescribed by this section is as follows:

NOTICE OF PENDING FORECLOSURE

To: (Name of creditor)
Date: (Enter date)

Plaintiff has filed a foreclosure of mortgage against the property of (titleholder) located at (street address of property) which is legally described as (legal description). This foreclosure was filed as (Plaintiff v. Defendant), Case # ( ), in the Iowa District Court for ( ) County. You have an apparent interest in the property because (description of creditor's interest). If you desire to protect this interest, you have the right to intervene in the foreclosure action within thirty days of the service of notice by filing an intervention with the clerk of court in ( ) County. Unless you intervene in the foreclosure the foreclosure may eliminate any interest you have in the property but will not otherwise affect your rights. If you have any questions about this notice, contact your attorney. Whether or not you intervene, the foreclosure may have certain tax consequences to you about which you should consult your tax advisor.

_____

Name, address, and telephone number of attorney representing plaintiff.

Sec. 10. NEW SECTION. 654.17 RECISION OF FORECLOSURE.

At any time prior to the recording of the sheriff's deed, and before the mortgagee's rights become unenforceable by operation of the statute of limitations, the judgment creditor, or the judgment creditor who is the successful bidder at the sheriff's sale, with the written consent of the mortgagor may rescind the foreclosure action by filing a notice of recision with the clerk of court in the county in which the property is located along with a filing fee of fifty dollars. In addition, such person shall pay a fee of twenty-five dollars for documents filed in the foreclosure action which the plaintiff requests returned. Upon the filing of the notice of recision, the mortgage loan shall be enforceable according to the original terms of the foreclosure and the rights of all persons with an interest in the property may be enforced as if the foreclosure had not been filed. However, any findings of fact or law shall be preclusive for purposes of any future action unless the court, upon hearing, rules otherwise. The mortgagor shall be assessed costs, including reasonable attorney fees, of foreclosure and recision if provided by the mortgage agreement.

Sec. 11. NEW SECTION. 654.17A SALE FREE OF LIENS.

At any time during the pendency of the foreclosure, the plaintiff may apply to the court for an order approving an offer for a commercially reasonable sale of the property free of the claims of the parties to the action and other persons served with notice pursuant to section 654.15B. A copy of the offer shall be attached to the application and the application shall contain a written consent to the proposed sale by all equitable titleholders who have not abandoned the property. The court may grant the motion unless a party in interest objects in writing during such time as the court may prescribe. A person filing an objection with a claim junior to the plaintiff shall either apply for assignment of senior claims pursuant to section 654.8, otherwise provide adequate protection to senior creditors, or establish that a sheriff's sale is substantially more likely than the proposed sale to provide the creditor with more favorable satisfaction of its lien. Pending resolution of the rights of the parties and persons served with notice pursuant to section 654.15B, the court shall place the net proceeds of the sale in

escrow after payment of reasonable closing costs. The rights of such persons to the escrowed funds shall be determined in the same manner as their rights to the property that was sold.

Sec. 12. Section 655.5, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

655.5 INSTRUMENT OF SATISFACTION.

When the judgment is paid in full, the mortgagee shall file with the clerk a satisfaction of judgment which shall release the mortgage underlying the action. A mortgagee who fails to file a satisfaction within thirty days of receiving a written request shall be subject to reasonable damages and a penalty of one hundred dollars plus reasonable attorney fees incurred by the aggrieved party, to be recovered in an action for the satisfaction or acknowledged by the party aggrieved.

Sec. 13. Section 655A.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The mortgagee may file a written notice required in subsection 1 together with proof of service on the mortgagor with the recorder of the county where the mortgaged property is located. Such a filing shall have the same force and effect on third parties as an indexed notation entered by the clerk of the district court pursuant to section 617.10 and shall commence on the filing of proof of service on the mortgagors and terminate on the filing of a rejection pursuant to section 655A.6, an affidavit of completion pursuant to section 655A.7, or the expiration of ninety days from completion of service on the mortgagors, whichever occurs first.

Sec. 14. Section 655A.9, Code 2005, is amended to read as follows:

655A.9 APPLICATION OF CHAPTER.

This chapter does not apply to real estate used for an agricultural purpose as defined in section 535.13, or to a one or two family dwelling which is, at the time of the initiation of the foreclosure, occupied by an equitable titleholder.

Sec. 15. Section 655.4, Code 2005, is repealed.

Sec. 16. APPLICABILITY.

1. Except as provided in subsection 2, this Act applies to actions commenced on or after July 1, 2006.

2. The section of this Act enacting section 624.23, subsection 7, applies to judgments entered on or after July 1, 2007.

Approved May 24, 2006

CHAPTER 1133

ENTERPRISE ZONES — MISCELLANEOUS CHANGES

S.F. 2183

AN ACT relating to the certification of enterprise zones and incentives and assistance under the enterprise zone program and including effective date and retroactive applicability provisions.

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

Section 1. Section 15E.192, subsection 2, Code Supplement 2005, is amended to read as follows:

2. A city ~~with a population of twenty-four thousand or more~~ which includes at least three census tracts with at least fifty percent of the population in each census tract located in the city, as shown by the 2000 certified federal census, may create an economic development enterprise zone as authorized in this division, subject to certification by the department of economic development, by designating one or more contiguous census tracts, as determined in the most recent federal census, or designating other geographic units approved by the department of economic development for that purpose. If there is an area in the city which meets the requirements for eligibility for an urban or rural enterprise community under Title XIII of the federal Omnibus Budget Reconciliation Act of 1993, such area shall be designated by the state as an economic development enterprise zone. The area meeting the requirements for eligibility for an urban or rural enterprise community shall not be included for the purpose of determining the area limitation pursuant to subsection 3. In creating an enterprise zone, a city ~~with a population of twenty-four thousand or more~~ which includes at least three census tracts with at least fifty percent of the population in each census tract located in the city, as shown by the 2000 certified federal census, may designate as part of the area tracts or approved geographic units located in a contiguous city if such tracts or approved geographic units meet the criteria and the city agrees to being included. The city may establish more than one enterprise zone. Reference in this division to "city" means a city ~~with a population of twenty-four thousand or more~~ which includes at least three census tracts with at least fifty percent of the population in each census tract located in the city, as shown by the 2000 certified federal census.

Sec. 2. Section 15E.192, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A city may create an economic development enterprise zone as authorized in this division, subject to certification by the department of economic development, by designating up to four square miles of the city for that purpose. In order for an enterprise zone to be certified pursuant to this subsection, an enterprise zone shall meet the distress criteria provided in section 15E.194, subsection 2A. Section 15E.194, subsection 2, shall not apply to an enterprise zone certified pursuant to this subsection. For the fiscal period beginning July 1, 2007, and ending June 30, 2010, each fiscal year a cumulative total of not more than twenty-five million dollars worth of incentives and assistance under section 15E.196, subsections 1, 2, 3, 4, and 6, shall be awarded to eligible businesses applying to an enterprise zone commission for incentives and assistance during that fiscal year that are located in an enterprise zone certified pursuant to this subsection. For purposes of this subsection and section 15E.194, subsection 2A, "city" means a city that includes at least three census tracts, as determined in the most recent federal census.

Sec. 3. Section 15E.192, subsection 3, paragraph b, Code Supplement 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 ~~March 1, 2006~~ July 1, 2010. However, the total amount of land desig-

nated as enterprise zones under ~~subsections 1 and 2~~ subsection 1, and any other enterprise zones certified by the department, excluding those approved pursuant to subsection 2 and section 15E.194, ~~subsection~~ subsections 2A and 4, shall not exceed in the aggregate one percent of the total county area.

Sec. 4. Section 15E.192, subsection 4, Code Supplement 2005, is amended to read as follows:

4. An enterprise zone designation shall remain in effect for ten years following the date of certification. Prior to the expiration of an enterprise zone designation, a city or county meeting the distress criteria in section 15E.194 may apply for a one-time ten-year extension of the designation. In applying for a one-time ten-year extension of an enterprise zone designation, a city or county may redefine the boundaries of the enterprise zone provided that the redefined enterprise zone meets the applicable distress criteria provided in section 15E.194. Prior to the expiration of an enterprise zone designation, a city or county that is not eligible to designate an enterprise zone but previously designated the enterprise zone pursuant to section 15E.194, Code Supplement 1997, may apply for a one-time extension of the enterprise zone designation to one year following the complete publication of the 2010 federal census. In applying for a one-time extension of the enterprise zone designation, the city or county may redefine the boundaries of the enterprise zone provided that the redefined enterprise zone meets the distress criteria provided in section 15E.194, Code Supplement 1997. The department shall designate by rule the specific date of one year following the complete publication of the 2010 federal census. Any state or local incentives or assistance that may be conferred must be conferred before the designation expires. However, the benefits of the incentive or assistance may continue beyond the expiration.

Sec. 5. Section 15E.193B, subsection 1, Code Supplement 2005, is amended to read as follows:

1. A housing business qualifying under this section is eligible to receive incentives and assistance only as provided in this section. An eligible housing business shall not receive incentives or assistance for a home or multiple dwelling unit built or rehabilitated in an enterprise zone designated pursuant to section 15E.194, subsection 2A or 4. Sections 15E.193 and 15E.196 do not apply to an eligible housing business qualifying under this section.

Sec. 6. Section 15E.194, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A city may designate an area of up to four square miles to be an enterprise zone if the area is a blighted area as defined in section 403.17 and the area includes or is located within four miles of at least three of the following:

a. A commercial service airport.

b. A barge terminal or a navigable waterway.

c. Entry to a rail line.

d. Entry to an interstate highway.

e. Entry to a commercial and industrial highway network as identified pursuant to section 313.2A.

An eligible housing business under section 15E.193B shall not receive incentives or assistance for a home or multiple dwelling unit built or rehabilitated in an enterprise zone designated pursuant to this subsection.

Sec. 7. Section 15E.194, subsection 3, Code 2005, is amended to read as follows:

3. The department of economic development shall certify eligible enterprise zones that meet the requirements of subsection 1 upon request by the county, ~~or~~ subsection 2 upon request by the city, or subsection 2A upon request by the city, as applicable.

Sec. 8. Section 15E.195, subsection 2, Code 2005, is amended to read as follows:

2. A city ~~with a population of twenty-four thousand or more~~ which includes at least three

census tracts with at least fifty percent of the population in each census tract located in the city and which designates an enterprise zone pursuant to section 15E.194, subsection 2 or 2A, and in which an eligible enterprise zone is certified shall establish an enterprise zone commission to review applications from qualified businesses located within or requesting to locate within an enterprise zone to receive incentives or assistance as provided in section 15E.196. The enterprise zone commission shall review applications from qualified housing businesses requesting to receive incentives or assistance as provided in section 15E.193B. The commission shall consist of nine members. Six of these members shall consist of one representative of an international labor organization, one member with economic development expertise chosen by the department of economic development, one representative of the city council, one member of the local community college board of directors, one member of the city planning and zoning commission, and one representative of the local workforce development center. These six members shall select the remaining three members. If the enterprise zone consists of an area meeting the requirements for eligibility for an urban enterprise community under Title XIII of the federal Omnibus Budget Reconciliation Act of 1993, one of the remaining three members shall be a representative of that community. If a city contiguous to the city designating the enterprise zone is included in an enterprise zone, a representative of the contiguous city, chosen by the city council, shall be a member of the commission. A city in which an eligible enterprise zone is certified shall have only one enterprise zone commission. If a city has established an enterprise zone commission prior to July 1, 1998, the city may petition to the department of economic development to change the structure of the existing commission.

Sec. 9. REPORT. By December 31, 2006, the department of economic development shall submit a written report to the general assembly regarding the enterprise zone program and other programs administered by the department. The report shall include an analysis of the impact the enterprise zone program has on the state's economy and the economy of the cities and counties where enterprise zones are and have been located, how the enterprise zone program integrates with other programs administered by the department, whether other programs administered by the department are used to focus assistance on economically distressed areas of the state, and any changes to the enterprise zone program or any other programs administered by the department necessary to better serve the needs of the economically distressed areas of the state.

Sec. 10. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. The section of this Act amending section 15E.192, subsection 4, being deemed of immediate importance, takes effect upon enactment and applies retroactively to May 14, 1997.

2. The remaining sections of this Act, being deemed of immediate importance, take effect upon enactment and apply retroactively to March 1, 2006.

Approved May 30, 2006

CHAPTER 1134

SOLAR ENERGY EQUIPMENT SALES TAX EXEMPTION

S.F. 2398

AN ACT providing a sales tax exemption for purchases of solar energy equipment.

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

Section 1. Section 423.3, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 89. The sales price from the sale of solar energy equipment. For purposes of this subsection, "solar energy equipment" means equipment that is primarily used to collect and convert incident solar radiation into thermal, mechanical, or electrical energy or equipment that is primarily used to transform such converted solar energy to a storage point or to a point of use.

Approved May 30, 2006

CHAPTER 1135

RENEWABLE AND WIND ENERGY TAX CREDITS

S.F. 2399

AN ACT relating to renewable energy including the renewable energy tax credit and the wind energy production tax credit and including effective dates.

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

Section 1. Section 476B.1, subsection 4, paragraph c, Code Supplement 2005, is amended to read as follows:

c. Was originally placed in service on or after July 1, 2005, but before July 1, ~~2008~~ 2009.

Sec. 2. Section 476B.5, subsection 1, paragraph e, Code Supplement 2005, is amended to read as follows:

e. A copy of an executed power purchase agreement or other agreement to purchase electricity upon completion of the project. An executed interconnection agreement or transmission service agreement shall be accepted by the board under this paragraph if the owner of the facility has agreed to sell electricity from the facility directly or indirectly to a wholesale power pool market.

Sec. 3. Section 476B.5, subsection 3, Code Supplement 2005, is amended to read as follows:

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. However, a facility that is approved as qualified under this section but is not operational within eighteen months due to the unavailability of necessary equipment shall be granted an additional twelve months to become operational. A facility that is granted and thereafter loses approval may reapply to the board for a new determination.

Sec. 4. Section 476B.6, subsection 5, Code Supplement 2005, is amended by striking the subsection and inserting in lieu thereof the following:

5. A tax credit certificate may be filed pursuant to any of the following, to the extent applicable:

a. 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.

b. If the tax credit applicant under this section is eligible to receive renewable electricity production credits authorized under section 45 of the Internal Revenue Code, as amended, and the tax credit applicant is 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 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. In absence of such designation, the credits under this section shall flow through to the partners, shareholders, or members in accordance with their pro rata share of the income of the entity.

The applicant shall, in the application made under this section, identify the holders or beneficiaries that are to receive the tax credit certificates and the percentage of the tax credit that is allocable to each holder or beneficiary.

c. If an applicant under this section is eligible to receive renewable electricity production credits authorized under section 45 of the Internal Revenue Code, as amended, and the tax credit applicant is 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 certificates and all future rights to the tax credit in this section may be distributed to an equity holder or beneficiary as a liquidating distribution or portion thereof, of a holder or beneficiary's interest in the applicant entity.

The applicant shall, in the application made under this section, designate the percentage of the tax credit allocable to the liquidating equity holder or beneficiary that is to receive the current and future tax credit certificates under this section.

d. 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.

Sec. 5. Section 476C.1, subsection 6, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

"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, or a refuse conversion facility that meets all of the following requirements:

Sec. 6. Section 476C.1, subsection 6, paragraph d, Code Supplement 2005, is amended to read as follows:

d. Was initially placed into service on or after July 1, 2005, and before January 1, ~~2011~~ 2012.

Sec. 7. Section 476C.1, subsection 8, Code Supplement 2005, is amended to read as follows:

8. "Heat for a commercial purpose" means the heat in British thermal unit equivalents from

refuse derived fuel, methane, or other biogas produced in this state sold to a purchaser of renewable energy for use for a commercial purpose in this state or for use by an institution in this state.

Sec. 8. Section 476C.1, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. "Refuse conversion facility" means a facility in this state that converts solid waste into fuel that can be burned to generate heat for a commercial purpose in this state.

Sec. 9. Section 476C.3, subsections 2, 3, 4, and 5, Code Supplement 2005, are amended to read as follows:

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 unless the application is placed on a waiting list as described in subsection 5. 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~~ thirty 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~~ one hundred eighty 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~~ twenty megawatts of nameplate generating capacity and one hundred sixty-seven billion British thermal units of heat for a commercial purpose. Of the maximum amount of energy production capacity equivalent of all other facilities found eligible under this chapter, fifty-five billion British thermal units of heat for a commercial purpose shall be reserved for an eligible facility that is a refuse conversion facility for processed, engineered fuel from a multicounty solid waste management planning area. The maximum amount of energy production capacity the board may find eligible for a single refuse conversion facility is fifty-five billion British thermal units of heat for a commercial purpose.

5. The board shall maintain a waiting list of facilities that may have been found eligible under this section but for the maximum capacity restrictions of subsection 4. The priority of the waiting list shall be maintained in the order the applications were received by the board. The board shall remove from the waiting list any facility that has subsequently been found ineligible under this chapter. If additional capacity becomes available within the capacity restrictions of subsection 4, the board shall grant approval to facilities according to the priority of the waiting list before granting approval to new applications. An owner of a facility on the waiting list shall provide the board each year by August 31 with a sworn statement of verification stating that the information contained in the application for eligibility remains true and correct or stating that the information has changed and providing the new information.

~~5.~~ 6. 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. A person that has an equity interest equal to or greater than fifty-one percent in an eligible renewable energy facility shall not have an equity interest greater than ten percent in any other eligible renewable energy facility.

Sec. 10. Section 476C.4, subsection 4, Code Supplement 2005, is amended by striking the subsection and inserting in lieu thereof the following:

4. A tax credit certificate may be filed pursuant to any of the following, to the extent applicable:

a. 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.

b. If the tax credit applicant under this section is eligible to receive renewable electricity production credits authorized under section 45 of the Internal Revenue Code, as amended, and the tax credit applicant is 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 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. In absence of such designation, the credits under this section shall flow through to the partners, shareholders, or members in accordance with their pro rata share of the income of the entity.

The applicant shall, in the application made under this section, identify the holders or beneficiaries that are to receive the tax credit certificates and the percentage of the tax credit that is allocable to each holder or beneficiary.

c. If an applicant under this section is eligible to receive renewable electricity production credits authorized under section 45 of the Internal Revenue Code, as amended, and the tax credit applicant is 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 certificates and all future rights to the tax credit in this section may be distributed to an equity holder or beneficiary as a liquidating distribution or portion thereof, of a holder or beneficiary's interest in the applicant entity.

The applicant shall, in the application made under this section, designate the percentage of the tax credit allocable to the liquidating equity holder or beneficiary that is to receive the current and future tax credit certificates under this section.

d. 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.

Sec. 11. Section 476C.5, Code Supplement 2005, is amended to read as follows:

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~~ 2021.

Sec. 12. EFFECTIVE DATES.

1. The sections of this Act amending section 476B.6, subsection 5, and section 476C.4, subsection 4, being deemed of immediate importance, take effect upon enactment.

2. The section of this Act relating to a proposal for a study on the transmission of electricity takes effect July 1, 2006.

3. Except as otherwise provided in this section, this Act takes effect January 1, 2007.

Sec. 13. TRANSITION PROVISIONS — APPLICABILITY.

1. The waiting list described in this Act is the waiting list maintained by the Iowa utilities board for applications for eligibility received prior to the effective date of this Act.

2. As of the effective date of this Act, the section of this Act amending section 476C.3, subsection 6, applies to all facilities on the waiting list described by this Act regardless of the date a facility applied for eligibility.

Sec. 14. PROPOSAL FOR TRANSMISSION STUDY. The utilities board shall submit to the government oversight committee by January 1, 2007, a proposal to conduct a study on the transmission of electricity in Iowa. The proposal shall include a description of the content to be studied which shall include examining the reliability and limitations of the primary grid system and the development of additional small wind projects in all regions of the state. The content to be studied shall also include issues related to the security of Iowa's energy supply in the event of a national or local emergency affecting the primary grid system. The proposal shall include a description of the estimated time needed to complete the study, an estimate of the cost to complete the study, and any other information the board deems necessary.

Approved May 30, 2006

CHAPTER 1136

SOY-BASED TRANSFORMER FLUID TAX CREDITS

S.F. 2402

AN ACT relating to state tax benefits for use of soy-based transformer fluid by electric utilities and including applicability date provisions.

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

Section 1. NEW SECTION. 422.11M SOY-BASED TRANSFORMER FLUID TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a soy-based transformer fluid tax credit allowed under chapter 476D.

This section is repealed December 31, 2008.

Sec. 2. Section 422.33, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 20. The taxes imposed under this division shall be reduced by a soy-based transformer fluid tax credit allowed under chapter 476D.

This subsection is repealed December 31, 2008.

Sec. 3. Section 423.4, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A person in possession of a soy-based transformer fluid tax credit

certificate issued pursuant to chapter 476D 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 sale 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 476D 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 476D.

c. This subsection is repealed December 31, 2008.

Sec. 4. NEW SECTION. 437A.17C REIMBURSEMENT FOR SOY-BASED TRANSFORMER FLUID.

A person in possession of a soy-based transformer fluid tax credit certificate issued pursuant to chapter 476D 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 soy-based transformer fluid tax credit certificates pursuant to chapter 476D. To obtain the reimbursement, the person shall attach to the return required under section 437A.8 the soy-based transformer fluid tax credit certificates issued to the person pursuant to chapter 476D 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 soy-based transformer fluid tax credit certificates attached to the return.

This section is repealed December 31, 2008.

Sec. 5. NEW SECTION. 476D.1 DEFINITIONS.

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

1. "Department" means the department of revenue.

2. "Electric utility" means a public utility furnishing electricity as defined in section 476.1, a city utility as defined in section 390.1, and an electric cooperative as defined in section 390.1.

3. "Soy-based transformer fluid" means dielectric fluid that contains at least ninety-eight percent soy-based products.

Sec. 6. NEW SECTION. 476D.2 SOY-BASED TRANSFORMER FLUID TAX CREDIT — LIMIT.

1. An electric utility is eligible to receive a soy-based transformer fluid tax credit which is equal to the costs incurred by the utility during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid. 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, 2006, and before January 1, 2008.

b. The costs were incurred in the first eighteen months of the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

c. The credit for the purchase and replacement of soy-based transformer fluid used in the

transition is limited to two dollars per gallon. The total number of gallons used in the transition shall not exceed twenty thousand gallons per electric utility.

If the electric utility elects to take the soy-based transformer fluid tax credit, the electric utility shall not deduct for Iowa tax purposes any amount of the costs incurred in the transition to using soy-based transformer fluid which is deductible for federal tax purposes.

2. Any credit used under chapter 422, division II or III, which is 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 under chapter 422, division II, 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. The total amount of soy-based transformer fluid eligible for a tax credit shall not exceed sixty thousand gallons.

Sec. 7. NEW SECTION. 476D.3 TAX CREDIT CERTIFICATE PROCEDURE.

1. An electric utility may apply to the department for the soy-based transformer fluid tax credit by submitting to the department all of the following:

a. A completed application in a form prescribed by the department.

b. A copy of a signed purchase agreement or other agreement to purchase soy-based transformer fluid.

c. Any other information the department deems necessary.

2. 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. 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. 8. NEW SECTION. 476D.4 RULES.

The department may adopt rules pursuant to chapter 17A for the administration and enforcement of this chapter.

Sec. 9. NEW SECTION. 476D.5 APPLICABILITY — REPEAL.

1. This chapter applies to tax years ending after June 30, 2006, and beginning before January 1, 2008.

2. This chapter is repealed December 31, 2008.

Approved May 30, 2006

CHAPTER 1137

TRAFFIC ACCIDENTS INVOLVING LAW ENFORCEMENT
OR EMERGENCY RESPONSE VEHICLES

H.F. 540

AN ACT relating to reports of traffic accidents involving certified law enforcement officers and other emergency responders.

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

Section 1. NEW SECTION. 321.267A TRAFFIC ACCIDENTS INVOLVING CERTIFIED LAW ENFORCEMENT OFFICERS OR OTHER EMERGENCY RESPONDERS — REPORTS.

1. Any traffic accident involving the operation of a motor vehicle by a certified law enforcement officer or other emergency responder shall be reported to the department by the officer's or responder's employer. The officer's or responder's employer shall certify to the department whether or not the accident occurred in the line of duty while operating an official government vehicle or during the responder's deployment on an emergency call. Such a certification is effective only for the purposes of this section.

2. Notwithstanding section 321.200, upon receiving a certification pursuant to subsection 1, the department shall not include a notation of the accident described in the certification on the officer's or responder's driving record.

3. The provisions of this section shall not relieve a certified law enforcement officer or other emergency responder operating a motor vehicle of the duty to drive with due regard for the safety of all persons.

4. For the purposes of this section, "certified law enforcement officer" means a law enforcement officer who is certified through the Iowa law enforcement academy as provided in section 80B.13, subsection 3, or section 80B.17.

5. For the purposes of this section, "other emergency responder" means a fire fighter certified as a fire fighter I pursuant to rules adopted under chapter 100B and trained in emergency driving or an emergency medical responder certified under chapter 147A and trained in emergency driving.

Approved May 30, 2006

CHAPTER 1138

CITY GOVERNANCE

H.F. 2282

AN ACT relating to city government by providing for the election of mayor and city council members in a city governed by the council-manager-at-large form of city government and by providing for city continuity when concurrent city council vacancies exist.

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

Section 1. Section 372.6, Code 2005, is amended to read as follows:

372.6 COUNCIL-MANAGER-AT-LARGE FORM.

1. A city governed by the council-manager-at-large form has five council members elected

at large for staggered four-year terms. At the first meeting of the new term following each city election, the council shall elect one of the council members to serve as mayor, and one to serve as mayor pro tem. The mayor is a member of the council and may vote on all matters before the council. As soon as possible after the beginning of the new term following each city election, the council shall appoint a manager.

2. a. The city council of a city governed by the council-manager-at-large form may adopt a resolution on its own motion, or shall adopt a resolution if a petition valid under section 362.4 is filed with the city clerk, proposing that the city be governed by a mayor elected by the people for a four-year term and four council members elected at large. After adoption of the resolution, the council shall direct the county commissioner of elections to put the proposal on the ballot for the next general election or the next regular city election, whichever occurs first. If the ballot proposal is approved, the city council shall adopt an ordinance meeting the requirements of paragraph "b", and the ordinance is effective beginning with the next following regular city election.

b. The ordinance shall provide that the mayor is a member of the council and may vote on all matters before the council. The ordinance shall provide that the term of office of the mayor is four years and, after each regular city election, the mayor shall appoint a council member as mayor pro tem. The ordinance shall provide that the mayor is a member of the council for purposes of maintaining staggered terms on the council. A council member's term shall not be shortened or lengthened as a means of initially implementing the ordinance.

c. An ordinance adopted and approved under this subsection is not subject to repeal until the ordinance has been in effect for at least six years. The question of repeal of the ordinance is subject to the requirements of paragraph "a".

3. The council may by ordinance provide that the city will be governed by council-manager-ward form. The ordinance must provide for the election of the mayor and council members required under council-manager-ward form at the next regular city election.

Sec. 2. Section 372.13, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. By a special election held to fill the office for the remaining balance of the unexpired term. If the council opts for a special election or a valid petition is filed under paragraph "a", the special election may be held concurrently with any pending election as provided by section 69.12 if by so doing the vacancy will be filled not more than ninety days after it occurs. Otherwise, a special election to fill the office shall be called by the council at the earliest practicable date. ~~If there are concurrent vacancies on the council and the remaining council members do not constitute a quorum of the full membership, a special election shall be called at the earliest practicable date.~~ The council shall give the county commissioner at least ~~sixty~~ thirty-two days' written notice of the date chosen for the special election. The council of a city where a primary election may be required shall give the county commissioner at least ~~eighty-five~~ sixty days' written notice of the date chosen for the special election. A special election held under this subsection is subject to sections 376.4 through 376.11, but the dates for actions in relation to the special election, including dates for filing of nomination petitions, shall be calculated with regard to the date for which the special election is called.

If there are concurrent vacancies on the council and the remaining council members do not constitute a quorum of the full membership, a special election shall be called by the county commissioner at the earliest practicable date. The remaining council members shall give notice to the county commissioner of the absence of a quorum. If there are no remaining council members, the city clerk shall give notice to the county commissioner of the absence of a council. If the office of city clerk is vacant, the city attorney shall give notice to the county commissioner of the absence of a clerk and a council. Notice of the need for a special election shall be given under this paragraph by the end of the following business day.

Sec. 3. NEW SECTION. 372.13A PAYMENTS WITHOUT PRIOR AUTHORIZATION OF COUNCIL.

1. If concurrent vacancies exist on the council and the remaining council members do not

constitute a quorum of the full membership, the city clerk is authorized to make the following payments without prior approval of the council:

a. For fixed charges including but not limited to freight, express, postage, water, light, telephone service, or contractual services, after a bill is filed with the clerk.

b. For salaries and payrolls if the compensation has been fixed or approved by the council. The salary or payroll shall be certified by the officer or supervisor under whose direction or supervision the compensation is earned.

2. If concurrent vacancies exist on the council and the remaining council members do not constitute a quorum of the full membership and the office of city clerk is vacant, the county auditor of the county where the city is located shall make the payments described in subsection 1 without prior approval of the council.

3. The bills paid under this section shall be submitted to the city council for review and approval at the next regular meeting following payment in which a quorum of the council is present.

Approved May 30, 2006

CHAPTER 1139

STATE UNIVERSITY ADMISSION REQUIREMENTS STUDY

H.F. 2395

AN ACT directing the state board of regents to conduct a study of the admissions requirements common to the state universities.

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

Section 1. STATE BOARD OF REGENTS UNIVERSITY ADMISSIONS STUDY. The state board of regents shall conduct a study relating to the admission requirements common to the three state universities, including administrative rule 681 IAC 1.1(1), which provides that graduates of approved Iowa high schools who have the subject matter backgrounds as recommended by each university and who rank in the upper one-half of their graduating class will be admitted. The state board shall submit a report to the senate and house of representatives standing committees on education by January 8, 2007, regarding the findings and recommendations of the study.

Approved May 30, 2006

CHAPTER 1140

INTERNAL REVENUE CODE REFERENCES
AND INCOME TAX PROVISIONS

H.F. 2461

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 Supplement 2005, is amended to read as follows:

For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January ~~31~~ 1, ~~2005~~ 2006.

Sec. 2. Section 15A.9, subsection 8, paragraph e, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January ~~31~~ 1, ~~2005~~ 2006.

Sec. 3. Section 422.3, subsection 5, Code Supplement 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 ~~31~~ 1, ~~2005~~ 2006.

Sec. 4. Section 422.7, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 45. Subtract, to the extent not otherwise deducted, the amount of two thousand dollars for the cost of a clean fuel motor vehicle if the taxpayer was eligible for the alternative motor vehicle credit under section 30B of the Internal Revenue Code for such motor vehicle.

Sec. 5. Section 422.10, subsection 3, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January ~~31~~ 1, ~~2005~~ 2006.

Sec. 6. Section 422.32, subsection 7, Code Supplement 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 ~~31~~ 1, ~~2005~~ 2006.

Sec. 7. Section 422.33, subsection 5, paragraph d, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January ~~31~~ 1, ~~2005~~ 2006.

Sec. 8. Section 504B.5, Code 2005, is amended to read as follows:

504B.5 INTERNAL REVENUE CODE UPDATED.

All references to sections of the Internal Revenue Code shall mean the Code as ~~amended to and including January 1, 1971~~ defined in section 422.3.

Sec. 9. Section 633.266, Code 2005, is amended to read as follows:

633.266 ADJUSTED GROSS ESTATE.

Unless otherwise defined, "adjusted gross estate" in a will means the entire value of the gross estate as determined under the federal estate tax less the aggregate amount of the deductions allowed by sections 2053 and 2054 of the Internal Revenue Code as ~~amended to and including January 1, 1982~~ defined in section 422.3.

Sec. 10. RETROACTIVE APPLICABILITY. This Act applies retroactively to January 1, 2005, 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 May 30, 2006

CHAPTER 1141

URBAN RENEWAL — TARGETED JOBS WITHHOLDING TAX CREDIT

H.F. 2731

AN ACT relating to a targeted jobs withholding tax credit to be used for funding improvements in certain urban renewal areas.

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

Section 1. NEW SECTION. 403.19A WITHHOLDING AGREEMENT — TAX CREDIT.

1. For purposes of this section, unless the context otherwise requires:

a. "Business" means any professional services, or industrial enterprise, including medical treatment facilities, manufacturing facilities, corporate headquarters, and research facilities. "Business" does not include a retail operation or a business which closes or substantially reduces its operation in one area of this state and relocates substantially the same operation to another area of this state.

b. "Employee" means the individual employed in a targeted job that is subject to a withholding agreement.

c. "Employer" means a business creating targeted jobs in an urban renewal area of a pilot project city pursuant to a withholding agreement.

d. "Pilot project city" means a city that has applied and been approved as a pilot project city pursuant to subsection 2.

e. "Qualifying investment" means a capital investment in real property including the purchase price of land and existing buildings, site preparation, building construction, and long-term lease costs. "Qualifying investment" also means a capital investment in depreciable assets.

f. "Targeted job" means a job in a business which is or will be located in an urban renewal area of a pilot project city that pays a wage at least equal to the countywide average wage. "Targeted job" includes new jobs from Iowa business expansions or retentions within the city limits of the pilot project city and those jobs resulting from established out-of-state businesses, as defined by the department of economic development, moving to or expanding in Iowa.

g. "Withholding agreement" means the agreement between a pilot project city and an employer concerning the targeted jobs withholding credit authorized in subsection 3.

2. An eligible city may apply to the department of economic development to be designated as a pilot project city. An eligible city is a city that contains three or more census tracts and is located in a county meeting one of the following requirements:

a. A county that borders Nebraska.

b. A county that borders South Dakota.

c. A county that borders a state other than Nebraska or South Dakota.

The department of economic development shall approve four eligible cities as pilot project cities, one pursuant to paragraph "a", one pursuant to paragraph "b", and two pursuant to paragraph "c". If more than two cities meeting the requirements of paragraph "c" apply to be designated as a pilot project city, the department of management, in consultation with the department of economic development, shall determine which two cities hold the most potential to create new jobs or generate the greatest capital within their areas. Applications from eligible cities filed on or after October 1, 2006, shall not be considered.

If a pilot project city does not enter into a withholding agreement within one year of its approval as a pilot project city, the city shall lose its status as a pilot project city. Upon such occurrence, the department of economic development shall take applications from other eligible cities to replace that city. Another city shall be designated within six months.

3. a. A pilot project city may provide by ordinance for the deposit into a designated account in the special fund described in section 403.19, subsection 2, of the targeted jobs withholding credit described in this section. The targeted jobs withholding credit shall be based upon the wages paid to employees pursuant to a withholding agreement.

b. An amount equal to three percent of the gross wages paid by an employer to each employee under a withholding agreement shall be credited from the payment made by the employer pursuant to section 422.16. If the amount of the withholding by the employer is less than three percent of the gross wages paid to the employees covered by the withholding agreement, the employer shall receive a credit against other withholding taxes due by the employer or may carry the credit forward for up to ten years or until depleted, whichever is the earlier. The employer shall remit the amount of the credit quarterly, in the same manner as withholding payments are reported to the department of revenue, to the pilot project city to be allocated to and when collected paid into a designated account in the special fund for the urban renewal area in which the targeted jobs are located. All amounts so deposited shall be used or pledged by the pilot project city for an urban renewal project related to the employer pursuant to the withholding agreement.

c. (1) The pilot project city shall enter into a withholding agreement with each employer concerning the targeted jobs withholding credit. However, an agreement shall not be entered into by a pilot project city with a business currently located in this state unless the business either creates ten new jobs or makes a qualifying investment of at least five hundred thousand dollars within the urban renewal area. The withholding agreement may have a term of up to ten years. An employer shall not be obligated to enter into a withholding agreement.

(2) The pilot project city shall not enter into a withholding agreement after June 30, 2010.

d. A withholding agreement shall be disclosed to the public and shall contain but is not limited to all of the following:

(1) A copy of the adopted development agreement plan of the employer.

(2) A list of any other amounts of incentives or assistance the employer may be receiving from other economic development programs, including grants, loans, forgivable loans, and tax credits.

(3) The approval of local participating authorities.

(4) The amount of local incentives or assistance received for each project of the employer.

e. (1) The employer shall certify to the department of revenue that the targeted jobs withholding credit is in accordance with the withholding agreement and shall provide other information the department may require. Notice of any withholding agreement shall be provided promptly to the department of revenue following its execution by the pilot project city and the employer.

(2) Following termination of the withholding agreement, the employer credits shall cease

and any money received by the pilot project city after termination shall be remitted to the treasurer of state to be deposited into the general fund of the state. Notice shall be provided promptly to the department of revenue following termination.

f. If the employer ceases to meet the requirements of the withholding agreement, the agreement shall be terminated and any withholding tax credits for the benefit of the employer shall cease. However, in regard to the number of new jobs that are to be created if the employer has met the number of new jobs to be created pursuant to the withholding agreement and subsequently the number of new jobs falls below the required level, the employer shall not be considered as not meeting the new job requirement until eighteen months after the date of the decrease in the number of new jobs employed.[1]

g. A pilot project city shall certify to the department of revenue the amount of the targeted jobs withholding credit an employer has remitted to the city and shall provide other information the department may require.

h. An employee whose wages are subject to a withholding agreement shall receive full credit for the amount withheld as provided in section 422.16.

i. An employer may participate in a new jobs credit from withholding under section 260E.5 or a supplemental new jobs credit from withholding under section 15E.197 or section 15.331, Code 2005, at the same time as the employer is participating in the withholding credit under this section. Notwithstanding any other provision in this section, the new jobs credit from withholding under section 260E.5 and the supplemental new jobs credit from withholding under section 15E.197 or section 15.331, Code 2005, shall be collected and disbursed prior to the withholding credit under this section.

j. A pilot project city that enters into a withholding agreement shall arrange for a match of at least one dollar for each withholding credit dollar received by the city. The local match may come from the pilot project city, a private donor, or the business, or a combination of all three. The local match may be in cash or in kind to be used for the business project.

k. At the time of submitting its budget to the department of management, the pilot project city shall submit to the department of management and the department of economic development a description of the activities involving the use of withholding agreements. The description shall include, but is not limited to, the following:

(1) The total number of targeted jobs and a breakdown as to those that are Iowa business expansions or retentions within the city limits of the pilot project city and those that are jobs resulting from established out-of-state businesses moving to or expanding in Iowa.

(2) The number of withholding agreements and the amount of withholding credits involved.

(3) The types of businesses that entered into the agreements, and the types of businesses that declined the city's proposal to enter into the agreement.

l. The department of economic development in consultation with the department of revenue shall coordinate the pilot project program with the pilot project cities under this section. The department of economic development is authorized to adopt, amend, and repeal rules to implement the pilot project program under this section. The department of economic development shall prepare an annual report for the governor, the general assembly, and the legislative services agency on the pilot project program. The pilot project program annual report shall include but not be limited to all of the following:

(1) The amount each project received from each state economic development and tax credit program.

(2) The number of new jobs resulting from the pilot program.

(3) The average wage resulting from the pilot project.

(4) An evaluation of the investment made by the state of Iowa, including but not limited to the terms in subparagraphs (1) through (3).

Approved May 30, 2006

[1] According to enrolled Act

CHAPTER 1142

REGULATION OF RENEWABLE FUELS AND ENERGY

H.F. 2754

AN ACT relating to renewable fuel and energy, providing incentives for infrastructure used to store and dispense renewable fuel, providing for income tax credits, providing for penalties, and providing effective and applicability dates, including retroactive applicability.

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

DIVISION I
ESTABLISHMENT OF RENEWABLE FUEL STANDARDS

Section 1. PETROLEUM REPLACEMENT GOAL. It is the goal of this state that by January 1, 2020, all biofuel will replace twenty-five percent of all petroleum used in the formulation of gasoline.

Sec. 2. Section 214.1, subsections 1 through 3, Code 2005, are amended by striking the subsections and inserting in lieu thereof the following:

1. "Commercial weighing and measuring device" or "device" means the same as defined in section 215.26.

2. "Motor fuel" means the same as defined in section 214A.1.

3. "Motor fuel pump" means a pump, meter, or similar commercial weighing and measuring device used to measure and dispense motor fuel on a retail basis.

4. "Retail dealer" means the same as defined in section 214A.1.

5. "Wholesale dealer" means the same as defined in section 214A.1.

Sec. 3. Section 214A.1, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Advertise" means to present a commercial message in any medium, including but not limited to print, radio, television, sign, display, label, tag, or articulation.

NEW SUBSECTION. 1A. "Biodiesel" means a renewable fuel comprised of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats, which meets the standards provided in section 214A.2.

NEW SUBSECTION. 1B. "Biodiesel blended fuel" means a blend of biodiesel with petroleum-based diesel fuel which meets the standards, including separately the standard for its biodiesel component, provided in section 214A.2.

NEW SUBSECTION. 1C. "Biofuel" means ethanol or biodiesel.

NEW SUBSECTION. 1D. "Committee" means the renewable fuels and coproducts advisory committee established pursuant to section 159A.4.

NEW SUBSECTION. 1E. "Dealer" means a wholesale dealer or retail dealer.

NEW SUBSECTION. 1F. "Diesel fuel" means any liquid, other than gasoline, which is suitable for use as a fuel in a diesel fuel powered engine, including but not limited to a motor vehicle, equipment as defined in section 322F.1, or a train. Diesel fuel includes a liquid product prepared, advertised, offered for sale, or sold for use as, or commonly and commercially used as, motor fuel for use in an internal combustion engine and ignited by pressure without the presence of an electric spark. Diesel fuel must meet the standards provided in section 214A.2.

NEW SUBSECTION. 1G. "E-85 gasoline" means ethanol blended gasoline formulated with a minimum percentage of between seventy and eighty-five percent by volume of ethanol, if the formulation meets the standards provided in section 214A.2.

NEW SUBSECTION. 1H. "Ethanol" means ethyl alcohol that is to be blended with gasoline if it meets the standards provided in section 214A.2.

NEW SUBSECTION. 1I. "Ethanol blended gasoline" means a formulation of gasoline which is a liquid petroleum product blended with ethanol, if the formulation meets the standards provided in section 214A.2.

NEW SUBSECTION. 1J. "Gasoline" means any liquid product prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, motor fuel for use in a spark-ignition, internal combustion engine, and which meets the specifications provided in section 214A.2.

NEW SUBSECTION. 2A. "Motor fuel pump" means the same as defined in section 214.1.

NEW SUBSECTION. 5A. "Renewable fuel" means a combustible liquid derived from grain starch, oilseed, animal fat, or other biomass; or produced from a biogas source, including any nonfossilized decaying organic matter which is capable of powering machinery, including but not limited to an engine or power plant. Renewable fuel includes but is not limited to biofuel, ethanol blended gasoline, or biodiesel blended fuel meeting the standards provided in section 214A.2.

NEW SUBSECTION. 6A. "Retail motor fuel site" means a geographic location in this state where a retail dealer sells and dispenses motor fuel on a retail basis.

Sec. 4. Section 214A.1, subsection 2, Code 2005, is amended to read as follows:

2. "Motor ~~vehicle~~ fuel" means a substance or combination of substances which is intended to be or is capable of being used for the purpose ~~of propelling or running by combustion any~~ of operating an internal combustion engine, including but not limited to a motor vehicle, and is kept for sale or sold for that purpose. ~~The products commonly known as kerosene and distillate or petroleum products of lower gravity (Baume scale), when not used to propel a motor vehicle or for compounding or combining with a motor vehicle fuel, are exempt from this chapter except as provided in section 214A.2A.~~

Sec. 5. Section 214A.1, subsections 6 and 8, Code 2005, are amended by striking the subsections and inserting in lieu thereof the following:

6. "Retail dealer" means a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis, regardless of whether the motor fuel pump is located at a retail motor fuel site including a permanent or mobile location.

8. "Wholesale dealer" means a person, other than a retail dealer, who operates a place of business where motor fuel is stored and dispensed for sale in this state, including a permanent or mobile location.

Sec. 6. Section 214A.2, subsection 1, Code 2005, is amended to read as follows:

1. The ~~secretary~~ department shall adopt rules pursuant to chapter 17A for carrying out this chapter. The rules may include, but are not limited to, specifications relating to motor fuel ~~or oxygenate octane enhancers~~, including but not limited to renewable fuel such as ethanol blended gasoline, biodiesel, biodiesel blended fuel, and motor fuel components such as an oxygenate. In the interest of uniformity, the ~~secretary~~ department shall adopt by reference ~~or otherwise~~ other specifications relating to tests and standards for motor fuel ~~or oxygenate octane enhancers~~ including renewable fuel and motor fuel components, established by the United States environmental protection agency and A.S.T.M. ~~(American society for testing and materials)~~ international~~, unless the secretary determines those specifications are inconsistent with this chapter or are not appropriate to the conditions which exist in this state~~. In adopting standards for a renewable fuel, the department shall consult with the committee.

Sec. 7. Section 214A.2, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. a. For motor fuel advertised for sale or sold as gasoline by a dealer, the motor fuel must meet requirements for that type of motor fuel and its additives established by the United States environmental protection agency including as provided under 42 U.S.C. § 7545.

b. If the motor fuel is advertised for sale or sold as ethanol blended gasoline, the motor fuel must comply with departmental standards which shall comply with specifications for ethanol blended gasoline adopted by A.S.T.M. international. For ethanol blended gasoline all of the following shall apply:

(1) Ethanol must be an agriculturally derived ethyl alcohol that meets A.S.T.M. international specification D 4806 for denatured fuel ethanol for blending with gasoline for use as automotive spark-ignition engine fuel, or a successor A.S.T.M. international specification, as established by rules adopted by the department.

(2) For ethanol blended gasoline other than E-85 gasoline, at least ten percent of the gasoline by volume must be ethanol.

(3) E-85 gasoline must be an agriculturally derived ethyl alcohol that meets A.S.T.M. international specification D 5798, described as a fuel blend for use in ground vehicles with automotive spark-ignition engines, or a successor A.S.T.M. international specification, as established by rules adopted by the department.

(4) In calculating the percentage of ethanol required for the formulation of ethanol blended gasoline, a percentage of a denaturant or contaminants permitted in the ethanol blended gasoline may be excluded as provided by rules adopted by the department.[1]

Sec. 8. Section 214A.2, subsection 3, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

3. a. For motor fuel advertised for sale or sold as diesel fuel by a dealer, the motor fuel must meet requirements for that type of motor fuel and its additives established by the United States environmental protection agency including as provided under 42 U.S.C. § 7545.

b. If the motor fuel is advertised for sale or sold as biodiesel or biodiesel blended fuel, the motor fuel must comply with departmental standards which shall comply with specifications adopted by A.S.T.M. international for biodiesel or biodiesel blended fuel, to every extent applicable as determined by rules adopted by the department.

(1) Biodiesel must conform to A.S.T.M. international specification D 6751 or a successor A.S.T.M. international specification as established by rules adopted by the department. The specification shall apply to biodiesel before it leaves its place of manufacture.

(2) At least one percent of biodiesel blended fuel by volume must be biodiesel.

(3) The biodiesel may be blended with diesel fuel whose sulfur, aromatic, lubricity, and cetane levels do not comply with A.S.T.M. international specification D 975 grades 1-D or 2-D, low sulfur 1-D or 2-D, or ultra-low sulfur grades 1-D or 2D, provided that the finished biodiesel blended fuel meets A.S.T.M. international specification D 975 or a successor A.S.T.M. international specification as established by rules adopted by the department.

Sec. 9. Section 214A.2A, Code 2005, is amended to read as follows:

214A.2A KEROSENE ~~LABELING~~.

1. Fuel which is sold or is kept, offered, or exposed for sale as kerosene shall be labeled as kerosene. The label shall include the word "kerosene" and a designation as either "K1" or "K2", and shall indicate that the kerosene is in compliance with the standard specification adopted by ~~the~~ A.S.T.M. ~~in~~ international specification D-3699 (1982).

2. A product commonly known as kerosene and a distillate or a petroleum product of lower gravity (Baume scale), when not used to propel a motor vehicle or for compounding or combining with a motor fuel, are exempt from this chapter except as provided in this section.

Sec. 10. Section 214A.3, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

214A.3 ADVERTISING.

1. For all motor fuel, a person shall not knowingly do any of the following:

a. Advertise the sale of any motor fuel which does not meet the standards provided in section 214A.2.

[1] See chapter 1175, §8 herein

b. Falsely advertise the quality or kind of any motor fuel or a component of motor fuel.

c. Add a coloring matter to the motor fuel which misleads a person who is purchasing the motor fuel about the quality of the motor fuel.

2. For a renewable fuel, all of the following applies:[2]

a. A person shall not knowingly falsely advertise that a motor fuel is a renewable fuel or is not a renewable fuel.

b. (1) Ethanol blended gasoline sold by a dealer shall be designated E-xx where "xx" is the volume percent of ethanol in the ethanol blended gasoline. However, a person advertising E-10 gasoline may only designate it as ethanol blended gasoline. A person shall not knowingly falsely advertise ethanol blended gasoline by using an inaccurate designation in violation of this subparagraph.

(2) Biodiesel blended fuel shall be designated B-xx where "xx" is the volume percent of biodiesel in the biodiesel blended fuel. A person shall not knowingly falsely advertise biodiesel blended fuel by using an inaccurate designation in violation of this subparagraph.

Sec. 11. Section 214A.5, Code 2005, is amended to read as follows:

214A.5 SALES SLIP ON DEMAND.

~~Each~~ A wholesale dealer or retail dealer ~~in this state~~ shall, when making a sale of motor vehicle fuel, give to ~~each~~ a purchaser upon demand a sales slip. ~~upon which must be printed the words "This motor vehicle fuel conforms to the standard of specifications required by the state of Iowa." Each wholesale dealer in this state shall, when making a sale of oxygenate octane enhancer, give to each purchaser upon demand a sales slip upon which must be printed the words "This oxygenate octane enhancer conforms to the standard specifications required by the state of Iowa."~~

Sec. 12. Section 214A.7, Code 2005, is amended to read as follows:

214A.7 DEPARTMENT INSPECTION — SAMPLES TESTED.

The department~~, its agents or employees,~~ shall, from time to time, make or cause to be made tests of any motor vehicle fuel or oxygenate octane enhancer which is being sold, or held or offered for sale within this state~~, and for such purposes the inspectors have the right to~~. An inspector may enter upon the premises of any wholesale dealer or retail dealer ~~of motor vehicle fuel or oxygenate octane enhancer within this state~~, and ~~to~~ take from any container a sample of the motor vehicle fuel or oxygenate octane enhancer, not to exceed ~~eight~~ sixteen fluid ounces. The sample shall be sealed and appropriately marked or labeled by the inspector and delivered to the department. The department shall make, or cause to be made, complete analyses or tests of the motor vehicle fuel or oxygenate octane enhancer by the methods specified in section 214A.2.[3]

Sec. 13. Section 214A.8, Code 2005, is amended to read as follows:

214A.8 PROHIBITION.

A ~~retail or wholesale~~ dealer ~~defined in this chapter~~ shall not knowingly sell ~~any~~ motor ~~vehicle~~ fuel or ~~oxygenate octane enhancer~~ biofuel in the state that fails to meet applicable standards ~~and specifications set out in this chapter~~ as provided in section 214A.2.

Sec. 14. Section 214A.11, Code 2005, is amended to read as follows:

214A.11 ~~VIOLATIONS~~ PENALTIES.

1. ~~Any~~ Except as provided in subsection 2, a person ~~violating the provisions~~ who violates a provision of this chapter ~~shall be~~ is guilty of a ~~simple~~ serious misdemeanor. Each day that a continuing violation occurs shall be considered a separate offense.

2. The state may proceed against a person who violates this chapter by initiating an alternative civil enforcement action in lieu of a prosecution. The alternative civil enforcement action may be brought against the person as a contested case proceeding by the department under chapter 17A or as a civil judicial proceeding by the attorney general upon referral by the de-

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[2] The word "apply" probably intended

[3] See chapter 1175, §9 herein

partment. The department may impose, assess, and collect the civil penalty. The civil penalty shall be for at least one hundred dollars but not more than one thousand dollars for each violation. Each day that a continuing violation occurs shall be considered a separate offense.

a. Except as provided in paragraph "b", the state is precluded from prosecuting a violation pursuant to subsection 1, if the state is a party in the alternative civil enforcement action, the department has made a final decision in the contested case proceeding, or a court has entered a final judgment.

b. If a party to an alternative civil enforcement action fails to pay the civil penalty to the department within thirty days after the party has exhausted the party's administrative remedies and the party has not sought judicial review in accordance with section 17A.19, the department may order that its final decision be vacated. When the department's final decision is vacated, the state may initiate a criminal prosecution, but shall be precluded from bringing an alternative civil enforcement action. If a party to an alternative civil enforcement action fails to pay the civil penalty within thirty days after a court has entered a final judgment, the department may request that the attorney general petition the court to vacate its final judgment. When the court's judgment has been vacated, the state may initiate a criminal prosecution, but shall be precluded from bringing an alternative civil enforcement action.

DIVISION II
RENEWABLE FUEL AND ENERGY

Sec. 15. Section 15.103, subsection 1, paragraph b, subparagraph (7), Code Supplement 2005, is amended to read as follows:

(7) Economics or alternative and renewable energy including the alternative and renewable energy sectors listed in section 476.42, subsection 1, paragraph "a".

Sec. 16. Section 15E.61, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The general assembly finds the following: Fundamental changes have occurred in national and international financial markets and in the financial markets of this state. A critical shortage of seed and venture capital resources exists in the state, and such shortage is impairing the growth of commerce in the state. A need exists to increase the availability of venture equity capital for emerging, expanding, and restructuring enterprises in Iowa, including, without limitation, enterprises in the life sciences, advanced manufacturing, information technology, alternative and renewable energy including the alternative and renewable energy sectors listed in section 476.42, subsection 1, paragraph "a", and value-added agriculture areas. Such investments will create jobs for Iowans and will help to diversify the state's economic base.

Sec. 17. Section 15E.223, subsection 4, Code 2005, is amended to read as follows:

4. "Targeted industry business" means an existing or proposed business entity, including an emerging small business or qualified business which is operated for profit and which has a primary business purpose of doing business in at least one of the targeted industries designated by the department which include life sciences, software and information technology, advanced manufacturing, value-added agriculture, alternative and renewable energy including the alternative and renewable energy sectors listed in section 476.42, subsection 1, paragraph "a", and any other industry designated as a targeted industry by the department.

Sec. 18. Section 15E.231, subsection 1, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Development of the alternative and renewable energy sector.

Sec. 19. Section 15E.351, subsection 1, Code Supplement 2005, is amended to read as follows:

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, alternative and renewable energy including the alternative and renewable energy sectors listed in section 476.42, subsection 1, paragraph "a", 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, subject to the approval of the economic development board, to provide financial assistance under this section.

Sec. 20. Section 260C.18A, subsection 2, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

Moneys deposited in the funds and disbursed to community colleges for a fiscal year shall be expended for the following purposes, provided seventy percent of the moneys shall be used on projects in the areas of advanced manufacturing, information technology and insurance, alternative and renewable energy including the alternative and renewable energy sectors listed in section 476.42, subsection 1, paragraph "a", and life sciences which include the areas of biotechnology, health care technology, and nursing care technology:

Sec. 21. Section 323A.1, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "E-85 gasoline" means the same as defined in section 214A.1.

NEW SUBSECTION. 0B. "Ethanol blended gasoline" means the same as defined in section 214A.1.

Sec. 22. Section 323A.1, subsection 4, Code 2005, is amended to read as follows:

4. "Motor fuel" means ~~gasoline or diesel fuel~~ the same as motor fuel as defined in section 214A.1, which is of a type distributed for use as a fuel in self-propelled vehicles designed primarily for use on public streets, roads, and highways.

Sec. 23. Section 323A.2, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. At least forty-eight hours prior to entering into an agreement to purchase motor fuel from another source, the franchisee has requested delivery of motor fuel from the franchisor and the requested motor fuel has not been delivered and the franchisor has given the franchisee notice that the franchisor is unable to provide the requested motor fuel, or prior to entering into an agreement the franchisor has stated to the franchisee that the requested motor fuel will not be delivered. The request to the franchisor for delivery shall be for a type of fuel normally provided by the franchisor to the franchisee and for a quantity of fuel not exceeding the average amount sold by the franchisee in one week, based upon average weekly sales in the three months preceding the request, except that this provision shall not restrict a franchisee from purchasing ethanol blended gasoline from a source other than the franchisor or limit the quantity to be purchased when the franchisor does not normally supply the franchisee with ethanol blended gasoline. A franchisee may also purchase E-85 gasoline as provided in section 323A.2A.

Sec. 24. NEW SECTION. 323A.2A PURCHASE OF E-85 GASOLINE FROM OTHER SOURCE.

1. a. When on and after the effective date of this section of this Act, a franchise is entered into or renewed, the franchisor shall provide for the delivery of volumes of E-85 gasoline at times demanded by the franchisee or shall allow the franchisee to purchase those volumes of E-85 gasoline at those times from another source.

b. If a franchise is in effect on the effective date of this section of this Act and does not have an expiration date, the franchisor shall provide for the delivery of volumes of E-85 gasoline at

times demanded by the franchisee or shall allow the franchisee to purchase those volumes of E-85 gasoline at those times from another source.

2. If the franchisee sells E-85 gasoline delivered from a source other than the franchisor, the franchisee shall prominently post a sign disclosing this fact to the public on each motor fuel pump used for dispensing the E-85 gasoline. The size of the sign shall not be less than eight inches by ten inches and the letters on the sign shall be at least three inches in height.

3. A franchisee who sells E-85 gasoline delivered from a source other than the franchisor shall also fully indemnify the franchisor against any claims asserted by a user on which the claimant prevails and in which the court determines that E-85 gasoline not acquired from the franchisor was the proximate cause of the injury.

4. a. A purchase of E-85 gasoline in accordance with this section is not good cause for the termination of a franchise.

b. A term of a franchise that is inconsistent with this section is void and unenforceable.

SUBCHAPTER III
RENEWABLE FUEL INFRASTRUCTURE

Sec. 25. NEW SECTION. 455G.31 E-85 GASOLINE STORAGE AND DISPENSING INFRASTRUCTURE.

1. As used in this section, unless the context otherwise requires:

a. "E-85 gasoline" and "retail dealer" mean the same as defined in section 214A.1.

b. "Gasoline storage and dispensing infrastructure" means any storage tank located below ground or above ground and any associated equipment including but not limited to a pipe, hose, connection, fitting seal, or pump, which is used to store, measure, and dispense gasoline by a retail dealer.

2. A retail dealer may use gasoline storage and dispensing infrastructure to store and dispense E-85 gasoline, if all of the following apply:

a. For gasoline storage and dispensing infrastructure other than the dispenser, the department of natural resources under this chapter or the state fire marshal under chapter 101, division II[4] must determine that it is compatible with E-85 gasoline.

b. For a dispenser, the manufacturer must state all of the following:

(1) That the dispenser is, in the opinion of the manufacturer, not incompatible with E-85 gasoline.

(2) The manufacturer has initiated the process of applying to an independent testing laboratory for listing of the equipment for use in dispensing E-85 gasoline.

A manufacturer's statement must include a written statement, with reference to a particular type and model of equipment for use in dispensing E-85 gasoline, signed by a responsible official on behalf of the manufacturer, provided either to the retail dealer using the gasoline storage and dispensing infrastructure or to the department of natural resources or the state fire marshal. If the written statement is provided to a retail dealer, the statement shall be retained in the files on the premises of the retail dealer and shall be available to personnel of the department of natural resources or the state fire marshal upon request.

3. This section is repealed July 1, 2009.

Sec. 26. CONFLICT WITH OTHER ACT. If the Eighty-first General Assembly enacts House File 2793[5] or any other Act that amends section 214.1 in a manner that conflicts with the amendments in this Act to section 214.1, the provisions of this Act shall prevail.

Sec. 27. EFFECTIVE DATE.

1. The sections of this Act amending sections 323A.1 and 323A.2, being deemed of immediate importance, take effect upon enactment.

2. Section 323A.2A, as enacted in this Act, being deemed of immediate importance, takes effect upon enactment.

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[4] See chapter 1185, §122 herein

[5] Not enacted

DIVISION III
RENEWABLE FUEL INFRASTRUCTURE PROGRAMS
SUBCHAPTER II
RENEWABLE FUEL INFRASTRUCTURE

Sec. 28. NEW SECTION. 15G.114 DEFINITIONS.

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

1. "Biodiesel", "biodiesel blended fuel", "E-85 gasoline", "gasoline", "motor fuel", "motor fuel pump", "retail dealer", and "retail motor fuel site" mean the same as defined in section 214A.1.

2. "Department" means the Iowa department of economic development created in section 15.105.

3. "Infrastructure board" means the renewable fuel infrastructure board as created in section 15G.115.[6]

4. "Motor fuel storage and dispensing infrastructure" or "infrastructure" means a tank and motor fuel pumps necessary to keep and dispense motor fuel at a retail motor fuel site, including but not limited to all associated equipment, dispensers, pumps, pipes, hoses, tubes, lines, fittings, valves, filters, seals, and covers.

5. "Terminal" means a storage and distribution facility for motor fuel or a blend stock such as ethanol or biodiesel that is stored on-site or off-site in bulk and that is supplied to a motor vehicle, pipeline, or a marine vessel and from which storage and distribution facility the motor fuel or blend stock may be removed at a rack. "Terminal" does not include any of the following:

a. A retail motor fuel site.

b. A facility at which motor fuel or special fuel, or blend stocks are used in the manufacture of products other than motor fuel and from which no motor fuel or special fuel is removed.

6. "Terminal operator" means a person who has responsibility for, or physical control over, the operation of a terminal, including by ownership, contractual agreement, or appointment.

7. "Underground storage tank fund board" means the Iowa comprehensive petroleum underground storage tank fund board established pursuant to section 455G.4.

Sec. 29. NEW SECTION. 15G.115 RENEWABLE FUEL INFRASTRUCTURE BOARD.

A renewable fuel infrastructure board is established within the department.

1. The department shall provide the infrastructure board with necessary facilities, items, and clerical support. The department shall perform administrative functions necessary for the management of the infrastructure board, and the renewable fuel infrastructure programs as provided in sections 15G.116 and 15G.117, all under the direction of the infrastructure board.

2. The infrastructure board shall be composed of eleven members who shall be appointed by the governor as follows:

a. One person representing insurers who is knowledgeable about issues relating to underground storage tanks.

b. One person representing the petroleum industry who is knowledgeable about issues relating to petroleum refining, terminal operations, and petroleum or motor fuel distribution.

c. Nine persons based on nominations made by the titular heads of all of the following:

(1) The agribusiness association of Iowa.
(2) The Iowa corn growers association.
(3) The Iowa farm bureau federation.
(4) The Iowa motor truck association.
(5) The Iowa soybean association.
(6) The petroleum marketers and convenience stores of Iowa.
(7) The Iowa petroleum equipment contractors association.
(8) The Iowa renewable fuels association.
(9) The Iowa grocery industry association.

3. Appointments of voting members to the infrastructure board are subject to the requirements of sections 69.16 and 69.16A. In addition, the appointments shall be geographically balanced. The governor's appointees shall be confirmed by the senate, pursuant to section 2.32.

[6] See chapter 1175, §3 herein

4. The members of the infrastructure board shall serve five-year terms beginning and ending as provided in section 69.19. However, the governor shall appoint initial members to serve for less than five years to ensure members serve staggered terms. A member is eligible for reappointment. A vacancy on the board shall be filled for the unexpired portion of the regular term in the same manner as regular appointments are made.

5. The infrastructure board shall elect a chairperson from among its members each year on a rotating basis as provided by the infrastructure board. The infrastructure board shall meet on a regular basis and at the call of the chairperson or upon the written request to the chairperson of six or more members.

6. The infrastructure board shall meet with three or more members of the underground storage tank fund board who shall represent the underground storage tank fund board. The representatives shall be available to advise the infrastructure board when the infrastructure board makes decisions regarding the awarding of financial incentives to a person under a renewable fuel infrastructure program provided in section 15G.116 or 15G.117.

7. Members of the infrastructure board are not entitled to receive compensation but shall receive reimbursement of expenses from the department as provided in section 7E.6.

8. Six members of the infrastructure board constitute a quorum and the affirmative vote of a majority of the members present is necessary for any substantive action to be taken by the infrastructure board. The majority shall not include any member who has a conflict of interest and a statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the duties of the infrastructure board.

Sec. 30. NEW SECTION. 15G.116 RENEWABLE FUEL INFRASTRUCTURE PROGRAM FOR RETAIL MOTOR FUEL SITES.

A renewable fuel infrastructure program is established in the department under the direction of the renewable fuel infrastructure board created pursuant to section 15G.115.

1. The purpose of the program is to improve a retail motor fuel site by installing, replacing, or converting motor fuel storage and dispensing infrastructure. The infrastructure must be designed and shall be used exclusively to store and dispense renewable fuel which is E-85 gasoline, biodiesel, or biodiesel blended fuel on the premises of retail motor fuel sites operated by retail dealers.

2. A person may apply to the department to receive financial incentives on a cost-share basis. The department shall forward the applications to the underground storage tank fund board as required by that board for evaluation and recommendation. The underground storage tank fund board may rank the applications with comments and shall forward them to the infrastructure board for approval or disapproval. The department shall award financial incentives on a cost-share basis to an eligible person whose application was approved by the infrastructure board.

3. To all extent practical,[7] the program shall be administered in conjunction with the programs provided in section 15.401.

4. The infrastructure board shall approve cost-share agreements executed by the department and persons that the infrastructure board determines are eligible as provided in this section, according to terms and conditions required by the infrastructure board. The infrastructure board shall determine the amount of the financial incentives to be awarded to a person participating in the program. In order to be eligible to participate in the program all of the following must apply:

a. The person must be an owner or operator of the retail motor fuel site.

b. The person must apply to the department in a manner and according to procedures required by the infrastructure board. The application must contain all information required by the infrastructure board and shall at least include all of the following:

(1) The name of the person and the address of the retail motor fuel site to be improved.

(2) A detailed description of the infrastructure to be installed, replaced, or converted, including but not limited to the model number of each installed, replaced, or converted motor fuel storage tank if available.

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[7] According to enrolled Act

(3) A statement describing how the retail motor fuel site is to be improved, the total estimated cost of the planned improvement, and the date when the infrastructure will be first used to store and dispense the renewable fuel.

(4) A statement certifying that the infrastructure shall not be used to store or dispense motor fuel other than E-85 gasoline, biodiesel, or biodiesel blended fuel, unless granted a waiver by the infrastructure board pursuant to this section.

5. A retail motor fuel site which is improved using financial incentives must comply with federal and state standards governing new or upgraded motor fuel storage tanks used to store and dispense the renewable fuel. A site classified as a no further action site pursuant to a certificate issued by the department of natural resources under section 455B.474 shall retain its classification following modifications necessary to store and dispense the renewable fuel and the owner or operator shall not be required to perform a new site assessment unless a new release occurs or if a previously unknown or unforeseen risk condition should arise.

6. The infrastructure board shall not approve a cost-share agreement which awards financial incentives to install, replace, or convert infrastructure associated with more than one motor fuel storage tank located at the same retail motor fuel site.

7. An award of financial incentives to a participating person shall be in the form of a grant. In order to participate in the program an eligible person must execute a cost-share agreement with the department as approved by the infrastructure board in which the person contributes a percentage of the total costs related to improving the retail motor fuel site. The financial incentives awarded to the participating person shall not exceed fifty percent of the actual cost of making the improvement or thirty thousand dollars, whichever is less. The infrastructure board may approve multiple awards to make improvements to a retail motor fuel site so long as the total amount of the awards does not exceed the limitations provided in this paragraph.

8. A participating person shall not use the infrastructure to store and dispense motor fuel other than the type of renewable fuel approved by the board in the cost-share agreement, unless one of the following applies:

a. The participating person is granted a waiver by the infrastructure board. The participating person shall store or dispense the motor fuel according to the terms and conditions of the waiver.

b. The renewable fuel infrastructure fund if created in 2006 Iowa Acts, House File 2759[8] is immediately repaid the total amount of moneys awarded to the participating person together with a monetary penalty equal to twenty-five percent of that awarded amount. The amount shall be deposited in the renewable fuel infrastructure fund if created in 2006 Iowa Acts, House File 2759.[9]

9. A participating person who acts in violation of an agreement executed with the department pursuant to this section is subject to a civil penalty of not more than one thousand dollars a day for each day of the violation. The civil penalty shall be deposited into the general fund of the state.

Sec. 31. NEW SECTION. 15G.117 RENEWABLE FUEL INFRASTRUCTURE PROGRAM FOR BIODIESEL TERMINAL FACILITIES.

The department, under the direction of the renewable fuel infrastructure board created in section 15G.115 shall establish and administer a renewable fuel infrastructure program for terminal facilities that store and dispense biodiesel or biodiesel blended fuel. The infrastructure must be designed and shall be used exclusively to store and distribute biodiesel or biodiesel blended fuel. The department as directed by the infrastructure board shall provide a cost-share program for financial incentives.

1. A person may apply to the department to receive financial incentives on a cost-share basis. The department shall forward the applications to the underground storage tank fund board as required by that board for evaluation and recommendation. The underground storage tank fund board may rank the applications with comments and shall forward them to the infrastructure board for approval or disapproval. The department shall award financial incen-

[8] Chapter 1175, §6 herein
[9] Chapter 1175, §6 herein

tives on a cost-share basis to an eligible person whose application was approved by the infrastructure board.

2. To all extent practical,[10] the program shall be administered in conjunction with the programs provided in section 15.401.

3. The department shall award financial incentives to a terminal operator participating in the program as directed by the infrastructure board. In order to be eligible to participate in the program, the terminal operator must apply to the department in a manner and according to procedures required by the infrastructure board. The application must contain information required by the infrastructure board and shall at least include all of the following:

a. The name of the terminal operator and the address of the terminal to be improved.

b. A detailed description of the infrastructure to be installed, replaced, or converted.

c. A statement describing how the terminal is to be improved, the total estimated cost of the planned improvement, and the date when the infrastructure will be first used to store and distribute biodiesel or biodiesel blended fuel.

d. A statement certifying that the infrastructure shall not be used to store or dispense motor fuel other than biodiesel or biodiesel blended fuel, unless granted a waiver by the infrastructure board pursuant to this section.

4. An award of financial incentives to a participating person shall be in the form of a grant. In order to participate in the program an eligible person must execute a cost-share agreement with the department as approved by the infrastructure board in which the person contributes a percentage of the total costs related to improving the terminal. The financial incentives awarded to the participating person shall not exceed fifty percent of the actual cost of making the improvements or fifty thousand dollars, whichever is less. The infrastructure board may approve multiple awards to make improvements to a terminal so long as the total amount of the awards does not exceed the limitations provided in this subsection.

5. A participating terminal operator shall not use the infrastructure to store or dispense motor fuel other than biodiesel or biodiesel blended fuel, unless one of the following applies:

a. The participating terminal operator is granted a waiver by the infrastructure board. The participating terminal operator shall store or dispense the motor fuel according to the terms and conditions of the waiver.

b. The renewable fuel infrastructure fund if created in 2006 Iowa Acts, House File 2759[11] is immediately repaid the total amount of moneys awarded to the participating terminal operator together with a monetary penalty equal to twenty-five percent of that awarded amount. The amount shall be deposited in the renewable fuel infrastructure fund if created in 2006 Iowa Acts, House File 2759.[12]

c. A participating terminal operator who acts in violation of an agreement executed with the department pursuant to this section is subject to a civil penalty of not more than one thousand dollars a day for each day of the violation. The civil penalty shall be deposited into the general fund of the state.

Sec. 32. NEW SECTION. 15G.120 REPORT.

1. By January 15 of each year, the renewable fuel infrastructure board shall approve that part of the department's report required to be submitted to the governor and general assembly by the department regarding projects supported from the grow Iowa values fund as provided in section 15.104 which provides information regarding expenditures to support renewable fuel infrastructure programs as provided in sections 15G.116 and 15G.117. That part of the report approved by the board shall include the same information as required for business finance projects funded during the previous fiscal year.

2. This section is repealed on July 1, 2012.

Sec. 33. DEPARTMENTAL STUDY — E-85 GASOLINE AVAILABILITY. The state department of transportation and the department of natural resources shall cooperate to conduct a study to provide methods to inform persons of the availability of E-85 gasoline offered for sale

[10] According to enrolled Act

[11] Chapter 1175, §6 herein

[12] Chapter 1175, §6 herein

and distribution by retail dealers of motor fuel in this state, including the location of each retail motor fuel site where a retail dealer offers E-85 gasoline for sale and distribution. The department's study shall include methods for identifying those locations for the convenience of the traveling public including but not limited to the identification of those locations on roadside signs and on the official Iowa map published pursuant to section 307.14. The departments shall jointly prepare and deliver a report to the governor and general assembly, which includes findings and recommendations, not later than January 10, 2007.

Sec. 34. EMERGENCY RULES. The Iowa department of economic development and the Iowa comprehensive petroleum underground storage tank fund board shall adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this division and the rules shall be effective immediately upon filing, but not later than June 1, 2006. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4, subsection 1.

DIVISION IV
RENEWABLE FUEL INCOME TAX CREDIT PROVISIONS

Sec. 35. Section 422.11C, subsection 1, paragraphs a through g, Code 2005, are amended by striking the paragraphs and inserting in lieu thereof the following:

a. "E-85 gasoline", "ethanol blended gasoline", "gasoline", "retail dealer", and "retail motor fuel site" mean the same as defined in section 214A.1.

b. "Motor fuel pump" means the same as defined in section 214.1.

c. "Sell" means to sell on a retail basis.

d. "Tax credit" means the designated ethanol blended gasoline tax credit as provided in this section.

Sec. 36. Section 422.11C, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. The taxpayer operates at least one ~~service station~~ retail motor fuel site at which more than sixty percent of the total gallons of gasoline sold and dispensed through one or more ~~metered~~ motor fuel pumps by the taxpayer in the tax year is ethanol blended gasoline.

Sec. 37. Section 422.11C, subsection 3, Code 2005, is amended to read as follows:

3. The tax credit shall be calculated separately for each ~~service station~~ retail motor fuel site operated by the taxpayer. The amount of the tax credit for each eligible ~~service station~~ retail motor fuel site is two and one-half cents multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all ~~metered~~ motor fuel pumps located at that ~~service station~~ retail motor fuel site during the tax year in excess of sixty percent of all gasoline sold and dispensed through ~~metered~~ motor fuel pumps at that ~~service station~~ retail motor fuel site during the tax year.

3A. A retail dealer is eligible to claim a designated ethanol blended gasoline tax credit as provided in this section even though the retail dealer claims an E-85 gasoline promotion tax credit pursuant to section 422.11O for the same tax year for the same ethanol gallonage.

Sec. 38. Section 422.11C, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. This section is repealed on January 1, 2009.

Sec. 39. NEW SECTION. 422.11N ETHANOL PROMOTION TAX CREDIT.

1. As used in this section, unless the context otherwise requires:

a. "E-85 gasoline", "ethanol", "ethanol blended gasoline", "gasoline", and "retail dealer" mean the same as defined in section 214A.1.

b. "Flexible fuel vehicle" means the same as defined in section 452A.2.

c. "Motor fuel" means the same as defined in section 452A.2.

d. "Motor fuel pump" means the same as defined in section 214.1.

e. "Sell" means to sell on a retail basis.

f. "Tax credit" means the ethanol promotion tax credit as provided in this section.

2. The special terms provided in section 452A.31 shall also apply to this section.

3. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an ethanol promotion tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this section. In order to be eligible, all of the following must apply:

a. The taxpayer is a retail dealer who sells and dispenses ethanol blended gasoline through a motor fuel pump in the tax year in which the tax credit is claimed.

b. The retail dealer complies with requirements of the department to administer this section.

4. In order to receive the tax credit, the retail dealer must calculate all of the following:

a. The retail dealer's biofuel distribution percentage which is the sum of the retail dealer's total ethanol gallonage plus the retail dealer's total biodiesel gallonage expressed as a percentage of the retail dealer's total gasoline gallonage, in the retail dealer's applicable determination period.

b. The retail dealer's biofuel threshold percentage is as follows:

(1) For a retail dealer who sells and dispenses more than two hundred thousand gallons of motor fuel in an applicable determination period, the retail dealer's biofuel threshold percentage is as follows:

(a) Ten percent for the determination period beginning on January 1, 2009, and ending December 31, 2009.

(b) Eleven percent for the determination period beginning on January 1, 2010, and ending December 31, 2010.

(c) Twelve percent for the determination period beginning on January 1, 2011, and ending December 31, 2011.

(d) Thirteen percent for the determination period beginning on January 1, 2012, and ending December 31, 2012.

(e) Fourteen percent for the determination period beginning on January 1, 2013, and ending December 31, 2013.

(f) Fifteen percent for the determination period beginning on January 1, 2014, and ending December 31, 2014.

(g) Seventeen percent for the determination period beginning on January 1, 2015, and ending December 31, 2015.

(h) Nineteen percent for the determination period beginning on January 1, 2016, and ending December 31, 2016.

(i) Twenty-one percent for the determination period beginning on January 1, 2017, and ending December 31, 2017.

(j) Twenty-three percent for the determination period beginning on January 1, 2018, and ending December 31, 2018.

(k) Twenty-five percent for each determination period beginning on and after January 1, 2019.[13]

(2) For a retail dealer who sells and dispenses two hundred thousand gallons of motor fuel or less in an applicable determination period, the biofuel threshold percentages shall be:

(a) Six percent for the determination period beginning on January 1, 2009, and ending December 31, 2009.

(b) Six percent for the determination period beginning on January 1, 2010, and ending December 31, 2010.

(c) Ten percent for the determination period beginning on January 1, 2011, and ending December 31, 2011.

(d) Eleven percent for the determination period beginning on January 1, 2012, and ending December 31, 2012.

(e) Twelve percent for the determination period beginning on January 1, 2013, and ending December 31, 2013.

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[13] See chapter 1175, §10 herein

(f) Thirteen percent for the determination period beginning on January 1, 2014, and ending December 31, 2014.

(g) Fourteen percent for the determination period beginning on January 1, 2015, and ending December 31, 2015.

(h) Fifteen percent for the determination period beginning on January 1, 2016, and ending December 31, 2016.

(i) Seventeen percent for the determination period beginning on January 1, 2017, and ending December 31, 2017.

(j) Nineteen percent for the determination period beginning on January 1, 2018, and ending December 31, 2018.

(k) Twenty-one percent for the determination period beginning on January 1, 2019, and ending December 31, 2019.

(l) Twenty-three percent for the determination period beginning on January 1, 2020, and ending December 31, 2020.

(m) Twenty-five percent for each determination period beginning on and after January 1, 2021.[14]

(3) Notwithstanding paragraph "a", the governor may adjust a biofuel threshold percentage for a determination period if the governor finds that exigent circumstances exist. Exigent circumstances exist due to potential substantial economic injury to the state's economy. Exigent circumstances also exist if it is probable that a substantial number of retail dealers cannot comply with a biofuel threshold percentage during a determination period due to any of the following:

(a) Less than the target number of flexible fuel vehicles are registered under chapter 321. The target numbers of flexible fuel vehicles are as follows:

(i) On January 1, 2011, two hundred fifty thousand.

(ii) On January 1, 2014, three hundred fifty thousand.

(iii) On January 1, 2017, four hundred fifty thousand.

(iv) On January 1, 2019, five hundred fifty thousand.

(b) A shortage in the biofuel feedstock resulting in a dramatic decrease in biofuel inventories.

If the governor finds that exigent circumstances exist, the governor may reduce the applicable biofuel threshold percentage by replacing it with an adjusted biofuel threshold percentage. The governor shall consult with the department of revenue and the renewable fuels and coproducts advisory committee established pursuant to section 159A.4. The governor shall make the adjustment by giving notice of intent to issue a proclamation which shall take effect not earlier than thirty-five days after publication in the Iowa administrative bulletin of a notice to issue the proclamation. The governor shall provide a period of notice and comment in the same manner as provided in section 17A.4, subsection 1. The adjusted biofuel threshold percentage shall be effective for the following determination period.

c. The retail dealer's biofuel threshold percentage disparity which is a positive percentage difference obtained by taking the minuend which is the retail dealer's biofuel distribution percentage and subtracting from it the subtrahend which is the retail dealer's biofuel threshold percentage, in the retail dealer's applicable determination period.[15]

d. The tax credit shall be calculated separately for each retail motor fuel site or other permanent or temporary location from which the retail dealer sells and dispenses ethanol blended gasoline.

5. a. For a retail dealer whose tax year is the same as a determination period beginning on January 1 and ending on December 31, the retail dealer's tax credit is calculated by multiplying the retail dealer's total ethanol gallonage by a tax credit rate, which may be adjusted based on the retail dealer's biofuel threshold percentage disparity. The tax credit rate is as follows:

(1) For any tax year in which the retail dealer has attained a biofuel threshold percentage for the determination period, the tax credit rate is six and one-half cents.

(2) For any tax year in which the retail dealer has not attained a biofuel threshold percent-

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[14] See chapter 1175, §11 herein

[15] See chapter 1175, §12 herein

age for the determination period, the tax credit rate shall be adjusted based on the retail dealer's biofuel threshold percentage disparity. The amount of the adjusted tax credit rate is as follows:

(a) If the retail dealer's biofuel threshold percentage disparity equals two percent or less, the tax credit rate is four and one-half cents.

(b) If the retail dealer's biofuel threshold percentage disparity equals more than two percent but not more than four percent, the tax credit rate is two and one-half cents.

(c) A retail dealer is not eligible for a tax credit if the retail dealer's biofuel threshold percentage disparity equals more than four percent.

b. For a retail dealer whose tax year is not the same as a determination period beginning on January 1 and ending on December 31, the retail dealer shall calculate the tax credit twice, as follows:

(1) For the period beginning on the first day of the retail dealer's tax year until December 31, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who calculates the tax credit on that same December 31 as provided in paragraph "a".

(2) For the period beginning on January 1 to the end of the retail dealer's tax year, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on the following December 31 as provided in paragraph "a".[16]

6. A retail dealer is eligible to claim an ethanol promotion tax credit as provided in this section even though the retail dealer claims an E-85 gasoline promotion tax credit pursuant to section 422.11O for the same tax year and for the same ethanol gallonage.

7. Any credit in excess of the retail dealer's tax liability shall be refunded. In lieu of claiming a refund, the retail dealer may elect to have the overpayment shown on the retail dealer's final, completed return credited to the tax liability for the following tax year.

8. 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 a partnership, limited liability company, S corporation, estate, or trust.

9. This section is repealed on January 1, 2026.[17]

Sec. 40. NEW SECTION. 422.11O E-85 GASOLINE PROMOTION TAX CREDIT.

1. As used in this section, unless the context otherwise requires:

a. "E-85 gasoline", "ethanol", "gasoline", and "retail dealer" mean the same as defined in section 214A.1.

b. "Motor fuel pump" means the same as defined in section 214.1.

c. "Sell" means to sell on a retail basis.

d. "Tax credit" means the E-85 gasoline promotion tax credit as provided in this section.

2. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an E-85 gasoline promotion tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection. In order to be eligible, all of the following must apply:

a. The taxpayer is a retail dealer who sells and dispenses E-85 gasoline through a motor fuel pump in the tax year in which the tax credit is claimed.

b. The retail dealer complies with requirements of the department to administer this section.

3. For a retail dealer whose tax year is on a calendar year basis, the retail dealer shall calculate the amount of the tax credit by multiplying a designated rate by the retail dealer's total E-85 gasoline gallonage as provided in sections 452A.31 and 452A.32. The designated rate is as follows:

a. For calendar year 2006, calendar year 2007, and calendar year 2008, twenty-five cents.

b. For calendar year 2009 and calendar year 2010, twenty cents.

c. For calendar year 2011, ten cents.

d. For calendar year 2012, nine cents.

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[16] See chapter 1175, §13 herein

[17] See chapter 1175, §14 herein

e. For calendar year 2013, eight cents.
f. For calendar year 2014, seven cents.
g. For calendar year 2015, six cents.
h. For calendar year 2016, five cents.
i. For calendar year 2017, four cents.
j. For calendar year 2018, three cents.
k. For calendar year 2019, two cents.
l. For calendar year 2020, one cent.

4. For a retail dealer whose tax year is not on a calendar year basis, the retail dealer shall calculate the tax credit twice, as follows:

a. For the period beginning on the first day of the retail dealer's tax year until December 31, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who calculates the tax credit on that same December 31 as provided in subsection 3.

b. For the period beginning on January 1 to the end of the retail dealer's tax year, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on the following December 31 as provided in subsection 3.[18]

5. A retail dealer is eligible to claim an E-85 gasoline promotion tax credit as provided in this section even though the retail dealer claims an ethanol promotion tax credit pursuant to section 422.11N for the same tax year for the same ethanol gallonage.

6. Any credit in excess of the retail dealer's tax liability shall be refunded. In lieu of claiming a refund, the retail dealer may elect to have the overpayment shown on the retail dealer's final, completed return credited to the tax liability for the following tax year.

7. 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 a partnership, limited liability company, S corporation, estate, or trust.

8. This section is repealed on January 1, 2021.

Sec. 41. NEW SECTION. 422.11P BIODIESEL BLENDED FUEL TAX CREDIT.

1. As used in this section, unless the context otherwise requires:

a. "Biodiesel blended fuel", "diesel fuel", and "retail dealer" mean the same as defined in section 214A.1.

b. "Motor fuel pump" means the same as defined in section 214.1.

c. "Sell" means to sell on a retail basis.

d. "Tax credit" means a biodiesel blended fuel tax credit as provided in this section.

2. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by the amount of the biodiesel blended fuel tax credit for each tax year that the taxpayer is eligible to claim a tax credit under this subsection.

a. In order to be eligible, all of the following must apply:

(1) The taxpayer is a retail dealer who sells and dispenses biodiesel blended fuel through a motor fuel pump in the tax year in which the tax credit is claimed.

(2) Of the total gallons of diesel fuel that the retail dealer sells and dispenses through all motor fuel pumps during the retail dealer's tax year, fifty percent or more is biodiesel blended fuel which meets the requirements of this section.

(3) The retail dealer complies with requirements of the department established to administer this section.

b. The tax credit shall apply to biodiesel blended fuel formulated with a minimum percentage of two percent by volume of biodiesel, if the formulation meets the standards provided in section 214A.2.

3. The amount of the tax credit is three cents multiplied by the total number of gallons of biodiesel blended fuel sold and dispensed by the retail dealer through all motor fuel pumps operated by the retail dealer during the retail dealer's tax year.

4. Any credit in excess of the retail dealer's tax liability shall be refunded. In lieu of claiming

[18] See chapter 1175, §15 herein

a refund, the retail dealer may elect to have the overpayment shown on the retail dealer's final, completed return credited to the tax liability for the following tax year.

5. 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.

6. This section is repealed January 1, 2012.

Sec. 42. Section 422.33, subsection 11, paragraph a, subparagraph (1), Code Supplement 2005, is amended to read as follows:

(1) ~~"Ethanol~~ "E-85 gasoline", "ethanol blended gasoline", "gasoline", ~~"metered pump",~~ "motor fuel pump", "retail dealer", "retail motor fuel site", and "sell"~~, and "service station"~~ mean the same as defined in section 422.11C.

Sec. 43. Section 422.33, subsection 11, paragraph b, subparagraph (2), Code Supplement 2005, is amended to read as follows:

(2) The taxpayer operates at least one ~~service station~~ retail motor fuel site at which more than sixty percent of the total gallons of gasoline sold and dispensed through one or more ~~metered~~ motor fuel pumps by the taxpayer is ethanol blended gasoline.

Sec. 44. Section 422.33, subsection 11, paragraph c, Code Supplement 2005, is amended to read as follows:

c. (1) The tax credit shall be calculated separately for each ~~service station~~ retail motor fuel site operated by the taxpayer.

(2) The amount of the tax credit for each eligible ~~service station~~ retail motor fuel site is two and one-half cents multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all ~~metered~~ motor fuel pumps located at that ~~service station~~ retail motor fuel site during the tax year in excess of sixty percent of all gasoline sold and dispensed through ~~metered~~ motor fuel pumps at that ~~service station~~ retail motor fuel site during the tax year.

Sec. 45. Section 422.33, subsection 11, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. This subsection is repealed on January 1, 2009.

Sec. 46. Section 422.33, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 11A. The taxes imposed under this division shall be reduced by an ethanol promotion tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection.

a. The taxpayer shall claim the tax credit in the same manner as provided in section 422.11N. The taxpayer may claim the tax credit according to the same requirements, for the same amount, and calculated in the same manner, as provided for the ethanol promotion tax credit pursuant to section 422.11N.

b. Any ethanol promotion tax credit which is in excess of the taxpayer's tax liability shall be refunded or may be shown on the taxpayer's final, completed return credited to the tax liability for the following tax year in the same manner as provided in section 422.11N.

c. This subsection is repealed on January 1, 2026.[19]

NEW SUBSECTION. 11B. The taxes imposed under this division shall be reduced by an E-85 gasoline promotion tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection.

a. The taxpayer shall claim the tax credit in the same manner as provided in section 422.11O. The taxpayer may claim the tax credit according to the same requirements, for the

[19] See chapter 1175, §16 herein

same amount, and calculated in the same manner, as provided for the E-85 gasoline promotion tax credit pursuant to section 422.11O.

b. Any E-85 gasoline promotion tax credit which is in excess of the taxpayer's tax liability shall be refunded or may be shown on the taxpayer's final, completed return credited to the tax liability for the following tax year in the same manner as provided in section 422.11O.

c. This subsection is repealed on January 1, 2021.

Sec. 47. Section 422.33, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 11C. The taxes imposed under this division shall be reduced by a biodiesel blended fuel tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection.

a. The taxpayer may claim the biodiesel blended fuel tax credit according to the same requirements, for the same amount, and calculated in the same manner, as provided for the biodiesel blended fuel tax credit pursuant to section 422.11P.

b. Any biodiesel blended fuel tax credit which is in excess of the taxpayer's tax liability shall be refunded or may be shown on the taxpayer's final, completed return credited to the tax liability for the following tax year in the same manner as provided in section 422.11P.

c. This subsection is repealed on January 1, 2012.

Sec. 48. RETROACTIVE APPLICABILITY DATE. Sections 422.11O and 422.11P, as enacted in this Act, and section 422.33, subsections 11B, and 11C, as enacted in this Act, apply retroactively to tax years beginning on or after January 1, 2006.

Sec. 49. TAX CREDIT AVAILABILITY.

1. For a retail dealer who may claim a designated ethanol blended gasoline tax credit under section 422.11C or 422.33, subsection 11, as amended by this Act, in calendar year 2008 and whose tax year ends prior to December 31, 2008, the retail dealer may continue to claim the tax credit in the retail dealer's following tax year. In that case, the tax credit shall be calculated in the same manner as provided in section 422.11C or 422.33, subsection 11, as amended by this Act, for the remaining period beginning on the first day of the retail dealer's new tax year until December 31, 2008. For that remaining period, the tax credit shall be calculated in the same manner as a retail dealer whose tax year began on the previous January 1 and who is calculating the tax credit on December 31, 2008.

2. For a retail dealer who may claim an ethanol promotion tax credit under section 422.11N or 422.33, subsection 11A, as enacted in this Act, in calendar year 2025 and whose tax year ends prior to December 31, 2025, the retail dealer may continue to claim the tax credit in the retail dealer's following tax year. In that case, the tax credit shall be calculated in the same manner as provided in section 422.11N or 422.33, subsection 11A, as enacted in this Act, for the remaining period beginning on the first day of the retail dealer's new tax year until December 31, 2025. For that remaining period, the tax credit shall be calculated in the same manner as a retail dealer whose tax year began on the previous January 1 and who is calculating the tax credit on December 31, 2025.[20]

3. For a retail dealer who may claim an E-85 gasoline promotion tax credit under section 422.11O or 422.33, subsection 11B, as enacted in this Act, in calendar year 2020 and whose tax year ends prior to December 31, 2020, the retail dealer may continue to claim the tax credit in the retail dealer's following tax year. In that case, the tax credit shall be calculated in the same manner as provided in section 422.11O or 422.33, subsection 11B, as enacted in this Act, for the remaining period beginning on the first day of the retail dealer's new tax year until December 31, 2020. For that remaining period, the tax credit shall be calculated in the same manner as a retail dealer whose tax year began on the previous January 1 and who is calculating the tax credit on December 31, 2020.

4. For a retail dealer who may claim a biodiesel blended fuel tax credit under section 422.11P or 422.33, subsection 11C, as enacted in this Act, in calendar year 2006 and whose tax year ends before December 31, 2006, the retail dealer may claim the tax credit during the peri-

[20] See chapter 1175, §17 herein

od beginning January 1, 2006, and ending on the last day of the retail dealer's tax year, if of the total gallons of diesel fuel that the retail dealer sells and dispenses through all motor fuel pumps during that period, fifty percent or more is biodiesel blended fuel which meets the requirements of section 422.11P or 422.33, subsection 11C, as enacted in this Act.

5. For a retail dealer who may claim a biodiesel blended fuel tax credit under section 422.11P or 422.33, subsection 11C, as enacted in this Act, in calendar year 2011 and whose tax year ends prior to December 31, 2011, the retail dealer may continue to claim the tax credit in the retail dealer's following tax year. In that case, the tax credit shall be calculated in the same manner as provided in section 422.11P or 422.33, subsection 11C, as enacted in this Act, for the remaining period beginning on the first day of the retail dealer's new tax year until December 31, 2011. For that remaining period, the tax credit shall be calculated in the same manner as a retail dealer whose tax year began on the previous January 1 and who is calculating the tax credit on December 31, 2011.

DIVISION V
PETROLEUM REPLACEMENT INITIATIVE

Sec. 50. Section 452A.2, subsection 2, Code Supplement 2005, is amended by striking the subsection and inserting in lieu thereof the following:

2. "Biofuel" means the same as defined in section 214A.1.

Sec. 51. Section 452A.2, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Biodiesel" means the same as defined in section 214A.1.

NEW SUBSECTION. 1B. "Biodiesel blended fuel" means the same as defined in section 214A.1.

NEW SUBSECTION. 9A. "E-85 gasoline" means the same as defined in section 214A.1.

NEW SUBSECTION. 10A. "Ethanol" means the same as defined in section 214A.1.

NEW SUBSECTION. 13A. "Flexible fuel vehicle" means a motor vehicle as defined in section 321M.1 which is powered by an engine capable of operating using E-85 gasoline.

NEW SUBSECTION. 13B. "Gasoline" means the same as defined in section 214A.1.

NEW SUBSECTION. 19A. "Motor fuel pump" means the same as defined in section 214.1.

NEW SUBSECTION. 20A. "Nonethanol blended gasoline" means gasoline other than ethanol blended gasoline.

NEW SUBSECTION. 24A. "Retail dealer" means the same as defined in section 214A.1.

Sec. 52. Section 452A.2, subsection 11, Code Supplement 2005, is amended to read as follows:

11. "Ethanol blended gasoline" means ~~motor fuel containing at least ten percent alcohol distilled from cereal grains~~ the same as defined in section 214A.1.

Sec. 53. Section 452A.2, subsection 19, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

"Motor fuel" means ~~both~~ motor fuel as defined in section 214A.1 and includes all of the following:

Sec. 54. NEW SECTION. 452A.31 SPECIAL TERMS.

For purposes of this division, all of the following shall apply:

1. A determination period is any twelve-month period beginning on January 1 and ending on December 31.

2. a. A retail dealer's total gasoline gallonage is the total number of gallons of gasoline, which the retail dealer sells and dispenses from all motor fuel pumps operated by the retail dealer in this state during a twelve-month period beginning January 1 and ending December 31. The retail dealer's total gasoline gallonage is divided into the following classifications:

(1) The total ethanol blended gasoline gallonage which is the retail dealer's total number of gallons of ethanol blended gasoline and which includes all of the following subclassifications:

(a) The total E-xx gasoline gallonage which is the total number of gallons of ethanol blended gasoline other than E-85 gasoline.

(b) The total E-85 gasoline gallonage which is the total number of gallons of E-85 gasoline.

(2) The total nonblended gasoline gallonage which is the total number of gallons of nonblended ethanol gasoline.

b. A retail dealer's total ethanol gallonage is the total number of gallons of ethanol which is a component of ethanol blended gasoline which the retail dealer sells and dispenses from motor fuel pumps as provided in paragraph "a" during a twelve-month period beginning January 1 and ending December 31.

3. a. A retail dealer's total diesel fuel gallonage is the total number of gallons of diesel fuel, which the retail dealer sells and dispenses from all motor fuel pumps operated by the retail dealer in this state during a twelve-month period beginning January 1 and ending December 31. The retail dealer's total diesel fuel gallonage is divided into the following classifications:

(1) The total biodiesel blended fuel gallonage which is the retail dealer's total number of gallons of biodiesel blended fuel.

(2) The total nonblended diesel fuel gallonage which is the total number of gallons of diesel fuel which is not biodiesel or biodiesel blended fuel.

b. A retail dealer's total biodiesel gallonage is the total number of gallons of biodiesel which may or may not be a component of biodiesel blended fuel, and which the retail dealer sells and dispenses from motor fuel pumps as provided in paragraph "a" during a twelve-month period beginning January 1 and ending December 31.

4. a. The aggregate gasoline gallonage is the total number of gallons of gasoline, which all retail dealers sell and dispense from all motor fuel pumps operated by the retail dealers in this state during a twelve-month period beginning January 1 and ending December 31. The aggregate gasoline gallonage is divided into the following classifications:

(1) The aggregate ethanol blended gasoline gallonage which is the aggregate total number of gallons of ethanol blended gasoline and which includes all of the following subclassifications:

(a) The aggregate E-xx gasoline gallonage which is the aggregate total number of gallons of ethanol blended gasoline other than E-85 gasoline.

(b) The aggregate E-85 gasoline gallonage which is the aggregate total number of gallons of E-85 gasoline.

(2) The aggregate nonblended gasoline gallonage, which is the aggregate number of gallons of nonblended ethanol gasoline.

b. The aggregate ethanol gallonage is the total number of gallons of ethanol which is a component of ethanol blended gasoline which all retail dealers sell and dispense from motor fuel pumps as provided in paragraph "a" during a twelve-month period beginning January 1 and ending December 31.

5. a. The aggregate diesel fuel gallonage is the total number of gallons of diesel fuel, which all retail dealers sell and dispense from all motor fuel pumps operated by the retail dealers in this state during a twelve-month period beginning January 1 and ending December 31. The aggregate diesel fuel gallonage is divided into the following classifications:

(1) The aggregate biodiesel blended fuel gallonage which is the aggregate number of gallons of biodiesel blended fuel.

(2) The aggregate nonblended diesel fuel gallonage which is the aggregate number of gallons of diesel fuel which is not biodiesel or biodiesel blended fuel.

b. The aggregate biodiesel gallonage is the total number of gallons of biodiesel which may or may not be a component of biodiesel blended fuel, and which all retail dealers sell and dispense from motor fuel pumps as provided in paragraph "a" during a twelve-month period beginning January 1 and ending December 31.

6. a. The aggregate ethanol distribution percentage is the aggregate ethanol gallonage expressed as a percentage of the aggregate gasoline gallonage calculated for a twelve-month period beginning January 1 and ending December 31.

b. The aggregate per gallon distribution percentage which is the aggregate ethanol blended gasoline gallonage expressed as a percentage of the aggregate gasoline gallonage calculated for a twelve-month period beginning January 1 and ending December 31.

7. a. The aggregate biodiesel distribution percentage is the aggregate biodiesel gallonage expressed as a percentage of the aggregate diesel fuel gallonage calculated for a twelve-month period beginning January 1 and ending December 31.

b. The aggregate per gallon distribution percentage is the aggregate biodiesel blended fuel gallonage expressed as a percentage of the aggregate diesel fuel gallonage calculated for a twelve-month period beginning January 1 and ending December 31.

8. The aggregate biofuel distribution percentage is the sum of the aggregate ethanol gallonage plus the aggregate biodiesel gallonage expressed as a percentage of the sum of the aggregate gasoline gallonage plus the aggregate diesel fuel gallonage calculated for a twelve-month period beginning January 1 and ending December 31.

Sec. 55. NEW SECTION. 452A.32 SCHEDULE FOR AVERAGING ETHANOL CONTENT IN E-85 GASOLINE.

The department shall establish a schedule listing the average amount of ethanol contained in E-85 gasoline as defined in section 214A.1, for use by a retail dealer in calculating the retail dealer's total ethanol gallonage, as provided in section 452A.31. In establishing the schedule, the department shall assume that a retail dealer begins selling and dispensing E-85 gasoline from a motor fuel pump on the first day of a month and ceases selling and distributing E-85 gasoline on the last day of a month.

Sec. 56. NEW SECTION. 452A.33 REPORTING REQUIREMENTS.

1. a. Each retail dealer shall report its total motor fuel gallonage for a determination period as follows:

(1) Its total gasoline gallonage and its total ethanol gallonage, including for each classification and subclassification as provided in section 452A.31.

(2) Its total diesel fuel gallonage and its total biodiesel gallonage, including for each classification and subclassification as provided in section 452A.31.

b. The report shall include a breakdown of the information required in paragraph "a" for each retail motor fuel site or other permanent or temporary location from which the retail dealer sells and dispenses motor fuel.

c. The retail dealer shall prepare and submit the report in a manner and according to procedures required by the department. The department may require that retail dealers report to the department on an annual, quarterly, or monthly basis.

d. The information included in a report submitted by a retail dealer is deemed to be a trade secret, protected as a confidential record pursuant to section 22.7.

2. On or before February 1 the department shall deliver a report to the governor and the legislative services agency. The report shall compile information reported by retail dealers to the department as provided in this section and shall at least include all of the following:

a. (1) The aggregate gasoline gallonage for the previous determination period, including for all classifications and subclassifications as provided in section 452A.31.

(2) The aggregate diesel fuel gallonage for the previous determination period, including for all classifications and subclassifications as provided in section 452A.31.

b. (1) The aggregate ethanol distribution percentage for the previous determination period.

(2) The aggregate biodiesel distribution percentage for the previous determination period.

c. The report shall not provide information regarding motor fuel or biofuel which is sold and dispensed by an individual retail dealer or at a particular retail motor fuel site. The report shall not include a trade secret protected as a confidential record pursuant to section 22.7.

3. On or before February 1 of each year, the state department of transportation shall deliver

a report to the governor and the legislative services agency providing information regarding flexible fuel vehicles registered in this state during the previous determination period. The information shall state all of the following:

a. The aggregate number of flexible fuel vehicles.

b. Of the aggregate number of flexible fuel vehicles, all of the following:

(1) The number of flexible fuel vehicles according to the year of manufacture.

(2) The number of passenger vehicles and the number of passenger vehicles according to the year of manufacture.

(3) The number of light pickup trucks and the number of light pickup trucks according to the year of manufacture.

DIVISION VI
COORDINATING PROVISIONS — GOVERNMENT VEHICLES

Sec. 57. Section 8A.362, subsection 3, Code 2005, is amended to read as follows:

3. a. The director shall provide for a record system for the keeping of records of the total number of miles state-owned motor vehicles are driven and the per-mile cost of operation of each motor vehicle. Every state officer or employee shall keep a record book to be furnished by the director in which the officer or employee shall enter all purchases of gasoline, lubricating oil, grease, and other incidental expense in the operation of the motor vehicle assigned to the officer or employee, giving the quantity and price of each purchase, including the cost and nature of all repairs on the motor vehicle. Each operator of a state-owned motor vehicle shall promptly prepare a report at the end of each month on forms furnished by the director and forwarded to the director, giving the information the director may request in the report. Each month the director shall compile the costs and mileage of state-owned motor vehicles from the reports and keep a cost history for each motor vehicle and the costs shall be reduced to a cost-per-mile basis for each motor vehicle. The director shall call to the attention of an elected official or the head of any state agency to which a motor vehicle has been assigned any evidence of the mishandling or misuse of a state-owned motor vehicle which is called to the director's attention.

b. A motor vehicle operated under this subsection shall not operate on gasoline other than ethanol blended gasoline ~~blended with at least ten percent ethanol~~ as defined in section 214A.1, unless under emergency circumstances. A state-issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than ethanol blended gasoline ~~blended with at least ten percent ethanol~~, if commercially available. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline ~~blended with ethanol~~. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 58. Section 8A.362, subsection 5, paragraph a, subparagraphs (1) and (2), Code 2005, are amended to read as follows:

(1) ~~A fuel blended with not more than fifteen percent~~ E-85 gasoline ~~and at least eighty-five percent ethanol~~ as provided in section 214A.2.

(2) ~~A~~ B-20 biodiesel blended fuel ~~which is a mixture of diesel fuel and processed soybean oil~~ as provided in section 214A.2. ~~At least twenty percent of the mixed fuel by volume must be processed soybean oil.~~

Sec. 59. Section 216B.3, subsection 16, paragraph a, Code 2005, is amended to read as follows:

a. A motor vehicle purchased by the commission shall not operate on gasoline other than ethanol blended gasoline ~~blended with at least ten percent ethanol~~ as defined in section 214A.1. A state issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than ethanol blended gasoline ~~blended with at least ten percent ethanol~~. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public

that the motor vehicle is being operated on ethanol blended gasoline ~~blended with ethanol~~. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 60. Section 216B.3, subsection 16, paragraph b, subparagraph (1), subparagraph subdivisions (a) and (b), Code 2005, are amended to read as follows:

(a) ~~A fuel blended with not more than fifteen percent~~ E-85 gasoline ~~and at least eighty-five percent ethanol~~ as provided in section 214A.2.

(b) ~~A~~ B-20 biodiesel blended fuel ~~which is a mixture of diesel fuel and processed soybean oil~~ as provided in section 214A.2. ~~At least twenty percent of the mixed fuel by volume must be processed soybean oil.~~

Sec. 61. Section 260C.19A, subsection 1, Code 2005, is amended to read as follows:

1. A motor vehicle purchased by or used under the direction of the board of directors to provide services to a merged area shall not operate on gasoline other than ethanol blended gasoline ~~blended with at least ten percent ethanol~~ as defined in section 214A.1. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline ~~blended with ethanol~~. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 62. Section 260C.19A, subsection 2, paragraph a, subparagraphs (1) and (2), Code 2005, are amended to read as follows:

(1) ~~A fuel blended with not more than fifteen percent~~ E-85 gasoline ~~and at least eighty-five percent ethanol~~ as provided in section 214A.2.

(2) ~~A~~ B-20 biodiesel blended fuel ~~which is a mixture of diesel fuel and processed soybean oil~~ as provided in section 214A.2. ~~At least twenty percent of the mixed fuel by volume must be processed soybean oil.~~

Sec. 63. Section 262.25A, subsection 2, Code 2005, is amended to read as follows:

2. A motor vehicle purchased by the institutions shall not operate on gasoline other than ethanol blended gasoline ~~blended with at least ten percent ethanol~~ as defined in section 214A.1, unless under emergency circumstances. A state-issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than ethanol blended gasoline ~~blended with at least ten percent ethanol~~ if commercially available. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline ~~blended with ethanol~~. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 64. Section 262.25A, subsection 3, paragraph a, subparagraphs (1) and (2), Code 2005, are amended to read as follows:

(1) ~~A fuel blended with not more than fifteen percent~~ E-85 gasoline ~~and at least eighty-five percent ethanol~~ as provided in section 214A.2.

(2) ~~A~~ B-20 biodiesel blended fuel ~~which is a mixture of processed soybean oil and diesel fuel~~ as provided in section 214A.2. ~~At least twenty percent of the fuel by volume must be processed soybean oil.~~

Sec. 65. Section 279.34, Code 2005, is amended to read as follows:

279.34 MOTOR VEHICLES REQUIRED TO OPERATE ON ~~ETHANOL-BLENDED~~ ETHANOL BLENDED GASOLINE.

A motor vehicle purchased by or used under the direction of the board of directors to provide services to a school corporation shall not, on or after January 1, 1993, operate on gasoline other than ethanol blended gasoline ~~blended with at least ten percent ethanol~~ as defined in section

214A.1. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline ~~blended with ethanol~~. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 66. Section 307.21, subsection 4, paragraph d, Code 2005, is amended to read as follows:

d. A motor vehicle purchased by the administrator shall not operate on gasoline other than ethanol blended gasoline ~~blended with at least ten percent ethanol~~ as defined in section 214A.1. A state-issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than ethanol blended gasoline ~~blended with at least ten percent ethanol~~. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline ~~blended with ethanol~~. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 67. Section 307.21, subsection 5, paragraph a, subparagraphs (1) and (2), Code 2005, are amended to read as follows:

(1) ~~A fuel blended with not more than fifteen percent~~ E-85 gasoline ~~and at least eighty-five percent ethanol~~ as provided in section 214A.2.

(2) ~~A~~ B-20 biodiesel blended fuel ~~which is a mixture of processed soybean oil and diesel fuel~~ as provided in section 214A.2. ~~At least twenty percent of the fuel by volume must be processed soybean oil.~~

Sec. 68. Section 331.908, Code 2005, is amended to read as follows:

331.908 MOTOR VEHICLES REQUIRED TO OPERATE ON ~~ETHANOL-BLENDED~~ ETHANOL BLENDED GASOLINE.

A motor vehicle purchased or used by a county to provide county services shall not~~, on or after January 1, 1993,~~ operate on gasoline other than ethanol blended gasoline ~~blended with at least ten percent ethanol~~ as defined in section 214A.1. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline ~~blended with ethanol~~. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 69. Section 364.20, Code 2005, is amended to read as follows:

364.20 MOTOR VEHICLES REQUIRED TO OPERATE ON ~~ETHANOL-BLENDED~~ ETHANOL BLENDED GASOLINE.

A motor vehicle purchased or used by a city to provide city services shall not~~, on or after January 1, 1993,~~ operate on gasoline other than ethanol blended gasoline ~~blended with at least ten percent ethanol~~ as defined in section 214A.1. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline ~~blended with ethanol~~. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 70. Section 904.312A, subsection 1, Code 2005, is amended to read as follows:

1. A motor vehicle purchased by the department shall not operate on gasoline other than ethanol blended gasoline ~~blended with at least ten percent ethanol~~ as defined in section 214A.1. A state-issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than ethanol blended gasoline ~~blended with at least ten percent ethanol~~. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline ~~blended with ethanol~~. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 71. Section 904.312A, subsection 2, paragraph a, subparagraphs (1) and (2), Code 2005, are amended to read as follows:

(1) ~~A fuel blended with not more than fifteen percent~~ E-85 gasoline ~~and at least eighty-five percent ethanol~~ as provided in section 214A.2.

(2) ~~A~~ B-20 biodiesel blended fuel ~~which is a mixture of diesel fuel and processed soybean oil~~ as provided in section 214A.2. ~~At least twenty percent of the mixed fuel by volume must be processed soybean oil.~~

DIVISION VII
COORDINATING PROVISIONS — MISCELLANEOUS

Sec. 72. Section 15.401, Code Supplement 2005, is amended to read as follows:

15.401 ~~E-85 BLENDED GASOLINE~~ RENEWABLE FUELS.

1. As used in this section, unless the context otherwise requires, "biodiesel", "biodiesel blended fuel", "E-85 gasoline", and "retail motor fuel site" mean the same as defined in section 214A.1.

2. The department shall provide a cost-share program for financial incentives for the installation or conversion of infrastructure used by ~~service stations~~ retail motor fuel sites to do all of the following:

a. ~~sell~~ Sell and dispense E-85 ~~blended~~ gasoline ~~and for the installation or conversion of.~~

b. Install or convert infrastructure required to establish on-site and off-site terminal facilities that store biodiesel or biodiesel blended fuel for distribution to ~~service stations~~ retail motor fuel sites.

3. The department shall provide for an addition of at least thirty new or converted E-85 gasoline 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.

4. The department shall consult with the renewable fuel infrastructure board created in section 15G.115 in administering this section.

Sec. 73. Section 159A.2, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Biodiesel" and "biodiesel blended fuel" mean the same as defined in section 214A.1.

NEW SUBSECTION. 3A. "Department" means the department of agriculture and land stewardship.

NEW SUBSECTION. 3B. "Ethanol blended gasoline" means the same as defined in section 214A.1.

Sec. 74. Section 159A.2, subsection 6, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

6. "Renewable fuel" means the same as defined in section 214A.1.

Sec. 75. Section 159A.2, subsection 8, Code 2005, is amended by striking the subsection.

Sec. 76. Section 159A.3, subsection 3, Code 2005, is amended to read as follows:

3. a. A chief purpose of the office is to further the production and consumption of ethanol ~~fuel~~ blended gasoline in this state. The office shall be the primary state agency charged with the responsibility to promote public consumption of ethanol ~~fuel~~ blended gasoline.

b. The office shall promote the production and consumption of ~~soydiesel fuel~~ biodiesel and biodiesel blended fuel in this state.

Sec. 77. Section 214A.19, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The department of natural resources, conditioned upon the availability of funds, is autho-

rized to award demonstration grants to persons who purchase vehicles which operate on alternative fuels, including but not limited to, ~~high blend ethanol~~ E-85 gasoline, biodiesel, compressed natural gas, electricity, solar energy, or hydrogen. A grant shall be for the purpose of conducting research connected with the fuel or the vehicle, and not for the purchase of the vehicle itself, except that the money may be used for the purchase of the vehicle if all of the following conditions are satisfied:

Sec. 78. Section 307.20, Code 2005, is amended to read as follows:

307.20 BIODIESEL AND BIODIESEL BLENDED FUEL REVOLVING FUND.

1. A biodiesel and biodiesel blended fuel revolving fund is created in the state treasury. The biodiesel and biodiesel blended fuel revolving fund shall be administered by the department and shall consist of moneys received from the sale of EPAct credits banked by the department on April 19, 2001, moneys appropriated by the general assembly, and any other moneys obtained or accepted by the department for deposit in the fund. Moneys in the fund are appropriated to and shall be used by the department for the purchase of biodiesel and biodiesel blended fuel for use in department vehicles. 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 expenditures made from the fund during the preceding fiscal year. Section 8.33 does not apply to any moneys in the fund and, notwithstanding section 12C.7, subsection 2, earnings or interest on moneys deposited in the fund shall be credited to the fund.

2. A ~~department~~ departmental motor vehicle operating ~~on~~ using biodiesel or biodiesel blended fuel shall be affixed with a brightly visible sticker that notifies the traveling public that the motor vehicle uses biodiesel blended fuel.

3. For purposes of this section the following definitions apply:

a. ~~"Biodiesel~~ "Biodiesel" and "biodiesel blended fuel" ~~means soydiesel fuel~~ mean the same as defined in section ~~159A.2~~ 214A.1.

b. "EPAct credit" means a credit issued pursuant to the federal Energy Policy Act (EPAct), 42 U.S.C. § 13201 et seq.

Sec. 79. Section 452A.2, subsection 3, Code Supplement 2005, is amended to read as follows:

3. "Blender" means a person who owns and blends ~~alcohol~~ ethanol with gasoline to produce ethanol blended gasoline and blends the product at a nonterminal location. The ~~blender~~ person is not restricted to blending ~~alcohol~~ ethanol with gasoline. Products blended with gasoline other than ~~grain alcohol~~ ethanol are taxed as gasoline. "Blender" also means a person blending two or more special fuel products at a nonterminal location where the tax has not been paid on all of the products blended. This blend is taxed as a special fuel.

Sec. 80. Section 452A.2, subsection 21, Code Supplement 2005, is amended to read as follows:

21. "Nonterminal storage facility" means a facility where motor fuel or special fuel, other than liquefied petroleum gas, is stored that is not supplied by a pipeline or a marine vessel. "Nonterminal storage facility" includes a facility that manufactures products such as ~~alcohol~~ ethanol as defined in section 214A.1, biofuel, blend stocks, or additives which may be used as motor fuel or special fuel, other than liquefied petroleum gas, for operating motor vehicles or aircraft.

Sec. 81. Section 452A.3, subsection 1B, Code Supplement 2005, is amended to read as follows:

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~~ as defined in section 214A.1, subject to the determination provided in subsection 1C.

Sec. 82. Section 452A.6, Code 2005, is amended to read as follows:

452A.6 ETHANOL BLENDED GASOLINE AND OTHER PRODUCTS — BLENDER'S LICENSE.

1. a. A person other than a supplier, restrictive supplier, or importer licensed under this division, who blends gasoline with ~~alcohol distilled from cereal grains so that the blend contains at least ten percent alcohol distilled from cereal grains~~ ethanol as defined in section 214A.1 in order to formulate ethanol blended gasoline, shall obtain a blender's license.

b. A person who blends two or more special fuel products or sells one hundred percent biofuel shall obtain a blender's license.

2. ~~The~~ A blender's license shall be obtained by following the procedure under section 452A.4 and the blender's license is subject to the same restrictions as contained in that section.

3. A blender required to obtain a license pursuant to this section shall maintain records as required by section 452A.10 as to motor fuel, ~~alcohol~~ ethanol, ethanol blended gasoline, and special fuels.

DIVISION VIII
CHANGE OF TERMS

Sec. 83. CHANGE OF TERMS.

1. Sections 8A.362, 101.21, 159A.4, 214.11, 214A.1, 214A.2, 214A.4, 214A.5, 214A.7, 214A.8, 214A.9, 214A.10, 214A.16, 214A.17, 214A.18, 306C.11, 312.1, 321.56, 423.14, 452A.63, 452A.66, and 452A.78, Code 2005, are amended by striking from the provisions the words "motor vehicle fuel" and inserting the following: "motor fuel".

2. Sections 214.3, 214.9, 214.11, and 214A.16, Code 2005, are amended by striking the words "motor vehicle fuel pump" or "motor vehicle fuel pumps" and inserting the following: "motor fuel pump" or "motor fuel pumps".

3. Sections 159A.3 and 214A.17, Code 2005, are amended by striking from the provisions the words "oxygenate octane enhancers" and inserting the following: "oxygenates".

4. Sections 214A.1, 214A.4, 214A.5, 214A.7, 214A.8, and 214A.10, Code 2005, are amended by striking from the provisions the words "oxygenate octane enhancer" and inserting the following: "oxygenate".[21]

Approved May 30, 2006

CHAPTER 1143

DEPARTMENT OF PUBLIC DEFENSE — MILITARY DIVISION AFFAIRS

H.F. 2765

AN ACT concerning the military division of the department of public defense.

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

Section 1. Section 29A.57, subsection 3, paragraph d, Code 2005, is amended to read as follows:

d. Grant a temporary or permanent easement with or without monetary consideration for utility, ~~or~~ public highway, or other purposes if granting the easement will not adversely affect use of the real estate for military purposes.

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[21] See chapter 1175, §18 herein

Sec. 2. Section 29A.99, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

29A.99 MAXIMUM RATE OF INTEREST.

1. An obligation or liability bearing interest at a rate in excess of six percent per year that is incurred by a service member either individually or jointly with the service member's spouse before the service member enters military service shall not bear interest at a rate in excess of six percent per year during the service member's period of military service. Interest that would otherwise be incurred but for the prohibition in this section is forgiven. The amount of any periodic payment due from a service member under the terms of the instrument that created an obligation or liability covered by this section shall be reduced by the amount of the interest forgiven under this section that is allocable to the period for which such payment is made.

2. In order for an obligation or liability of a service member to be subject to the interest rate limitation in this section, the service member shall provide to the creditor written notice and a copy of the military orders calling the service member to military service and any orders further extending military service, not later than one hundred eighty days after the date of the service member's termination or release from military service. Upon receipt of written notice and a copy of orders calling a service member to military service, the creditor shall treat the debt in accordance with this section, effective as of the date on which the service member is called to military service.

3. A court may grant a creditor relief from the limitations of this section if, in the opinion of the court, the ability of the service member to pay interest upon the obligation or liability at a rate in excess of six percent per year is not materially affected by reason of the service member's military service.

4. As used in this section, the term "interest" includes service charges, renewal charges, fees, or any other charges, except for bona fide insurance, with respect to an obligation or liability.

Sec. 3. Section 29A.101A, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

29A.101A TERMINATION OF LEASE BY SERVICE MEMBER — PENALTY.

1. For purposes of this section, unless the context otherwise requires:

a. "Premises lease" means a lease of premises occupied, or intended to be occupied, by a service member or a service member's dependents for a residential, professional, business, agricultural, or similar purpose if either of the following applies:

(1) The lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service.

(2) The service member, while in military service, executes the lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than ninety days.

b. "Vehicle lease" means a lease of a motor vehicle used, or intended to be used, by a service member or a service member's dependents for personal or business transportation if either of the following applies:

(1) The lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service under a call or order specifying a period of service of not less than ninety days, or who enters military service under a call or order specifying a period of ninety days of service or less and who, without a break in service, receives orders extending the period of military service to a period of not less than ninety days.

(2) The service member, while in military service, executes the lease and thereafter receives military orders to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than ninety days.

2. A service member may terminate a premises lease or vehicle lease pursuant to the requirements of this section. Termination of a premises lease or vehicle lease shall be made as follows:

a. By delivery by the lessee of written notice of such termination, and a copy of the service

member's military orders, to the lessor or the lessor's grantee, or to the lessor's agent or the agent's grantee. A lessee's termination of a lease pursuant to this subsection shall terminate any obligation a dependent of the lessee may have under the lease. For purposes of this paragraph, written notice may be accomplished by hand delivery, by private business carrier, or by placing the written notice in an envelope with sufficient postage and with return receipt requested, and addressed as designated by the lessor or the lessor's grantee or to the lessor's agent or the agent's grantee, and depositing the written notice in the United States mail.

b. In the case of a vehicle lease, by return of the motor vehicle by the lessee to the lessor or the lessor's grantee, or to the lessor's agent or the agent's grantee, not later than fifteen days after the date of the delivery of written notice under paragraph "a". A lessee's termination of a lease pursuant to this subsection shall terminate any obligation a dependent of the lessee may have under the lease.

3. In the case of a premises lease that provides for monthly payment of rent, termination of the lease is effective thirty days after the first date on which the next rental payment is due and payable after the date on which the notice is delivered. In the case of any other premises lease, termination of the lease is effective on the last day of the month following the month in which the notice is delivered.

4. In the case of a vehicle lease, termination of the lease is effective on the day on which the vehicle is delivered to the lessor or the lessor's grantee.

5. Rents or lease amounts unpaid for the period preceding the effective date of the lease termination shall be paid on a prorated basis. In the case of a vehicle lease, the lessor may not impose an early termination charge, but any taxes, summonses, and title and registration fees and any other obligation and liability of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear, use, and mileage, that are due and unpaid at the time of termination of the lease shall be paid by the lessee.

6. Rents or lease amounts paid in advance for a period after the effective date of the termination of the lease shall be refunded to the lessee by the lessor or the lessor's assignee or the assignee's agent within thirty days of the effective date of the termination of the lease.

7. Upon application by the lessor to a court before the termination date provided in the written notice, relief granted by this section to a service member may be modified as justice and equity require.

8. a. Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a service member or a service member's dependent who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, commits a simple misdemeanor.

b. The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section.

Sec. 4. Section 29A.102, subsection 1, Code 2005, is amended to read as follows:

1. The creditor of a service member who, prior to entry into military service, has entered into an installment contract for the purchase or lease of real or personal property, including a motor vehicle, shall not terminate the contract or repossess the property for nonpayment or for any breach occurring during military service without an order from a court of competent jurisdiction.

Approved May 30, 2006

CHAPTER 1144

MOTOR VEHICLE CITATIONS, HOSPITAL LIEN DOCKET, AND CLERK OF COURT DUTIES

H.F. 2775

AN ACT relating to the judicial branch including the assessment of court fees and costs.

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

Section 1. Section 321.20B, subsection 4, paragraph a, subparagraph (2), Code 2005, is amended to read as follows:

(2) Issue a citation to the driver. ~~If a citation is issued, the citation shall be issued under this subparagraph unless the driver has been previously charged and cited for a violation of subsection 1. A citation which is issued and subsequently dismissed shall be disregarded for purposes of determining if the driver has been previously charged and cited.~~

Sec. 2. Section 321.20B, subsection 4, paragraph c, Code 2005, is amended to read as follows:

c. An owner or driver cited for a violation of subsection 1, who produces to the clerk of court prior to the date of the ~~individual's~~ person's court appearance as indicated on the citation proof that financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited, shall not be convicted of such violation and the citation issued shall be dismissed by the court. Upon dismissal, the court or clerk of court shall assess the costs of the action against the defendant named on the citation.

Sec. 3. Section 321.20B, subsection 5, paragraph b, Code 2005, is amended to read as follows:

b. Issue a citation. An owner or driver who produces to the clerk of court prior to the date of the ~~individual's~~ person's court appearance as indicated on the citation proof that the financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited, or if the driver is not the owner of the motor vehicle, proof that liability coverage was in effect for the driver with respect to the motor vehicle being driven at the time the driver was stopped and cited in the same manner as if the motor vehicle were owned by the driver, shall be given a receipt indicating that proof was provided, and the citation issued shall be dismissed by the court. Upon dismissal, the court or clerk of court shall assess the costs of the action against the defendant named on the citation.

Sec. 4. Section 321.174, subsection 3, Code 2005, is amended to read as follows:

3. A licensee shall have the licensee's driver's license in immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of a judicial magistrate, district associate judge, district judge, peace officer, or examiner of the department. However, a person charged with violating this subsection shall not be convicted and the citation shall be dismissed by the court if the person produces to the clerk of the district court, prior to the licensee's court date indicated on the citation, a driver's license issued to that person and valid for the vehicle operated at the time of the person's arrest or at the time the person was charged with a violation of this section. Upon dismissal, the court or clerk of court shall assess the costs of the action against the defendant named on the citation.

Sec. 5. Section 327B.1, subsection 7, Code Supplement 2005, is amended by striking the subsection and inserting in lieu thereof the following:

7. A motor carrier owner or driver charged with failure to have proper evidence of interstate authority shall not be convicted of such violation and the citation shall be dismissed by the court if the person produces to the clerk of court prior to the date of such person's court appearance as indicated on the citation, proof of interstate authority issued to that person and valid

at the time the person was charged with the violation under this section. Upon dismissal, the court or clerk of court shall assess the costs of the action against the defendant named on the citation.

Sec. 6. Section 582.4, Code 2005, is amended to read as follows:

582.4 LIEN ~~BOOK~~ DOCKET — FEES.

Every clerk of the district court shall~~, at the expense of the county, provide a suitable well-bound book to be called the~~ maintain a hospital lien docket in which, upon the filing of any lien claim under the provisions of this chapter, the clerk shall enter the name of the injured person, the date of the accident, and the name of the hospital or other institution making the claim. The clerk shall make a proper index of the same in the name of the injured person and the clerk shall collect a fee ~~of ten dollars~~ in the amount provided for in section 602.8105 for filing each lien claim.

Sec. 7. Section 602.8105, subsection 1, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. For filing and docketing a transcript of the judgment in a civil case, fifty dollars.

Sec. 8. Section 602.8105, subsection 2, paragraph b, Code Supplement 2005, is amended to read as follows:

b. For filing and entering ~~an agricultural supply dealer's lien and~~ any other statutory lien, twenty dollars.

Sec. 9. Section 631.6, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. Postage charged for the mailing of original notice shall be ~~eight~~ ten dollars.

Approved May 30, 2006

CHAPTER 1145

WATER QUALITY REGULATION

S.F. 2363

AN ACT relating to water quality standards.

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

Section 1. Section 455B.173, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Establish, modify, or repeal water quality standards, pretreatment standards and effluent standards, in accordance with the provisions of this chapter. The effluent standards may provide for maintaining the existing quality of the water of the state that is a navigable water of the United States under the federal Water Pollution Control Act where the quality thereof exceeds the requirements of the water quality standards.

Sec. 2. WATER QUALITY STANDARDS. The general assembly makes the following findings:

1. The federal Water Pollution Control Act provides that the state is responsible for implementation of the federal Act in a manner that the state deems most appropriate.

2. Historically, the state has been and continues to be a responsible steward of the environment, including Iowa's water quality.

3. The state has adopted water quality standards that are protecting Iowa's water quality.

4. State law provides in section 455B.176 that the environmental protection commission, when establishing, modifying, or repealing water quality standards, must base its decision upon data gathered from sources within the state.

5. State law provides in section 455B.176, subsection 11, that the goal of any changes to water quality standards shall be a reasonable balance between total costs to the people and to the economy, and the resultant benefits to the people of Iowa.

6. The state shall adopt water quality standards that, where attainable, provide water quality for the protection and propagation of fish, shellfish, and wildlife, and for recreation in and on the water.

Sec. 3. NEW SECTION. 455B.176A WATER QUALITY STANDARDS.

1. For purposes of this section, unless the context otherwise requires:

a. "Base flow conditions" means the flow of a stream segment, as measured during the time period between July 1 and September 30, that occurs during a period of time when the watershed, in which the stream segment is located, receives no twenty-four-hour rainfall in excess of one-quarter inch total rainfall and not more than one-half inch total rainfall for the watershed in the preceding two weeks.

b. "Credible data" means the same as defined in section 455B.171 and is subject to the same requirements as provided in section 455B.193 and may include, but not rely solely on, data that is older than five years and that is obtained pursuant to the best professional judgment of a professional designee or a state or federal agency.

c. "Ephemeral stream" means a stream that flows only in response to precipitation and whose channel is primarily above the water table.

d. "Professional designee" means the same as defined in section 455B.193.

e. "Use attainability analysis" means a structured scientific assessment that includes physical, chemical, biological, and economic factors.

2. A water of the state shall be a designated stream segment when any one of the following is met:

a. The most recent ten-year median flow is equal to or in excess of one cubic foot per second based on data collected and evaluated by the United States geological survey between July 1 and September 30 of each year or in the absence of stream segment flow data calculations of flow conducted by extrapolation methods provided by the United States geological survey or based upon a calculation method adopted by rule.

b. The water is a critical habitat of a threatened or endangered aquatic specie as determined by the department or the United States fish and wildlife service.

c. Credible data developed in accordance with section 455B.193 shows that water flows that are less than set out in paragraph "a" provide a refuge for aquatic life that permits biological recolonization of intermittently flowing segments.

3. All waters of the state not designated as a stream segment shall be identified as a general stream segment and shall be subject to narrative water quality standards.

4. a. The commission shall adopt rules to define designated uses of stream segments in accordance with the following categories:

(1) Agricultural water supply use.

(2) Aquatic life support.

(3) Domestic water supply.

(4) Food procurement use.

(5) Industrial water supply use.

(6) Recreational use, including primary, secondary, and children's recreational use.

(7) Seasonal use. The department may allow for a seasonal use designation for streams that would otherwise be categorized under an aquatic or recreational designation if a varying degree of protection would be sufficient to protect the stream during a seasonal time period.

b. The commission shall include subcategories of designated uses of the categories listed in paragraph "a", as deemed appropriate by the commission.

c. When reviewing whether a designated use is attainable, the department shall consider at a minimum the following:

(1) Whether the natural, ephemeral, intermittent, or low flow conditions or water levels could inhibit recreational activities.

(2) If opposite sides of a stream segment would have different designated recreational uses due to differences in public access, the designated use of the entire stream segment may be the higher attainable use.

(3) The time period for determining primary contact recreation shall be March 15 through November 15.

(4) The degree to which the public has access to the stream segment.

(5) The minimum depth of the deepest pool.

(6) Stream segments shall be protected for all existing uses as defined by the federal Water Pollution Control Act.

5. The commission shall adopt rules designating water quality standards which shall be specific to each designated use adopted pursuant to subsection 4. The standards shall take into account the different characteristics of each designated use and shall provide for only the appropriate level of protection based upon that particular use. The standards shall not be identical for each designated use unless required for the appropriate level of protection. The appropriate level of protection and standards shall be determined on a scientific basis. In the development process for the water quality standards, input shall be received from a water quality standards advisory committee convened by the department. The water quality standards advisory committee shall be comprised of experts in the scientific fields relating to water quality, such as environmental engineering, aquatic toxicology, fisheries biology, and other life sciences and experts in the development of the appropriate levels of aquatic life protection and standards. The water quality standards shall be reviewed and revised by the department as new scientific data becomes available to support revision.

6. Prior to any changes in a national pollutant discharge elimination system permit effluent limitation based upon a new use designation, the department or a designee of the department shall conduct a use attainability analysis. The commission shall adopt rules that establish procedures and criteria to be used in the development of a use attainability analysis. The rules shall, at a minimum, provide all of the following:

a. A designated use, which is not an existing use as defined by the federal Water Pollution Control Act, may be removed due to any of the following:

(1) Naturally occurring pollutant concentrations prevent the attainment of the use.

(2) Natural, ephemeral, intermittent, or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating state water conservation requirements to enable uses to be met.

(3) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place.

(4) Dams, diversions, or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use.

(5) Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses.

(6) Controls more stringent than those required by sections 1311(b) and 1316 of the federal Water Pollution Control Act would result in substantial and widespread economic and social impact.

b. A designated use shall not be removed if any of the following occur:

(1) The designated use is an existing use, as defined by the federal Water Pollution Control Act, unless a use requiring more stringent criteria is added.

(2) Such uses will be attained by implementing effluent limits required under sections 1311(b) and 1316 of the federal Water Pollution Control Act and by implementing cost-effective and reasonable best management practices for nonpoint source control.

c. Where existing water quality standards specify designated uses less than those which are presently being attained, the commission shall revise its standards to reflect the uses actually being attained.

7. The department shall consider the substantial and widespread economic and social impact that may occur as a result of a designation. To make this determination, the department shall review circumstances that are unique to each regulated entity to determine whether substantial and widespread economic and social impact would occur. The analysis shall demonstrate whether the regulated entity would face substantial financial impacts due to the costs of compliance and that the affected community would bear significant adverse impacts. The department shall work with the regulated entity to gather necessary information to make this determination.

a. The commission shall adopt rules to determine when a regulated entity and the affected community would suffer substantial and widespread economic and social impact due to the costs of complying with a water quality standard. To make this determination, the department shall review the circumstances that are unique to each regulated entity and the affected community. The rules shall include but not be limited to all of the following elements:

(1) A financial analysis of the discharger to determine if the capital, operating, and maintenance costs of pollution control will have a substantial impact.

(2) The financial impact on households resulting from compliance.

(3) The ability of the person releasing a pollutant into a water of the state to obtain pollution control financing and the general economic health of that person.

(4) The change in socioeconomic conditions that would occur as a result of compliance. Factors to consider should include but not be limited to median household income, unemployment, and overall net debt as a percent of full market value of taxable property.

(5) The benefits of improved water quality, such as the expansion of consumptive markets, enhanced recreational use, and increased property values in the community.

b. The department may grant a regulated entity a variance from meeting a water quality standard pursuant to section 455B.181 if it is determined that the regulated entity or the affected community would suffer substantial and widespread economic and social impact. The department shall ensure the conditions of any discharge permit variance represent reasonable progress toward complying with water quality standards but do not result in substantial and widespread economic and social impact.

8. A regulated entity may use an alternative technology system to meet water quality standards for either technology-based or water quality-based effluent limits. The department shall convene a technical advisory committee to assist in the development of rules to allow for the use of appropriate alternative technologies that include but are not limited to all of the following:

a. Performance-based standards for alternative technology systems.

b. Effluent reuse standards.

c. Criteria for large subsurface, midsize treatment, and small cluster wastewater systems.

d. Setback requirements appropriate to the alternative treatment technology.

e. Monitoring requirements appropriate to the alternative technology and size of the treatment system.

f. Sizing factors based on soil morphology.

g. Design standards for alternative technology system types.

9. The commission shall adopt rules for a review and approval process for standardized treatment systems, and expedited technical reviews for projects that meet the design standards adopted pursuant to subsection 8, paragraph “g”, including standardized review checklists for the systems.

10. a. The commission shall adopt rules pursuant to chapter 17A to administer this section. All new or revised stream segment use designations shall be adopted by rule. Any rule that establishes, modifies, or repeals existing water quality standards in this state shall be adopted in conformance with this section.

b. (1) By December 31, 2006, the department shall publish a list of all designated stream segments that receive a permitted discharge for which a use attainability analysis for recreational use and aquatic life has not been completed and a list of all designated stream segments that receive a permitted discharge for which a use attainability analysis for recreational use and aquatic life has been completed and whether a recreational or aquatic use has been determined to be or not to be attainable. By December 31, 2007, a use attainability analysis shall be completed for all newly designated stream segments that receive a permitted discharge.

(2) A use attainability analysis for a designated stream segment receiving a permitted discharge shall be conducted by either the department or a professional designee.

(3) The department shall make public a written determination of whether a new or revised use designation is appropriate for the designated stream segment prior to adoption by rule of the proposed changes.

c. The department shall complete, upon request, a use attainability analysis for recreational and aquatic uses on any designated stream segment not receiving a permitted discharge or on any previously designated stream segment in accordance with the following provisions:

(1) The department shall make public a written determination of whether a new or revised designated use is appropriate for the designated stream segment within ninety days of completion of the use attainability analysis prior to adoption by rule of the proposed changes.

(2) The department shall accept a use attainability analysis submitted by someone other than a professional designee.

(a) Within thirty days after receipt of submission of a use attainability analysis, the department shall review and provide a written determination of whether the documentation submitted is complete.

(b) Within ninety days after receipt of submission of a completed use attainability analysis, the department shall review and make available to the public a written determination of whether a new or revised use designation is appropriate for the designated stream segment.

d. Any regulated entity or property owner adjacent to the accessed stream segment aggrieved by such a determination may make a written request, within thirty days from the date the written determination of the appropriate use designation is made available to the public, for a meeting with the director or the director's designee. A regulated entity or property owner adjacent to the accessed stream segment shall be allowed to provide evidence that the designation is not appropriate under the criteria as established in this subsection.

11. An operation permit issued pursuant to section 455B.173 that expires before a use attainability analysis is performed shall remain in effect and the department shall not renew the permit until a use attainability analysis is completed. If a use attainability analysis demonstrates that a change in the use designation is warranted, the permit shall remain in effect and the department shall not renew the permit until the stream use designation is changed. In order for an expired permit to remain in effect, the permit holder must meet the requirements for a permit renewal. This subsection does not apply if the permit applicant and the department agree that the performance of a use attainability analysis presents no reasonable likelihood of resulting in a change to the existing stream use designations.

Sec. 4. WATERSHED QUALITY PLANNING TASK FORCE.

1. A watershed quality planning task force is established within the department of natural resources in cooperation with the Iowa department of agriculture and land stewardship. By June 30, 2008, the task force shall report to the general assembly its recommendations for a voluntary statewide water quality program which is designed to achieve all of the following goals:

a. Improving water quality and optimizing the costs of voluntarily achieving and maintaining water quality standards.

b. Creating economic incentives for voluntary nonpoint source load reductions, point source discharge reductions beyond those required by the federal Water Pollution Control Act, implementation of pollution prevention programs, wetland restoration and creation, and the development of emerging pollution control technologies.

c. Facilitating the implementation of total maximum daily loads, urban stormwater control programs, and nonpoint source management practices required or authorized under the federal Water Pollution Control Act. This paragraph shall not be construed to obviate the requirement to develop a total maximum daily load for waters that do not meet water quality standards as required by section 303(d) of the federal Water Pollution Control Act or to delay implementation of a total maximum daily load that has been approved by the department and the director.

d. Providing incentives for the development of new and more accurate and reliable pollution control quantification protocols and procedures.

e. Providing greater flexibility through community-based, nonregulatory, and performance-driven watershed management planning.

2. Membership on the task force shall consist of all of the following:

a. Voting members of the task force shall include all of the following:

(1) One member selected by the Iowa association of municipal utilities.

(2) One member selected by the Iowa league of cities.

(3) One member selected by the Iowa association of business and industry.

(4) One member selected by the Iowa water pollution control association.

(5) One member selected by the Iowa rural water association.

(6) One member selected by growing green communities.

(7) One member selected by the Iowa environmental council.

(8) One member selected by the Iowa farm bureau federation.

(9) One member selected by the Iowa corn growers association.

(10) One member selected by the Iowa soybean association.

(11) One member selected by the Iowa pork producers council.

(12) One member selected by the soil and water conservation districts of Iowa.

(13) One person representing the department of agriculture and land stewardship selected by the secretary of agriculture.

(14) One person representing the department of natural resources selected by the director.

(15) Two members selected by the Iowa conservation alliance.

b. Nonvoting members of the task force shall include all of the following:

(1) Two members of the senate. One senator shall be appointed by the republican leader of the senate and one senator shall be appointed by the democratic leader of the senate.

(2) Two members of the house of representatives. One member shall be appointed by the speaker of the house of representatives and one member shall be appointed by the minority leader of the house of representatives.

Sec. 5. WASTEWATER TREATMENT FINANCIAL ASSISTANCE PROGRAM.[1]

1. The Iowa department of economic development shall adopt rules to establish and administer wastewater[2] treatment financial assistance program to provide grants to enhance water quality.

2. Financial assistance under the program shall be used for disadvantaged communities to install or upgrade wastewater treatment facilities and systems, and for engineering or technical assistance for facility planning and design. Financial assistance may be used as part of a project funded in whole or in part by financial assistance provided through other state or federally funded programs.

3. The department shall issue grants quarterly.

Approved May 31, 2006

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[1] See chapter 1179, §63 herein

[2] According to enrolled Act; the phrase "a wastewater" probably intended

CHAPTER 1146

PROPERTY TAX — MACHINERY, EQUIPMENT, AND FIXTURES
AT CONCRETE MIXING AND HOT MIX ASPHALT FACILITIES

S.F. 2391

AN ACT relating to the assessment for property taxation purposes of machinery, equipment, and fixtures used at concrete mixing facilities and hot mix asphalt facilities and including effective date and retroactive applicability date provisions.

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

Section 1. Section 427A.1, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. Buildings, structures or improvements, any of which are constructed on or in the land, attached to the land, or placed upon a foundation whether or not attached to the foundation. However, property taxed under chapter 435 and property that is a concrete batch plant as that term is defined in subsection 4 shall not be assessed and taxed as real property.

Sec. 2. Section 427A.1, subsection 4, Code 2005, is amended to read as follows:

4. Notwithstanding the definition of "attached" in subsection 2, property is not "attached" if ~~it~~ any of the following conditions are met:

a. It is a fixture used for cooking, refrigeration, or freezing of value-added agricultural products, used in value-added agricultural processing or used in direct support of value-added agricultural processing. For purposes of this subsection, "direct support" includes storage by public refrigerated warehouses for processors of value-added agricultural products. Such fixtures shall not be considered "attached" whether owned directly by the processor or warehouse operator or by another who leases the fixture to the processor or warehouse operator. This ~~subsection~~ paragraph shall not apply to fixtures used primarily for retail sale or display.

b. It is a concrete batch plant. A "concrete batch plant" is the machinery, equipment, and fixtures used at a concrete mixing facility to process cement dry additive and other raw materials into concrete.

c. It is a hot mix asphalt facility.

Sec. 3. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2006, for assessment years beginning on or after that date.

Approved May 31, 2006

CHAPTER 1147

DRUG PRESCRIBING AND DISPENSING INFORMATION PROGRAM

H.F. 722

AN ACT providing for the establishment of an information program for drug prescribing and dispensing, providing penalties, and providing an effective date.

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

Section 1. Section 22.7, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 52. The information contained in the information program established in section 124.510A, except to the extent that disclosure is authorized pursuant to section 124.510C.

Sec. 2. NEW SECTION. 124.510A INFORMATION PROGRAM FOR DRUG PRESCRIBING AND DISPENSING.

Contingent upon the receipt of funds pursuant to section 124.510G sufficient to carry out the purposes of this division, the board, in conjunction with the advisory council created in section 124.510E, shall establish and maintain an information program for drug prescribing and dispensing. The program shall collect from pharmacies dispensing information for controlled substances identified pursuant to section 124.510D, subsection 1, paragraph "g". The information collected shall be used by prescribing practitioners and pharmacists on a need-to-know basis for purposes of improving patient health care by facilitating early identification of patients who may be at risk for addiction, or who may be using, abusing, or diverting drugs for unlawful or otherwise unauthorized purposes at risk to themselves and others, or who may be appropriately using controlled substances lawfully prescribed for them but unknown to the practitioner. For purposes of this division, "prescribing practitioner" means a practitioner who has prescribed or is contemplating the authorization of a prescription for the patient about whom information is requested, and "pharmacist" means a practicing pharmacist who is actively engaged in and responsible for the pharmaceutical care of the patient about whom information is requested. The board shall collect, store, and disseminate program information consistent with security criteria established by rule, including use of appropriate encryption or other industry-recognized security technology. The board shall seek any federal waiver necessary to implement the provisions of the program.

Sec. 3. NEW SECTION. 124.510B INFORMATION REPORTING.

1. Each licensed pharmacy that dispenses controlled substances identified pursuant to section 124.510D, subsection 1, paragraph "g", to patients in the state, and each licensed pharmacy located in the state that dispenses such controlled substances identified pursuant to section 124.510D, subsection 1, paragraph "g", to patients inside or outside the state, unless specifically excepted in this section or by rule, shall submit the following prescription information to the program:

a. Pharmacy identification.
b. Patient identification.
c. Prescriber identification.
d. The date the prescription was issued by the prescriber.
e. The date the prescription was dispensed.
f. An indication of whether the prescription dispensed is new or a refill.
g. Identification of the drug dispensed.
h. Quantity of the drug dispensed.
i. The number of days' supply of the drug dispensed.
j. Serial or prescription number assigned by the pharmacy.

k. Type of payment for the prescription.

1. Other information identified by the board and advisory council by rule.

2. Information shall be submitted electronically in a secure format specified by the board unless the board has granted a waiver and approved an alternate secure format.

3. Information shall be timely transmitted as designated by the board and advisory council by rule, unless the board grants an extension. The board may grant an extension if either of the following occurs:

a. The pharmacy suffers a mechanical or electronic failure, or cannot meet the deadline established by the board for other reasons beyond the pharmacy's control.

b. The board is unable to receive electronic submissions.

4. This section shall not apply to a prescriber furnishing, dispensing, supplying, or administering drugs to the prescriber's patient, or to dispensing by a licensed pharmacy for the purposes of inpatient hospital care, inpatient hospice care, or long-term residential facility patient care.

Sec. 4. NEW SECTION. 124.510C INFORMATION ACCESS.

1. The board may provide information from the program to the following:

a. (1) A pharmacist or prescriber who requests the information and certifies in a form specified by the board that it is for the purpose of providing medical or pharmaceutical care to a patient of the pharmacist or prescriber. Neither a pharmacist nor a prescriber may delegate program information access to another individual.

(2) Notwithstanding subparagraph (1), a prescriber may delegate program information access to another licensed health care professional only in emergency situations where the patient would be placed in greater jeopardy if the prescriber was required to access the information personally.

b. An individual who requests the individual's own program information in accordance with the procedure established in rules of the board and advisory council adopted under section 124.510D.

c. Pursuant to an order, subpoena, or other means of legal compulsion for access to or release of program information that is issued based upon a determination of probable cause in the course of a specific investigation of a specific individual.

2. The board shall maintain a record of each person that requests information from the program. Pursuant to rules adopted by the board and advisory council under section 124.510D, the board may use the records to document and report statistical information.

3. Information contained in the program and any information obtained from it, and information contained in the records of requests for information from the program, is privileged and strictly confidential information. Such information is not a public record pursuant to chapter 22, and is not subject to discovery, subpoena, or other means of legal compulsion for release except as provided in this division. Information from the program shall not be released, shared with an agency or institution, or made public except as provided in this division.

4. Information collected for the program shall be retained in the program for four years from the date of dispensing. The information shall then be destroyed.

5. A pharmacist or other dispenser making a report to the program reasonably and in good faith pursuant to this division is immune from any liability, civil, criminal, or administrative, which might otherwise be incurred or imposed as a result of the report.

6. Nothing in this section shall require a pharmacist or prescriber to obtain information about a patient from the program. A pharmacist or prescriber does not have a duty and shall not be held liable in damages to any person in any civil or derivative criminal or administrative action for injury, death, or loss to person or property on the basis that the pharmacist or prescriber did or did not seek or obtain or use information from the program. A pharmacist or prescriber acting reasonably and in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting or receiving or using information from the program.

7. The board shall not charge a fee to a pharmacy, pharmacist, or prescriber for the estab-

lishment, maintenance, or administration of the program, including costs for forms required to submit information to or access information from the program, except that the board may charge a fee to an individual who requests the individual's own program information. A fee charged pursuant to this subsection shall not exceed the actual cost of providing the requested information and shall be considered a repayment receipt as defined in section 8.2.

Sec. 5. NEW SECTION. 124.510D RULES AND REPORTING.

1. The board and advisory council shall jointly adopt rules in accordance with chapter 17A to carry out the purposes of, and to enforce the provisions of, this division. The rules shall include but not be limited to the development of procedures relating to:

a. Identifying each patient about whom information is entered into the program.

b. An electronic format for the submission of information from pharmacies.

c. A waiver to submit information in another format for a pharmacy unable to submit information electronically.

d. An application by a pharmacy for an extension of time for transmitting information to the program.

e. The submission by an authorized requestor of a request for information and a procedure for the verification of the identity of the requestor.

f. Use by the board or advisory council of the program request records required by section 124.510C, subsection 2, to document and report statistical information.

g. Including all Schedule II controlled substances and those substances in Schedules III and IV that the advisory council and board determine can be addictive or fatal if not taken under the proper care and direction of a prescriber.

h. Access by a pharmacist or prescriber to information in the program pursuant to a written agreement with the board and advisory council.

i. The correction or deletion of erroneous information in the program.

2. Beginning January 1, 2007, and annually by January 1 thereafter, the board and advisory council shall present to the general assembly and the governor a report prepared consistent with section 124.510E, subsection 3, paragraph "d", which shall include but not be limited to the following:

a. The cost to the state of implementing and maintaining the program.

b. Information from pharmacies, prescribers, the board, the advisory council, and others regarding the benefits or detriments of the program.

c. Information from pharmacies, prescribers, the board, the advisory council, and others regarding the board's effectiveness in providing information from the program.

Sec. 6. NEW SECTION. 124.510E ADVISORY COUNCIL ESTABLISHED.

An advisory council shall be established to provide oversight to the board and the program and to comanage program activities. The board and advisory council shall jointly adopt rules specifying the duties and activities of the advisory council and related matters.

1. The council shall consist of eight members appointed by the governor. The members shall include three licensed pharmacists, four physicians licensed under chapter 148, 150, or 150A, and one licensed prescriber who is not a physician. The governor shall solicit recommendations for council members from Iowa health professional licensing boards, associations, and societies. The license of each member appointed to and serving on the advisory council shall be current and in good standing with the professional's licensing board.

2. The council shall advance the goals of the program, which include identification of misuse and diversion of controlled substances identified pursuant to section 124.510D, subsection 1, paragraph "g", and enhancement of the quality of health care delivery in this state.

3. Duties of the council shall include but not be limited to the following:

a. Ensuring the confidentiality of the patient, prescriber, and dispensing pharmacist and pharmacy.

b. Respecting and preserving the integrity of the patient's treatment relationship with the patient's health care providers.

c. Encouraging and facilitating cooperative efforts among health care practitioners and other interested and knowledgeable persons in developing best practices for prescribing and dispensing controlled substances and in educating health care practitioners and patients regarding controlled substance use and abuse.

d. Making recommendations regarding the continued benefits of maintaining the program in relationship to cost and other burdens to the patient, prescriber, pharmacist, and the board. The council's recommendations shall be included in reports required by section 124.510D, subsection 2.

e. One physician and one pharmacist member of the council shall include in their duties the responsibility for monitoring and ensuring that patient confidentiality, best interests, and civil liberties are at all times protected and preserved during the existence of the program.

4. Members of the advisory council shall be eligible to request and receive actual expenses for their duties as members of the advisory council, subject to reimbursement limits imposed by the department of administrative services, and shall also be eligible to receive a per diem compensation as provided in section 7E.6, subsection 1.

Sec. 7. NEW SECTION. 124.510F EDUCATION AND TREATMENT.

The program for drug prescribing and dispensing shall include education initiatives and outreach to consumers, prescribers, and pharmacists, and shall also include assistance for identifying substance abuse treatment programs and providers. The board and advisory council shall adopt rules, as provided under section 124.510D, to implement this section.

Sec. 8. NEW SECTION. 124.510G DRUG INFORMATION PROGRAM FUND.

The drug information program fund is established to be used by the board to fund or assist in funding the program. The board may make deposits into the fund from any source, public or private, including grants or contributions of money or other items of value, which it determines necessary to carry out the purposes of this division. Moneys received by the board to establish and maintain the program must be used for the expenses of administering this division. Notwithstanding section 8.33, amounts contained in the fund 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 in future years.

Sec. 9. NEW SECTION. 124.510H PROHIBITED ACTS — PENALTIES.

1. FAILURE TO COMPLY WITH REQUIREMENTS. A pharmacist, pharmacy, or prescriber who knowingly fails to comply with the confidentiality requirements of this division or who delegates program information access to another individual is subject to disciplinary action by the appropriate professional licensing board. A pharmacist or pharmacy that knowingly fails to comply with other requirements of this division is subject to disciplinary action by the board. Each licensing board may adopt rules in accordance with chapter 17A to implement the provisions of this section.

2. UNLAWFUL ACCESS, DISCLOSURE, OR USE OF INFORMATION. A person who intentionally or knowingly accesses, uses, or discloses program information in violation of this division, unless otherwise authorized by law, is guilty of a class "D" felony. This section shall not preclude a pharmacist or prescriber who requests and receives information from the program consistent with the requirements of this chapter from otherwise lawfully providing that information to any other person for medical or pharmaceutical care purposes.

Sec. 10. Sections 124.510A through 124.510H are repealed June 30, 2009.

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

Approved May 31, 2006

CHAPTER 1148

CRIMINAL INTELLIGENCE ASSESSMENT AND INTELLIGENCE DATA — CONFIDENTIALITY AND RELEASE

H.F. 2571

AN ACT relating to the confidentiality and release of an intelligence assessment or intelligence data.

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

Section 1. Section 22.7, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 52. An intelligence assessment and intelligence data under chapter 692, except as provided in section 692.8A.

Sec. 2. Section 692.8A, subsection 4, Code 2005, is amended to read as follows:

4. An intelligence assessment and intelligence data shall be deemed a confidential record of the department under section 22.7, subsection 52, except as otherwise provided in this subsection. This section shall not be construed to prohibit the dissemination of an intelligence assessment to any agency or organization if necessary for carrying out the official duties of the agency or organization, or to a person if disseminated for an official purpose, and to a person if necessary to protect a person or property from a threat of imminent serious harm. This section shall also not be construed to prohibit the department from disseminating a public health and safety threat advisory or alert by press release or other method or public communication.

Approved May 31, 2006

CHAPTER 1149

REGULATION OF STATE GOVERNMENT ETHICS AND LOBBYING

H.F. 2593

AN ACT relating to activities of lobbyists and the ethical conduct of state officials and employees.

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

Section 1. NEW SECTION. 68B.2B EXECUTIVE BRANCH COMPENSATION.

1. Effective July 1, 2006, an official or state employee shall not receive compensation simultaneously from more than one executive branch agency, unless the official or state employee provides notice to the board within twenty business days of accepting employment with a second executive branch agency. Notice under this section shall include all of the following:

a. The name and contact information of the official or state employee and the name of the official's or employee's original executive branch agency.

b. The name of the second executive branch agency from which compensation may be received.

c. The amount of compensation to be received and a brief explanation of what services are to be performed for the second executive branch agency.

2. The board shall adopt rules pursuant to chapter 17A necessary for the administration of this section.

3. This section shall not apply to service in the Iowa national guard or service in the general assembly.

Sec. 2. Section 68B.4, Code Supplement 2005, is amended to read as follows:

68B.4 SALES OR LEASES BY REGULATORY AGENCY OFFICIALS AND EMPLOYEES.

1. An official or employee of any regulatory agency shall not sell or lease, either directly or indirectly, any goods or services to individuals, associations, or corporations subject to the regulatory authority of the agency of which the person is an official or employee, except when the official or employee has met all of the following conditions:

~~1.~~ a. The consent of the regulatory agency for which the person is an official or employee is obtained and the person is not the official or employee with the authority to determine whether agency consent is to be given under this section.

~~2.~~ b. The duties or functions performed by the official or employee for the regulatory agency are not related to the regulatory authority of the agency over the individual, association, or corporation, or the selling or leasing of goods or services by the official or employee to the individuals, associations, or corporations does not affect the official's or employee's duties or functions at the regulatory agency.

~~3.~~ c. The selling or leasing of any goods or services by the official or employee to an individual, association, or corporation does not include advocacy on behalf of the individual, association, or corporation to the regulatory agency in which the person is an official or employee.

~~4.~~ d. The selling or leasing of any goods or services by the official or employee to an individual, association, or corporation does not cause the official or employee to sell or lease goods or services to the regulatory agency on behalf of the individual, association, or corporation.

2. The board shall adopt rules specifying the method by which employees may obtain agency consent under this section. The board shall adopt rules specifying the method by which officials may obtain agency consent under this section, including situations when the person seeking to make the sale or lease is the executive or administrative head of the regulatory agency. 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. 3. Section 68B.4B, Code Supplement 2005, is amended to read as follows:

68B.4B SALES OR LEASES BY MEMBERS OF THE OFFICE OF THE GOVERNOR.

A permanent full-time member of the office of the governor shall not sell or lease, either directly or indirectly, any goods or services to 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:

1. The consent of the person or persons responsible for hiring or approving the hiring of the member of the office of the governor is obtained. A copy of the consent shall be filed with the board within twenty days of the consent being granted.

2. The duties and functions performed by the member for the office of the governor are not related to the authority of the office of the governor over the individual, association, or corporation, or the selling or leasing of goods or services by the member of the office of the governor to the individuals, associations, or corporations does not affect the member's duties or functions at the office of the governor.

3. The selling or leasing of any goods or services by the member of the office of the governor to an individual, association, or corporation does not include lobbying of the office of the governor.

4. The selling or leasing of any goods or services by the member of the office of the governor does not cause the member to sell or lease goods or services to the office of the governor on behalf of the individual, association, or corporation.

Sec. 4. Section 68B.37, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. The lobbyist's clients before the general assembly.

Sec. 5. Section 68B.37, subsection 1, paragraph d, Code 2005, is amended to read as follows:

d. Expenditures made by the lobbyist for the purposes of providing the services enumerated under section 68B.2, subsection 13, paragraph "a", before the general assembly.

Sec. 6. Section 68B.37, subsection 2, Code 2005, is amended to read as follows:

2. A lobbyist before a state agency or the office of the governor shall file with the board, on forms prescribed by the board, a report disclosing ~~the same items described in subsection 1.~~ all of the following:

a. The lobbyist's clients before the executive branch.

b. Contributions made to candidates for state office by the lobbyist during calendar months during the reporting period when the general assembly is not in session.

c. The recipient of the campaign contributions.

d. Expenditures made by the lobbyist for the purposes of providing the services enumerated under section 68B.2, subsection 13, paragraph "a", before the executive branch.

For purposes of this subsection, "expenditures" does not include expenditures made by any organization for publishing a newsletter or other informational release for its members.

Approved May 31, 2006

CHAPTER 1150

PRISONERS IN MUNICIPAL HOLDING FACILITIES
OR COUNTY JAILS — MEDICAL AID

H.F. 2697

AN ACT relating to the confinement of a prisoner in a municipal holding facility or county jail.

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

Section 1. Section 356.7, subsection 1, Code 2005, is amended to read as follows:

1. The county sheriff, or a municipality operating a temporary municipal holding facility or jail, may charge a prisoner who is eighteen years of age or older and who has been convicted of a criminal offense or sentenced for contempt of court for violation of a domestic abuse order for the actual administrative costs relating to the arrest and booking of that prisoner, ~~and~~ for room and board provided to the prisoner while in the custody of the county sheriff or municipality, and for any medical aid provided to the prisoner under section 356.5. Moneys collected by the sheriff or municipality under this section shall be credited respectively to the county general fund or the city general fund and distributed as provided in this section. If a prisoner who has been convicted of a criminal offense or sentenced for contempt of court for violation of a domestic abuse order fails to pay for the administrative costs, ~~and~~ the room and board, or medical aid, the sheriff or municipality may file a reimbursement claim with the district court as provided in subsection 2. The county attorney may file the reimbursement claim on behalf of the sheriff and the county or the municipality. The attorney for the municipality may

also file a reimbursement claim on behalf of the municipality. This section does not apply to prisoners who are paying for their room and board by court order pursuant to sections 356.26 through 356.35.

Sec. 2. Section 356.7, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. gg. The amount of medical aid the person owes.

Approved May 31, 2006

CHAPTER 1151

ECONOMIC DEVELOPMENT — ENDOW IOWA TAX CREDIT AND COUNTY ENDOWMENT FUND CHANGES

H.F. 2791

AN ACT concerning community foundations and economic development relating to the endow Iowa tax credit, the allocation of gambling tax revenues, the distribution of county endowment moneys, making an appropriation, and providing an effective date.

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

Section 1. Section 15E.305, subsection 2, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

The aggregate amount of tax credits authorized pursuant to this section shall not exceed a total of two million dollars plus such additional credit amount as provided by this section 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. 2. Section 15E.305, subsection 2, Code Supplement 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this subsection, the additional credit amount shall be an amount for each applicable calendar year determined by the department of revenue equal to the amount of money credited as provided by section 99F.11, subsection 3, paragraph "e", subparagraph (3), for the prior fiscal year.

Sec. 3. Section 15E.305, subsection 4, Code Supplement 2005, is amended by striking the subsection.

Sec. 4. Section 15E.311, subsection 3, paragraph a, Code Supplement 2005, is amended to read as follows:

a. At the end of each fiscal year, moneys in the fund shall be transferred into separate accounts 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 charitable pur-

poses 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 charitable purposes. Of the amounts distributed, eligible county recipients shall give special consideration to grants for projects that include significant vertical infrastructure components designed to enhance quality of life aspects within local communities. In addition, as a condition of receiving a grant, the governing body of a charitable organization receiving a grant shall approve all expenditures of grant moneys and shall allow a state audit of expenditures of all grant moneys.

Sec. 5. Section 15E.311, subsection 6, Code Supplement 2005, is amended to read as follows:

6. 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. Of the amounts available to be used by the lead philanthropic organization pursuant to this subsection, seventy thousand dollars is appropriated to the department of economic development each fiscal year for administrative costs related to the endow Iowa program.

Sec. 6. Section 99F.11, subsection 3, paragraphs d and e, Code 2005, are amended to read as follows:

d. ~~One-half~~ Eight-tenths of one percent of the adjusted gross receipts tax shall be deposited in the county endowment fund created in section 15E.311.

e. Two-tenths of one percent of the adjusted gross receipts tax shall be allocated each fiscal year as follows:

(1) Five hundred twenty thousand dollars is appropriated each fiscal year to the department of cultural affairs with one-half of the moneys allocated for operational support grants and the remaining one-half allocated for the community cultural grants program established under section 303.3.

(2) One-half of the moneys remaining after the appropriation in subparagraph (1) is appropriated to the community development division of the department of economic development for the purposes of regional tourism marketing. However, none of the moneys appropriated under this subparagraph shall be used for administrative purposes.

(3) One-half of the moneys remaining after the appropriation in subparagraph (1) shall be credited to the general fund of the state for the purpose of funding the endow Iowa tax credit provided in section 15E.305.

f. The remaining amount of the adjusted gross receipts tax shall be credited to the general fund of the state.

Sec. 7. 2003 Iowa Acts, 1st Extraordinary Session, chapter 2, section 93, is amended to read as follows:

SEC. 93. The divisions of this Act designated economic development appropriations, workforce-related issues, loan and credit guarantee fund, university-based research utilization program appropriation, ~~endow Iowa tax credit,~~ and rehabilitation project tax credits are repealed effective June 30, 2010.

Sec. 8. EFFECTIVE DATE. This Act takes effect July 1, 2007.

Approved May 31, 2006

CHAPTER 1152

ADMINISTRATION AND REGULATION
OF EDUCATION AND RELATED SERVICES

S.F. 2272

AN ACT relating to the duties and operations of the state board of education, the department of education, the board of educational examiners, and local school boards.

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

DIVISION I
PRACTITIONER, STUDENT, AND SCHOOL-RELATED MATTERS

Section 1. Section 235A.15, subsection 2, paragraph e, subparagraph (9), Code Supplement 2005, is amended to read as follows:

(9) To the board of educational examiners created under chapter 272 for purposes of determining whether a ~~practitioner's~~ license, certificate, or authorization should be issued, denied, or revoked.

Sec. 2. Section 235B.6, subsection 2, paragraph e, Code Supplement 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (12) To the board of educational examiners created under chapter 272 for purposes of determining whether a license, certificate, or authorization should be issued, denied, or revoked.

Sec. 3. Section 256.7, subsection 21, paragraph c, Code Supplement 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~~, utilizing the definition of graduation rate specified by the national governors association; the number of students who drop out of school; the number of students pursuing a high school equivalency diploma pursuant to chapter 259A; the number of students who were enrolled in the district within the past five years and who received a high school equivalency diploma; the percentage of students who receive a high school diploma and who were not proficient in reading, mathematics, and science in grade eleven; the number of students in the prior year who were enrolled as high school juniors who are within four units of meeting the district's graduation requirements; 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. 4. Section 256.7, subsection 26, Code Supplement 2005, is amended by striking the subsection and inserting in lieu thereof the following:

26. Set a goal of increasing to eighty percent the number of students graduating from all secondary schools in school districts in this state who have successfully completed the core curric-

ulum recommended by the college testing service whose college entrance examination is taken by the majority of Iowa's high school students. The state goal shall be exclusive of students who have special or alternative means for satisfying graduation requirements under individualized educational plans developed for the students. The state board shall require each school district to annually report, beginning with the 2006-2007 school year, the percentage of students graduating from high school in the school district who complete the core curriculum. The school district shall report, in the comprehensive school improvement plan submitted in accordance with subsection 21, how the district plans to increase the number of students completing the recommended core curriculum. Taking into consideration the recommendations of the college testing service whose college entrance examination is taken by the majority of Iowa's high school students, beginning with the students in the 2010-2011 school year graduating class, the requirements for high school graduation for all students in school districts shall be four years of English and language arts, three years of mathematics, three years of science, and three years of social studies.

Sec. 5. Section 256D.1, subsection 1, paragraph b, subparagraph (1), Code 2005, is amended to read as follows:

(1) A school district shall at a minimum biannually inform parents of their individual child's performance on the diagnostic assessments in kindergarten through grade three. If intervention is appropriate, the school district shall inform the parents of the actions the school district intends to take to improve the child's reading skills and provide the parents with strategies to enable the parents to improve their child's skills. If the diagnostic assessments administered in accordance with this subsection indicate that a child is reading below grade level, the school district shall submit a report of the assessment results to the parent, which the parent shall sign and return to the school district. If the parent does not sign or return the report, the school district shall note in the student's record the inaction on the part of the parent. The board of directors of each school district shall adopt a policy indicating the methods the school district will use to inform parents of their individual child's performance.

Sec. 6. Section 256D.9, Code Supplement 2005, is amended to read as follows:

256D.9 FUTURE REPEAL.

This chapter is repealed effective July 1, ~~2006~~ 2007.

Sec. 7. Section 256F.3, subsection 6, Code 2005, is amended to read as follows:

6. Upon approval of an application for the proposed establishment of a charter school, the school board shall submit an application for approval to establish the charter school to the state board in accordance with section 256F.5. The application shall set forth the manner in which the charter school will provide special instruction, in accordance with section 280.4, to students who are limited English proficient. The application shall set forth the manner in which the charter school will comply with federal and state laws and regulations relating to the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. § 1751 – 1785, and chapter 283A. The state board shall approve only those applications that meet the requirements specified in section 256F.1, subsection 3, and sections 256F.4 and 256F.5. The state board may deny an application if the state board deems that approval of the application is not in the best interest of the affected students. The state board shall approve not more than ~~ten~~ twenty charter school applications. The state board shall approve not more than one charter school application per school district. ~~However, if the state board receives ten or fewer applications as of June 30, 2003, and two or more of the applications received by the state board by that date are submitted by one school district, the state board may approve any or all of the applications submitted by the school district.~~ The state board shall adopt rules in accordance with chapter 17A for the implementation of this chapter.

Sec. 8. Section 260C.14, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 21. Request that a student pursuing or receiving a high school equiva-

lency diploma provide to the community college the student's school district of residence and the last year the student was enrolled in the school district of residence. The community college shall annually report the information available to the community college pursuant to this subsection to the school district of residence.

Sec. 9. Section 272.2, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 17. Adopt rules to require that a background investigation be conducted by the division of criminal investigation of the department of public safety on all initial applicants for licensure. The board shall also require all initial applicants to submit a completed fingerprint packet and shall use the packet to facilitate a national criminal history background check. The board shall have access to, and shall review the sex offender registry information under section 692A.13, the central registry for child abuse information established under chapter 235A, and the dependent adult abuse records maintained under chapter 235B for information regarding applicants for license renewal.

Sec. 10. Section 272.3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The board of educational examiners consists of eleven members. Two must be members of the general public and the remaining nine must be licensed practitioners. One of the public members shall ~~also be the director of the department of education, or the director's designee~~ have served on a school board. The ~~other~~ public ~~member~~ members shall ~~be a person who does not hold~~ never have held a practitioner's license, but ~~has~~ shall have a demonstrated interest in education. One of the licensed practitioners shall be the director of the department of education or the director's designee. The ~~nine~~ remaining eight practitioners shall be selected from the following areas and specialties of the teaching profession:

Sec. 11. Section 272.3, unnumbered paragraph 2, Code 2005, is amended to read as follows:

A majority of the licensed practitioner members shall be nonadministrative practitioners. Four of the members shall be administrators. Membership of the board shall comply with the requirements of sections 69.16 and 69.16A. A quorum of the board shall consist of six members. ~~The director of the department of education~~ Members shall ~~serve as the~~ elect a chairperson of the board. Members, except for the director of the department of education, shall be appointed by the governor ~~and the appointments are~~ subject to confirmation by the senate.

Sec. 12. Section 272.29, Code Supplement 2005, is amended to read as follows:

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 every three years 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. 13. Section 279.61, Code Supplement 2005, is amended to read as follows:

279.61 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. The plan shall include career options and shall identify the coursework needed in grades nine through twelve to support the student's postsecondary education and career options. If the pupil is under eighteen years of age, the pupil's parent or guardian shall sign the

core curriculum plan developed with the student and the signed plan shall be included in the student's records.

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, if the student is under the age of eighteen, 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. 14. NEW SECTION. 279.63 FINANCIAL REPORT.

1. The board of directors of each public school district shall develop, maintain, and distribute a financial report on an annual basis. The objective of the financial report shall be to facilitate public access to a variety of information and statistics relating to the education funding received by the school district, enrollment and employment figures, and additional information.

2. The financial report shall contain, at a minimum, information relating to the following:

a. All property tax levies, income surtaxes, and local option sales taxes in place in the school district, listed by type of levy, rate, amount, duration, and notification of the maximum rate and amount limitations permitted by statute.

b. The amount of funding received on a per pupil basis through the operation of the school finance formula, and from any other state appropriation or state funding source.

c. Federal funding received per student or teacher population targeted to receive the funds, and any other federal grants or funding received by the district.

d. Teacher and administrator minimum, maximum, and average salary paid by the district, and the percentage and dollar increase under teacher and administrator salary and benefits settlement agreements.

e. Teacher and administrator health insurance and other alternative health benefit information, including the monthly premium, the percentage of the premium paid by the district, and the percentage of the premium paid by a teacher or administrator for single and family insurance.

f. Teacher and administrator employment statistics, including the annual number of licensed full-time and part-time teachers and administrators employed by the school district during the preceding five years, and including the number of teachers and administrators no longer employed by the district, and new hires.

g. Student enrollment levels during the preceding five years, including regular enrollment, special education enrollment, and enrollment adjustments made pursuant to supplementary weighting.

h. Such additional information as the school district may determine.

3. Copies of a school district's financial report for the previous school year shall be posted on an internet website maintained by the school district at the beginning of the school year. If the school district does not maintain or develop a website, the school district shall either distribute or post written copies of the financial report at specified locations throughout the school district.

Sec. 15. NEW SECTION. 298.6 PUBLIC DISCLOSURE OF OUTSTANDING LEVIES.

The board of directors of a school district shall, prior to certifying any levy by board approval, or submitting a levy for voter approval, facilitate public access to a complete listing of all outstanding levies within the school district by rate, amount, duration, and the applicable maximum levy limitations. The information relating to outstanding levies shall be posted on an internet website maintained by the school district at the beginning of the school year, and updated prior to board approval or submission for voter approval of any levy during the school year. If the school district does not maintain or develop a website, the school district shall either distribute or post written copies of the listing at specified locations throughout the school district.

Sec. 16. TRANSITIONAL PROVISION — MEMBERS' TERMS ON THE BOARD OF EDUCATIONAL EXAMINERS. The two public members serving on the board of educational examiners on the effective date of this Act shall continue to serve as public members of the board until April 30, 2007. On May 1, 2007, the director of the department of education shall commence service on the board as a licensed practitioner.

Sec. 17. EFFECTIVE DATE. The section of this division of this Act amending section 256F.3, subsection 6, being deemed of immediate importance, takes effect upon enactment.

DIVISION II
EDUCATION ADMINISTRATION

Sec. 18. Section 256.9, subsection 40, Code Supplement 2005, is amended by striking the subsection.

Sec. 19. Section 256.12, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

This section does not deprive the respective boards of public school districts of any of their legal powers, statutory or otherwise, and in accepting the specially enrolled students, each of the boards shall prescribe the terms of the special enrollment, including but not limited to scheduling of courses and the length of class periods. In addition, the board of the affected public school district shall be given notice by the department of its decision to permit the special enrollment not later than six months prior to the opening of the affected public school district's school year, except that the board of the public school district may waive the notice requirement. School districts and area education agency boards shall make public school services, which shall include special education programs and services and may include health services, services for remedial education programs, guidance services, and school testing services, available to children attending nonpublic schools in the same manner and to the same extent that they are provided to public school students. ~~However, services that are made available shall be provided on neutral sites, or in mobile units located off the nonpublic school premises as determined by the boards of the school districts and area education agencies providing the services, and not on nonpublic school property, except for health services, services funded by Title I of the federal Elementary and Secondary Education Act of 1965, diagnostic services for speech, hearing, and psychological purposes, and assistance with physical and communication needs of students with physical disabilities, and services of an educational interpreter, which may be provided on nonpublic school premises, with the permission of the lawful custodian.~~ Service activities shall be similar to those undertaken for public school students. Health services, special education support, and related services provided by area education agencies for the purpose of identifying children with disabilities, assistance with physical and communications needs of students with physical disabilities, and services of an educational interpreter may be provided on nonpublic school premises with the permission of the lawful custodian of the property. Other special education services may be provided on nonpublic school premises at the discretion of the school district or area education agency provider of the service and with the permission of the lawful custodian of the property.

Sec. 20. Section 256.46, Code Supplement 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, unless undue influence was exerted to place the child for primarily athletic purposes; 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~~ other than 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. 21. Section 256.51, subsection 1, paragraph d, Code 2005, is amended by striking the paragraph.

Sec. 22. Section 257.6, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Actual enrollment is determined annually on ~~the third Friday of September in each year~~ October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, and includes all of the following:

Sec. 23. Section 257.6, subsection 1, unnumbered paragraph 3, Code 2005, is amended to read as follows:

A school district shall certify its actual enrollment to the department of education by October ~~1~~ 15 of each year, and the department shall promptly forward the information to the department of management.

Sec. 24. Section 257.10, subsection 5, Code 2005, is amended to read as follows:

5. COMBINED DISTRICT COST PER PUPIL. The combined district cost per pupil for a school district is the sum of the regular program district cost per pupil and the special education support services district cost per pupil. Combined district cost per pupil does not include ~~additional~~ modified allowable growth added for school districts that have a negative balance of funds raised for special education instruction programs, ~~additional~~ modified allowable growth granted by the school budget review committee for a single school year, or ~~additional~~ modified allowable growth added for programs for dropout prevention.

Sec. 25. Section 257.31, subsection 14, paragraph b, unnumbered paragraph 3, Code 2005, is amended to read as follows:

A school district is only eligible to receive supplemental aid payments during the budget year if the school district certifies to the school budget review committee that for the year following the budget year it will notify the school budget review committee to instruct the director of the department of management to increase the district's allowable growth and will fund the allowable growth increase either by using moneys from its unexpended cash balance to reduce the district's property tax levy or by using cash reserve moneys to equal the amount of the deficit that would have been property taxes and any part of the state aid portion of the deficit not received as supplemental aid under this subsection. The director of the department of management shall make the necessary adjustments to the school district's budget to provide the ~~additional~~ modified allowable growth and shall make the supplemental aid payments.

Sec. 26. Section 257.37, subsection 4, Code 2005, is amended to read as follows:

4. "Enrollment served" means the basic enrollment plus the number of nonpublic school pupils served with media services or educational services, as applicable, except that if a nonpub-

lic school pupil or a pupil attending another district under a whole-grade sharing agreement or open enrollment receives services through an area other than the area of the pupil's residence, the pupil shall be deemed to be served by the area of the pupil's residence, which shall by contractual arrangement reimburse the area through which the pupil actually receives services. Each school district shall include in the ~~third Friday in September~~ enrollment report submitted pursuant to section 257.6, subsection 1, the number of nonpublic school pupils within each school district for media and educational services served by the area.

Sec. 27. Section 257.38, unnumbered paragraphs 1 and 2, Code 2005, are amended to read as follows:

Boards of school districts, individually or jointly with boards of other school districts, requesting to use ~~additional~~ modified allowable growth for programs for returning dropouts and dropout prevention, shall ~~annually~~ submit comprehensive program plans for the programs and budget costs, including annual requests for ~~additional~~ modified allowable growth for funding the programs, to the department of education as ~~provided in this chapter~~ a component of the comprehensive school improvement plan submitted to the department pursuant to section 256.7, subsection 21. The program plans shall include:

Program plans shall identify the parts of the plan that will be implemented first upon approval of the ~~application~~ request. If a district is requesting to use ~~additional~~ modified allowable growth to finance the program, ~~it~~ the school district shall not identify more than five percent of its budget enrollment for the budget year as returning dropouts and potential dropouts.

Sec. 28. Section 257.40, Code 2005, is amended to read as follows:

257.40 PLANS FOR RETURNING DROPOUTS AND DROPOUT PREVENTION.

1. The board of directors of a school district requesting to use ~~additional~~ modified allowable growth for programs for returning dropouts and dropout prevention shall submit ~~applications for approval for the programs~~ requests for modified at-risk allowable growth, including budget cost, to the department not later than ~~November 1~~ December 15 of the year preceding the budget year during which the program will be offered. The department shall review the ~~program plans~~ request and shall prior to January 15 either grant approval for the ~~program~~ request or return the request for approval with comments of the department included. An unapproved request for a program may be resubmitted with modifications to the department not later than February 1. Not later than February 15, the department shall notify the department of management and the school budget review committee of the names of the school districts for which programs using ~~additional~~ modified allowable growth for funding have been approved and the approved budget of each program listed separately for each school district having an approved ~~program~~ request.

2. Beginning January 15, 2007, the department shall submit an annual report to the chairpersons and ranking members of the senate and house education committees that includes the ways school districts in the previous school year used modified allowable growth approved under subsection 1; identifies, by grade level, age, and district size, the students in the dropout and dropout prevention programs for which the department approves a request; describes school district progress toward increasing student achievement and attendance for the students in the programs; and describes how the school districts are using the revenues from the modified allowable growth to improve student achievement among minority subgroups.

Sec. 29. Section 259A.1, Code 2005, is amended to read as follows:

259A.1 TESTS.

The department of education shall cause to be made available for qualified individuals a high school equivalency diploma. The diploma shall be issued on the basis of satisfactory competence as shown by tests covering all of the following: ~~The correctness and effectiveness of expression; the interpretation of~~ reading ~~materials in the~~, arts, language arts, writing, mathematics, science, and social studies~~; interpretation of reading material in the natural sciences; interpretation of literary materials; and general mathematical ability~~.

Sec. 30. Section 260C.14, subsection 2, Code 2005, is amended to read as follows:

2. Have authority to determine tuition rates for instruction. Tuition for residents of Iowa shall not exceed the lowest tuition rate per semester, or the equivalent, charged by an institution of higher education under the state board of regents for a full-time resident student. However, except for students enrolled under chapter 261C, if a local school district pays tuition for a resident pupil of high school age, the limitation on tuition for residents of Iowa shall not apply, the amount of tuition shall be determined by the board of directors of the community college with the consent of the local school board, and the pupil shall not be included in the full-time equivalent enrollment of the community college for the purpose of computing general aid to the community college. Tuition for nonresidents of Iowa shall not be less than the marginal cost of instruction of a student attending the college. A lower tuition for nonresidents may be permitted under a reciprocal tuition agreement between a merged area and an educational institution in another state, if the agreement is approved by the ~~state board~~ director. The board may designate that a portion of the tuition moneys collected from students be used for student aid purposes.

Sec. 31. Section 260C.28, subsection 2, Code 2005, is amended to read as follows:

2. However, the board of directors may annually certify for levy a tax on taxable property in the merged area at a rate in excess of the three cents per thousand dollars of assessed valuation specified under subsection 1 if the excess tax levied does not cause the total rate certified to exceed a rate of nine cents per thousand dollars of assessed valuation, and the excess revenue generated is used for purposes of program sharing between community colleges or for the purchase of instructional equipment. Programs that are shared shall be designed to increase student access to community college programs and to achieve efficiencies in program delivery at the community colleges, including, but not limited to, the programs described under ~~sections 260C.45 and~~ section 260C.46. Prior to expenditure of the excess revenues generated under this subsection, the board of directors shall obtain the approval of the director of the department of education.

Sec. 32. Section 261C.6, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Not later than June 30 of each year, a school district shall pay a tuition reimbursement amount to an eligible postsecondary institution that has enrolled its resident eligible pupils under this chapter, unless the eligible pupil is participating in open enrollment under section 282.18, in which case, the tuition reimbursement amount shall be paid by the receiving district. However, if a child's residency changes during a school year, the tuition shall be paid by the district in which the child was enrolled as of the ~~third Friday in September~~ date specified in section 257.6, subsection 1, or the district in which the child was counted under section 257.6, subsection 1, paragraph "f". For pupils enrolled at the school for the deaf and the Iowa braille and sight saving school, the state board of regents shall pay a tuition reimbursement amount by June 30 of each year. The amount of tuition reimbursement for each separate course shall equal the lesser of:

Sec. 33. Section 273.22, subsections 6 and 7, Code 2005, are amended to read as follows:

6. Within forty-five days of the state board's approval, the board of directors of a school district that is contiguous to a newly reorganized area education agency may petition the board of directors of their current area education agency and the newly reorganized area education agency to join the newly reorganized area education agency. If the initial, or new board if established in time under section 273.23, subsection 3, and the board of the contiguous area education agency approve the petition, the reorganization, including any school district whose petition to join the newly reorganized area education agency has been approved, shall take effect in accordance with the dates established under section 273.21, subsection 4. Both the initial, or new, and the contiguous area education agency boards must act within forty-five days of the deadline, as set forth in this subsection, for the filing of the school district's petition.

~~A~~ Within ten days of an area education agency board's action, a school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.

7. Within forty-five days of the state board's approval, the board of directors of a school district that is within a newly reorganized area education agency and whose school district is contiguous to another area education agency not included in the newly reorganized area education agency may petition the board of directors of the newly reorganized area education agency and the contiguous area education agency to join that area education agency. If the initial, or new board if established in time under section 273.23, subsection 3, and the board of the contiguous area education agency approve the petition, the reorganization, excluding any school district whose petition to join an area education agency contiguous to the newly reorganized area education agency has been approved, shall take effect in accordance with the dates established under section 273.21, subsection 4. Both the initial, or new, and the contiguous area education agency boards must act within forty-five days of the deadline, as set forth in this subsection, for the filing of the school district's petition. ~~A~~ Within ten days of an area education agency board's action, a school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.

Sec. 34. Section 279.30, Code 2005, is amended to read as follows:

279.30 EXCEPTIONS.

Each ~~warrant~~ payment must be made payable to the person entitled to receive the money. The board of directors of a school district or an area education agency may by resolution authorize the secretary, upon approval of the superintendent or designee, or administrator, in the case of an area education agency, to issue ~~warrants~~ payments when the board of directors is not in session in payment of ~~freight, drayage, express, postage, printing, water, light, and telephone rents~~ reasonable and necessary expenses, but only upon verified bills filed with the secretary or administrator, and for the payment of salaries pursuant to the terms of a written contract~~, and the secretary or administrator shall either deliver in person or mail the warrants to the payees. In addition, the board of directors may by resolution authorize the secretary or administrator, upon approval of the president of the board, to issue warrants when the board of directors is not in session, but only upon verified bills filed with the secretary or administrator, and the secretary or administrator shall either deliver in person or mail the warrants to the payees~~. Each ~~warrant~~ payment must be made payable only to the person performing the service or presenting the verified bill, and must state the purpose for which the ~~warrant~~ payment is issued. All bills and salaries for which ~~warrants~~ payments are issued prior to audit and allowance by the board must be passed upon by the board of directors at the next meeting and be entered in the regular minutes of the secretary.

Sec. 35. Section 279.33, Code 2005, is amended to read as follows:

279.33 ANNUAL SETTLEMENTS.

At a regular or special meeting held on or after August 31 and prior to the organizational meeting held after the regular school election, the board of each school corporation shall meet, examine the books of and settle with the secretary and treasurer for the year ending on the preceding June 30, and transact other business as necessary. The treasurer at the time of settlement shall furnish the board with a ~~sworn~~ statement from each depository showing the balance then on deposit in the depository. If the secretary or treasurer fails to make proper reports for the settlement, the board shall take action to obtain the balance information.

Sec. 36. Section 279.41, Code 2005, is amended to read as follows:

279.41 SCHOOLHOUSES AND SITES SOLD — FUNDS.

Moneys received from the condemnation, sale, or other disposition for public purposes of schoolhouses, school sites, or both schoolhouses and school sites, shall be deposited in the physical plant and equipment levy fund and may without a vote of the electorate be used for ~~the purchase of school sites or the erection or repair of schoolhouses, or both~~ purposes authorized under section 298.3, as ordered by the board of directors of the school district.

Sec. 37. Section 279.60, Code Supplement 2005, is amended to read as follows:

279.60 KINDERGARTEN ASSESSMENT — ACCESS TO DATA — REPORTS.

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 date specified in section 257.6, subsection 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 information 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. 38. Section 282.1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Persons between five and twenty-one years of age are of school age. ~~A board may establish and maintain evening schools or an educational program under section 282.1A for residents of the corporation regardless of age and for which no tuition need be charged.~~ Nonresident children shall be charged the maximum tuition rate as determined in section 282.24, subsection 1, with the exception that those residing temporarily in a school corporation may attend school in the corporation upon terms prescribed by the board, and boards discontinuing grades under section 282.7, subsection 1 or subsections 1 and 3, shall be charged tuition as provided in section 282.24, subsection 2.

Sec. 39. Section 282.8, Code 2005, is amended to read as follows:

282.8 ATTENDING SCHOOL OUTSIDE STATE.

The boards of directors of school districts located near the state boundaries may designate schools of equivalent standing across the state line for attendance of both elementary and high school pupils when the public school in the adjoining state is nearer than any appropriate public school in a pupil's district of residence or in Iowa. Distance shall be measured by the nearest traveled public road. Arrangements shall be subject to reciprocal agreements made between the chief state school officers of the respective states. Notwithstanding section 282.1, arrangements between districts pursuant to the reciprocal agreements made under this section shall establish tuition and transportation fees in an amount acceptable to the affected boards, but the tuition and transportation fees shall not be less than the lower average cost per pupil for the previous school year of the two affected school districts. For the purpose of this section average cost per pupil for the previous school year is determined by dividing the district's operating expenditures for the previous school year by the number of children enrolled in the district in the previous school year on the ~~third Friday of September of the previous school year~~ date specified in section 257.6, subsection 1. A person attending school in another state shall continue to be treated as a pupil of the district of residence in the apportionment of the current school fund and the payment of state aid.

Sec. 40. Section 282.12, subsection 4, Code 2005, is amended to read as follows:

4. The number of pupils participating in a whole grade sharing agreement shall be determined on the ~~third Friday of September~~ date specified in section 257.6, subsection 1, and on the third Friday of February of each year.

Sec. 41. Section 282.18, subsection 4, paragraph a, Code Supplement 2005, is amended to read as follows:

a. After March 1 of the preceding school year and until the ~~third Friday in September of that~~

~~calendar year~~ date specified in section 257.6, subsection 1, 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 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.

Sec. 42. Section 282.18, subsection 4, paragraph c, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

c. If a resident district believes that a receiving district is violating this subsection, the resident district may, within fifteen days after board action by the receiving district, submit an appeal to the director of the department of education.

The director, or the director's designee, shall attempt to mediate the dispute to reach approval by both boards as provided in section 282.18, subsection 16. If approval is not reached under mediation, the director or the director's designee shall conduct a hearing and shall hear testimony from both boards. Within ten days following the hearing, the director shall render a decision upholding or reversing the decision by the board of the receiving district. Within five days of the director's decision, the board may appeal the decision of the director to the state board of education under the procedures set forth in chapter 290.

Sec. 43. Section 282.18, subsection 9, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

If a request to transfer is due to a change in family residence, change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, and the child~~,~~ who is the subject of the request~~,~~ is enrolled in any grade from kindergarten through grade twelve at the time of the request and is not currently using any provision of open enrollment, the parent or guardian of the child shall have the option to have the child remain in the child's original district of residence under open enrollment with no interruption in the child's kindergarten through grade twelve educational program. If a parent or guardian exercises this option, the child's new district of residence is not required to pay the amount calculated in subsection 7, until the start of the first full year of enrollment of the child.

Sec. 44. Section 282.31, subsection 1, paragraph b, unnumbered paragraph 2, Code 2005, is amended to read as follows:

However, on June 30 of a school year, if the board of directors of a school district determines that the number of children under this paragraph who were counted in the basic enrollment of the school district ~~on the third Friday of September~~ of that school year in accordance with section 257.6, subsection 1, is fewer than the sum of the number of months all children were enrolled in the school district under this paragraph during the school year divided by nine, the secretary of the school district may submit a claim to the department of education by August 1 following the school year for an amount equal to the district cost per pupil of the district for the previous school year multiplied by the difference between the number of children counted and the number of children calculated by the number of months of enrollment. The amount of the claim shall be paid by the department of administrative services to the school district by October 1. The department of administrative services shall transfer the total amount of the approved claim of a school district from the moneys appropriated under section 257.16 and the amount paid shall be deducted monthly from the state foundation aid paid to all school districts in the state during the remainder of the subsequent fiscal year in the manner provided in paragraph "a".

Sec. 45. Section 285.11, subsection 9, Code 2005, is amended by striking the subsection.

Sec. 46. Section 294A.5, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. For the school year beginning July 1, 1998, for phase I, each school district and area education agency shall certify to the department of education by the ~~third Friday in September~~ date specified in section 257.6, subsection 1, the names of all teachers employed by the district or area education agency whose regular compensation is less than twenty-three thousand dollars per year for that year and the amounts needed as minimum salary supplements. The minimum salary supplement for each eligible teacher is the total of the difference between twenty-three thousand dollars and the teacher's regular compensation plus the amount required to pay the employer's share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under chapter 294, payments on the additional salary moneys. ~~However, for purposes of this paragraph, a teacher's regular compensation for the school year beginning July 1, 1998, shall not be lower than eighteen thousand dollars.~~

Sec. 47. Section 297.14, Code 2005, is amended to read as follows:

297.14 BARBED WIRE.

No fence ~~provided for in section 297.13~~ shall be constructed of barbed wire, nor shall any barbed wire fence be placed within ten feet of any school ~~grounds~~ attendance centers. Any person violating the provisions of this section shall be guilty of a simple misdemeanor.

Sec. 48. NEW SECTION. 299A.11 STUDENT RECORDS CONFIDENTIAL.

Notwithstanding any provision of law or rule to the contrary, personal information in records regarding a child receiving competent private instruction pursuant to this chapter, which are maintained, created, collected, or assembled by or for a state agency, shall be kept confidential in the same manner as personal information in student records maintained, created, collected, or assembled by or for a school corporation or educational institution in accordance with section 22.7, subsection 1.

Sec. 49. Section 301.1, subsection 2, Code Supplement 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~~ November 1, 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 partici-

pating 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. 50. Section 321.375, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Any of the following shall constitute grounds for ~~a school bus driver's~~ the immediate suspension from duties of a school bus driver, including a part-time or substitute bus driver, pending a termination hearing by the board of directors of a public school district or the authorities in charge in a nonpublic school ~~if the bus driver is under contract, pending confirmation of the grounds by the school district or accredited nonpublic school if the bus driver is a part-time or substitute bus driver who is not under contract~~, or pending confirmation of the grounds by the employer of the school bus driver if the employer is not a school district or accredited nonpublic school ~~by the board~~:

Sec. 51. Section 321.376, subsection 1, Code 2005, is amended to read as follows:

1. The driver of a school bus shall hold a driver's license issued by the department of transportation valid for the operation of the school bus and a certificate of qualification for operation of a commercial motor vehicle issued by a physician licensed pursuant to chapter 148 or 150A, physician's assistant, advanced registered nurse practitioner, or chiropractor or any other person identified by federal and state law as authorized to perform physical examinations, and shall successfully complete an approved course of instruction in accordance with subsection 2. A person holding a temporary restricted license issued under chapter 321J shall be prohibited from operating a school bus. The department of education shall ~~revoke or~~ refuse to issue an authorization to operate a school bus to any person who, after notice and opportunity for hearing, is determined to have committed any of the acts proscribed under section 321.375, subsection 2. The department of education shall take adverse action against any person who, after notice and opportunity for hearing, is determined to have committed any of the acts proscribed under section 321.375, subsection 2. Such action may include a reprimand or warning of the person or the suspension or revocation of the person's authorization to operate a school bus. The department of education shall recommend, and the state board of education shall adopt under chapter 17A, rules and procedures for issuing and suspending or revoking authorization to operate a school bus in this state. Rules and procedures adopted shall include, but are not limited to, provisions for the revocation or suspension of, or refusal to issue, authorization to persons who are determined to have committed any of the acts proscribed under section 321.375, subsection 2.

Sec. 52. Section 423E.1, subsection 3, Code 2005, is amended to read as follows:

3. Local sales and services tax moneys received by a county for school infrastructure purposes pursuant to this chapter shall be utilized for school infrastructure needs or property tax relief. For purposes of this chapter, "school infrastructure" means those activities for which a school district is authorized to contract indebtedness and issue general obligation bonds under section 296.1, except those activities related to a teacher's or superintendent's home or homes. These activities include the construction, reconstruction, repair, demolition work, purchasing, or remodeling of schoolhouses, stadiums, gyms, fieldhouses, and bus garages and the procurement of schoolhouse construction sites and the making of site improvements and those activities for which revenues under section 298.3 or 300.2 may be spent. A school district that uses local sales and services tax moneys for school infrastructure shall comply with the state building code in the absence of a local building code. Additionally, "school infrastruc-

ture" includes the payment or retirement of outstanding bonds previously issued for school infrastructure purposes as defined in this subsection, and the payment or retirement of bonds issued under section 423E.5.

Sec. 53. Section 423E.3, subsection 5, paragraph d, subparagraph (2), Code Supplement 2005, is amended to read as follows:

(2) The combined actual enrollment for a county, for purposes of this section, shall be determined for each county by the department of management based on the actual enrollment figures reported by October ~~1~~ 15 to the department of management by the department of education pursuant to section 257.6, subsection 1. The combined actual enrollment count shall be forwarded to the director of revenue by March 1, annually, for purposes of supplying estimated tax payment figures and making estimated tax payments pursuant to this section for the following fiscal year.

Sec. 54. 2005 Iowa Acts, chapter 179, section 82, is amended to read as follows:

SEC. 82. 2005 Iowa Acts, House File 739,[1] 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~~ 2007.

Sec. 55. Chapters 288 and 289, Code 2005, are repealed.

Sec. 56. Sections 260C.45, 282.1A, and 297.13, Code 2005, are repealed.

Sec. 57. EFFECTIVE DATE. The section of this Act amending 2005 Iowa Acts, chapter 179, section 82, being deemed of immediate importance, takes effect upon enactment.

Approved June 1, 2006

CHAPTER 1153

OVERSIGHT OF GOVERNMENTAL SERVICES
AND PUBLIC EXPENDITURES

S.F. 2410

AN ACT relating to government accountability and concerning service contract requirements, contractual requirements for certain entities receiving public moneys, requirements for joint agreements involving governmental entities, additional review by the auditor of state, the authority of the citizens' aide, employment rights of employees making a disclosure of information, and the authority of the legislative oversight committee, and including an implementation provision and making penalties applicable.

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

DIVISION I
GOVERNMENT ACCOUNTABILITY

Section 1. NEW SECTION. 8F.1 PURPOSE.

This chapter is intended to create mechanisms to most effectively and efficiently monitor

[1] 2005 Iowa Acts, chapter 144

the utilization of public moneys by providing the greatest possible accountability for the expenditure of public moneys.

Sec. 2. NEW SECTION. 8F.2 DEFINITIONS.

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

1. "Agency" means a unit of state government, which is an authority, board, commission, committee, council, department, examining board, or independent agency as defined in section 7E.4, including but not limited to each principal central department enumerated in section 7E.5. However, "agency" does not mean the Iowa public employees' retirement system created under chapter 97B, the public broadcasting division of the department of education created under section 256.81, the statewide fire and police retirement system created under chapter 411, or an agricultural commodity promotion board subject to a producer referendum.

2. "Compensation" means payment of, or agreement to pay, any money, thing of value, or financial benefit conferred in return for labor or services rendered by an officer, employee, or other person plus the value of benefits including but not limited to casualty, disability, life, or health insurance, other health or wellness benefits, vacations, holidays, and sick leave, severance payments, retirement benefits, and deferred compensation.

3. "Intergovernmental entity" means any separate organization established in accordance with chapter 28E or established by any other agreement between an agency and any other governmental entity, whether federal, state, or local, and any department, division, unit or subdivision thereof. "Intergovernmental entity" does not include an organization established or agreement made in accordance with chapter 28E between state agencies.

4. "Oversight agency" means an agency that contracts with and disburses state or federal moneys to a recipient entity.

5. "Private agency" means an individual or any form of business organization, including a nonprofit organization, authorized under the laws of this state or any other state or under the laws of any foreign jurisdiction.

6. "Recipient entity" means an intergovernmental entity or a private agency that enters into a service contract with an oversight agency to provide services which will be paid for with local governmental, state, or federal moneys.

7. "Service" or "services" means work performed for an oversight agency or for its client.

8. a. "Service contract" means a contract for a service or services when the predominant factor, thrust, and purpose of the contract as reasonably stated is for the provision of services. When there is a contract for goods and services and the predominant factor, thrust, and purpose of the contract as reasonably stated is for the provision or rendering of services with goods incidentally involved, a service contract exists. "Service contract" includes grants when the predominant factor, thrust, and purpose of the contract formalizing the grant is for the provision of services. For purposes of this chapter, a service contract only exists when an individual service contract or a series of service contracts entered into between an oversight agency and a recipient entity exceeds five hundred thousand dollars or when the grant or contract together with other grants or contracts awarded to the recipient entity by the oversight agency during the oversight agency's fiscal year exceeds five hundred thousand dollars in the aggregate.

b. "Service contract" does not mean any of the following:

(1) A contract that involves services related to transportation or the construction, reconstruction, improvement, repair, or maintenance of the transportation system.

(2) A contract concerning the public safety peace officers' retirement system created under chapter 97A, the judicial retirement system governed by chapter 602, article 9, or the deferred compensation plan established by the executive council pursuant to section 509A.12.

(3) A contract for services provided for the operation, construction, or maintenance of a public utility, combined public utility, or a city enterprise as defined by section 384.24.[1]

(4) A contract for dual party relay service required by section 477C.3 or for the equipment distribution program established under the authority of section 477C.4.

[1] See chapter 1182, §68 herein

(5) A contract for services provided from resources made available under Title XVIII, XIX, or XXI of the federal Social Security Act.

(6) A contract for a court-appointed attorney.

(7) A contract with a federally insured financial institution that is subject to mandatory periodic examinations by a state or federal regulator.

(8) Any allocation of state or federal moneys by the department of education to subrecipients on a formula or noncompetitive basis.

(9) A contract for services provided by a person subject to regulation under Title XIII of the Code.

(10) A contract for vendor services.

(11) A contract concerning an entity that has contracted with the state and is licensed and regulated by the insurance division of the department of commerce.

(12) A contract with outside counsel or special counsel executed by the executive council pursuant to section 13.3 or 13.7.

(13) A contract that is subject to competitive bidding for the construction, reconstruction, improvement, or repair of a public building or public improvement.

9. "Vendor services" means services or goods provided by a vendor that are required for the conduct of a state or federal program for an organization's own use or for the use of beneficiaries of the state or federal program and which are ancillary to the operation of the state or federal program under a service contract and not otherwise subject to compliance requirements of the state or federal program. For purposes of this subsection, "vendor" means a dealer, distributor, merchant, or other seller which provides goods and services within normal business operations, provides similar goods or services to many different purchasers, and operates in a competitive environment.

Sec. 3. NEW SECTION. 8F.3 CONTRACTUAL REQUIREMENTS.

1. As a condition of entering into a service contract with an oversight agency, a recipient entity shall certify that the recipient has the following information available for inspection by the oversight agency and the legislative services agency:

a. Information documenting the legal status of the recipient entity, such as agreements establishing the entity pursuant to chapter 28E or other intergovernmental agreements, articles of incorporation, bylaws, or any other information related to the establishment or status of the entity. In addition, the information shall indicate whether the recipient entity is exempt from federal income taxes under section 501(c), of the Internal Revenue Code.

b. Information regarding the training and education received by the members of the governing body of the recipient entity relating to the duties and legal responsibilities of the governing body.

c. Information regarding the procedures used by the governing body of the recipient entity to do all of the following:

(1) Review the performance of management employees and establish the compensation of those employees.

(2) Review the recipient entity's internal controls relating to accounting processes and procedures.

(3) Review the recipient entity's compliance with the laws, rules, regulations, and contractual agreements applicable to its operations.

(4) Information regarding adopted ethical and professional standards of operation for the governing body and employees of the recipient entity and information concerning the implementation of these standards and the training of employees and members of the governing body on the standards. The standards shall include but not be limited to a nepotism policy which shall provide, at a minimum, for disclosure of familial relationships among employees and between employees and members of the governing body, policies regarding conflicts of interest, standards of responsibility and obedience to law, fairness, and honesty.

d. Information regarding any policies adopted by the governing body of the recipient entity that prohibit taking adverse employment action against employees of the recipient entity who

disclose information about a service contract to the oversight agency, the auditor of state, or the office of citizens' aide and that state whether those policies are substantially similar to the protection provided to state employees under section 70A.28. The information provided shall state whether employees of the recipient entity are informed on a regular basis of their rights to disclose information to the oversight agency, the office of citizens' aide, the auditor of state, or the office of the attorney general and the telephone numbers of those organizations.

2. The certification required by this section shall be signed by an officer and director of the recipient entity, two directors of the recipient entity, or the sole proprietor of the recipient entity, whichever is applicable, and shall state that the recipient entity is in full compliance with all laws, rules, regulations, and contractual agreements applicable to the recipient entity and the requirements of this chapter.

3. Prior to entering into a service contract with a recipient entity, the oversight agency shall determine whether the recipient entity can reasonably be expected to comply with the requirements of the service contract. If the oversight entity is unable to determine whether the recipient entity can reasonably be expected to comply with the requirements of the service contract, the oversight entity shall request such information from the recipient entity as described in subsection 1 to make a determination. If the oversight agency determines from the information provided that the recipient entity cannot reasonably be expected to comply with the requirements of the service contract, the oversight agency shall not enter into the service contract.

Sec. 4. NEW SECTION. 8F.4 REPORTING REQUIREMENTS.

1. a. As a condition of continuing to receive state or federal moneys through an oversight agency for a service contract, a recipient entity shall file an annual report with the oversight agency and with the legislative services agency within ten months following the end of the recipient entity's fiscal year.

b. However, the annual report shall not be required to be filed under any of the following circumstances:

(1) The recipient entity reports information otherwise required to be included in an annual report described in subsection 2 to the oversight agency pursuant to federal or state statutes or rules. The information otherwise required to be reported to the oversight agency shall be filed with the legislative services agency.

(2) The recipient entity is recognized by the Internal Revenue Code as a nonprofit organization or entity and provides a copy of the internal revenue service form 990 for all fiscal years in which service contract revenues are reported.

2. The annual report required to be filed pursuant to this section shall contain the following:

a. Financial information relative to the expenditure of state and federal moneys for the prior year pursuant to the service contract. The financial information shall include but is not limited to budget and actual revenue and expenditure information for the year covered.

b. Financial information relating to service contracts with the oversight agency during the preceding year, including the costs by category to provide the contracted services.

c. Reportable conditions in internal control or material noncompliance with provisions of laws, rules, regulations, or contractual agreements included in external audit reports of the recipient entity covering the preceding year.

d. Corrective action taken or planned by the recipient entity in response to reportable conditions in internal control or material noncompliance with laws, rules, regulations, or contractual agreements included in external audit reports covering the preceding year.

e. Any changes in the information submitted in accordance with section 8F.3.

f. A certification signed by an officer and director of the recipient entity, two directors of the recipient entity, or the sole proprietor of the recipient entity, whichever is applicable, stating the annual report is accurate and the recipient entity is in full compliance with all laws, rules, regulations, and contractual agreements applicable to the recipient entity and the requirements of this chapter.

3. A recipient entity shall be required to submit such information as requested by the over-

sight agency or the legislative services agency relating to the entity's expenditure of state and federal moneys.

Sec. 5. NEW SECTION. 8F.5 ENFORCEMENT.

Any service contract awarded to a recipient entity shall provide that the oversight agency may terminate the service contract if the recipient entity, during the duration of the contract, fails to comply with the requirements of this chapter. In addition, the service contract shall provide a mechanism for the forfeiture and recovery of state or federal funds expended by a recipient entity in violation of the laws applicable to the expenditure of the money or the requirements of the service contract and this chapter.

Sec. 6. Section 8E.208, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Performance measurement is essential to ensuring adequate accountability over public resources and the exchange of public resources for desirable and acceptable public benefits. Performance measurement must include an assessment of whether agencies have adequate control procedures in place, and whether those control procedures are operating effectively, to determine that agencies are receiving or providing services of adequate quality, public resources are being used effectively and efficiently, and public resources are being used for appropriate and meaningful activities.

Sec. 7. Section 28E.6, Code 2005, is amended to read as follows:

28E.6 ADDITIONAL PROVISIONS.

1. If the agreement does not establish a separate legal entity to conduct the joint or co-operative undertaking, the agreement shall also include:

~~1.~~ a. Provision for an administrator or a joint board responsible for administering the joint or co-operative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented.

~~2.~~ b. The manner of acquiring, holding and disposing of real and personal property used in the joint or co-operative undertaking.

2. The entity created or the administrator or joint board specified in the agreement shall be a governmental body for purposes of chapter 21 and a government body for purposes of chapter 22 unless the entity created or agreement includes public agencies from more than one state.

3. All proceedings of each regular, adjourned, or special meeting of the entity created or the administrator or joint board specified in the agreement, including the schedule of bills allowed, shall be published after adjournment of the meeting in a newspaper of general circulation within the geographic area served by the entity created or the administrator or joint board specified in the agreement. The entity created or the administrator or joint board specified in the agreement shall furnish a copy of the proceedings to be published to the newspaper within one week following adjournment of the meeting. The publication of the schedule of bills allowed shall include a list of all salaries paid for services performed, showing the name of the person or firm performing the service and the amount paid. However, the names and gross salaries of persons regularly employed by the entity created or the administrator or joint board specified in the agreement shall only be published annually. This subsection shall not apply if the entity or the administrator or joint board specified in the agreement includes public agencies from more than one state.

Sec. 8. ELECTRONIC SUBMISSION OF CONTRACTS — REPORT. The department of administrative services shall submit a report concerning steps necessary to provide for the electronic submission and retention of contracts by the department. The department shall submit the report, with its findings and recommendations, to the general assembly by December 1, 2006. The report shall identify any costs associated with implementing the recommendations of the report.

Sec. 9. IMPLEMENTATION PROVISION.

1. This division of this Act applies to service contracts entered into or renewed by an oversight agency, as those terms are defined in section 8F.2 as created in this division of this Act, on or[2] after October 1, 2006.

2. The section of this division of this Act amending Code section 28E.6 is applicable on or[3] after July 1, 2006.

DIVISION II
AUDITOR OF STATE DUTIES

Sec. 10. Section 11.36, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

11.36 REVIEW OF ENTITIES RECEIVING PUBLIC MONEYS.

1. The auditor of state may, at the request of a department, review, during normal business hours upon reasonable notice of at least twenty-four hours, the audit working papers prepared by a certified public accountant covering the receipt and expenditure of state or federal funds provided by the department to any other entity to determine if the receipt and expenditure of those funds by the entity is consistent with the laws, rules, regulations, and contractual agreements governing those funds. Upon completion of the review, the auditor of state shall report whether, in the auditor of state's judgment, the auditor of state believes the certified public accountant's working papers adequately demonstrate that the laws, rules, regulations, and contractual agreements governing the funds have been substantially complied with. If the auditor of state does not believe the certified public accountant's working papers adequately demonstrate that the laws, rules, regulations, and contractual agreements have been substantially complied with or believes a complete or partial reaudit is necessary based on the provisions of section 11.6, subsection 4, paragraph "a", or "b", the auditor of state shall notify the certified public accountant and the department of the actions the auditor of state believes are necessary to determine that the entity is in substantial compliance with those laws, rules, regulations, and contractual agreements. The auditor of state may assist departments with actions to determine that the entity is in substantial compliance. Departments shall reimburse the auditor of state for the cost of the review and any subsequent assistance provided by the auditor of state.

2. The auditor of state may, at the request of a department, review the records covering the receipt and expenditure of state or federal funds provided by the department to any other entity which has not been audited by a certified public accountant to determine if the receipt and expenditure of those funds by the entity is consistent with the laws, rules, regulations, and contractual agreements governing those funds. Upon completion of the review, the auditor of state shall report whether, in the auditor of state's judgment, the auditor of state believes the entity adequately demonstrated that the laws, rules, regulations, and contractual agreements governing the funds have been substantially complied with. If the auditor of state does not believe the entity adequately demonstrated that the laws, rules, regulations, and contractual agreements have been substantially complied with, the auditor of state shall notify the department of the actions the auditor of state believes are necessary to determine that the entity is in substantial compliance with those laws, rules, regulations, and contractual agreements. The auditor of state may assist a department with actions to determine that the entity is in substantial compliance. Departments shall reimburse the auditor of state for the cost of the review and any subsequent assistance provided by the auditor of state.

3. When, in the auditor of state's judgment, the auditor of state finds that sufficient information is available to demonstrate that an entity receiving state or federal funds from a department may not have substantially complied with the laws, rules, regulations, and contractual agreements governing those funds, the auditor of state shall notify the department providing those funds to the entity of the auditor of state's finding. The department shall cooperate with the auditor of state to establish actions to be taken to determine whether substantial compliance with those laws, rules, regulations, and contractual agreements has been achieved by the entity receiving the state or federal funds from the department. Departments shall reimburse

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[2] The word "and" probably intended

[3] The word "and" probably intended

the auditor of state for any actions taken by the auditor of state to determine whether the entity has substantially complied with the laws, rules, regulations, and contractual agreements governing the funds provided by the department for costs expended after the date the auditor of state notifies the department of an issue involving substantial compliance pursuant to the requirements of this subsection.

Sec. 11. NEW SECTION. 11.37 ACCESS TO CONFIDENTIAL INFORMATION.

1. The auditor of state, when conducting any audit or review required or permitted by this chapter, shall at all times have access to all information, records, instrumentalities, and properties used in the performance of the audited or reviewed entities' statutory duties or contractual responsibilities. All audited or reviewed entities shall cooperate with the auditor of state in the performance of the audit or review and make available the information, records, instrumentalities, and properties upon the request of the auditor of state.

2. If the information, records, instrumentalities, and properties sought by the auditor of state are required by law to be kept confidential, the auditor of state shall have access to the information, records, instrumentalities, and properties, but shall maintain the confidentiality of all such information and is subject to the same penalties as the lawful custodian of the information for dissemination of the information. However, the auditor of state shall not have access to the income tax returns of individuals.

DIVISION III
CITIZENS' AIDE DUTIES
— DISCLOSURES OF
INFORMATION

Sec. 12. Section 2C.9, subsection 1, Code 2005, is amended to read as follows:

1. Investigate, on complaint or on the citizens' aide's own motion, any administrative action of any agency, without regard to the finality of the administrative action, except that the citizens' aide shall not investigate the complaint of an employee of an agency in regard to that employee's employment relationship with the agency except as otherwise provided by this chapter. A communication or receipt of information made pursuant to the powers prescribed in this chapter shall not be considered an ex parte communication as described in the provisions of section 17A.17.

Sec. 13. NEW SECTION. 2C.11A SUBJECTS FOR INVESTIGATIONS — DISCLOSURES OF INFORMATION.

The office of citizens' aide shall investigate a complaint filed by an employee who is not a merit system employee or an employee covered by a collective bargaining agreement and who alleges that adverse employment action has been taken against the employee in violation of section 70A.28, subsection 2. A complaint filed pursuant to this section shall be made within thirty calendar days following the effective date of the adverse employment action. The citizens' aide shall investigate the matter and shall issue findings relative to the complaint in an expeditious manner.

Sec. 14. Section 70A.28, subsection 2, Code 2005, is amended to read as follows:

2. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a state employment system administered by, or subject to approval of, a state agency as a reprisal for a failure by that employee to inform the person that the employee made a disclosure of information permitted by this section, or for a disclosure of any information by that employee to a member or employee of the general assembly, a disclosure of information to the office of citizens' aide, or a disclosure of information to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of au-

thority, or a substantial and specific danger to public health or safety. However, an employee may be required to inform the person that the employee made a disclosure of information permitted by this section if the employee represented that the disclosure was the official position of the employee's immediate supervisor or employer.

Sec. 15. Section 70A.28, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. Subsection 2 may also be enforced by an employee through an administrative action pursuant to the requirements of this subsection if the employee is not a merit system employee or an employee covered by a collective bargaining agreement. An employee eligible to pursue an administrative action pursuant to this subsection who is discharged, suspended, demoted, or otherwise reduced in pay and who believes the adverse employment action was taken as a result of the employee's disclosure of information that was authorized pursuant to subsection 2, may file an appeal of the adverse employment action with the public employment relations board within thirty calendar days following the later of the effective date of the action or the date a finding is issued to the employee by the office of the citizens' aide pursuant to section 2C.11A. The findings issued by the citizens' aide may be introduced as evidence before the public employment relations board. The employee has the right to a hearing closed to the public, but may request a public hearing. The hearing shall otherwise be conducted in accordance with the rules of the public employment relations board and the Iowa administrative procedure Act, chapter 17A. If the public employment relations board finds that the action taken by the person appointing the employee was in violation of subsection 2, the employee may be reinstated without loss of pay or benefits for the elapsed period, or the public employment relations board may provide other appropriate remedies. Decisions by the public employment relations board constitute final agency action.

DIVISION IV
LEGISLATIVE OVERSIGHT

Sec. 16. Section 2.45, subsection 5, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The committee shall implement a systematic process of reviewing the reports required to be filed with the legislative services agency pursuant to section 8F.4.

Approved June 1, 2006

CHAPTER 1154

SCHOOL FINANCE — ALLOWABLE GROWTH

H.F. 2095

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 Supplement 2005, is amended to read as follows:

1. STATE PERCENT OF GROWTH. ~~The state percent of growth for the budget year begin-~~

~~ning 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 the budget year beginning July 1, 2007, 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, 2007.

Approved June 1, 2006

CHAPTER 1155

PUBLIC HEALTH LICENSING BOARDS — DUTIES AND FEES

H.F. 2748

AN ACT providing for the retention of fees by licensing boards, and the bureau of radiological health, under the purview of the Iowa department of public health, providing for the nontransferability of specified fees, and providing effective dates.

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

Section 1. Section 136C.10, Code Supplement 2005, is amended to read as follows:

136C.10 FEES.

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.~~ b. 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.

2. The department may establish and collect a fee related to transporting radioactive material if the fee is used for a purpose related to transporting radioactive material, including enforcement and planning, developing, and maintaining a capability for emergency response. The fees shall be established by rules adopted pursuant to chapter 17A~~, and shall be deposited into a special fund within the state treasury under the exclusive authority of the department~~.

~~Amounts deposited in the special fund shall be considered repayment receipts as defined in section 8.2, and shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this section. Repayment receipts collected and deposited pursuant to 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 in future fiscal years.~~

3. The department may establish and collect fees from persons providing mammography services to assure compliance with applicable rules and the federal Mammography Quality Standards Act of 1992, Pub. L. No. 102-539, as amended. Fees shall be in an amount determined by the department by rule and all fees collected shall be used to support the department's mammography program.

4. Fees collected pursuant to this section shall be retained by the department, shall be considered repayment receipts as defined in section 8.2, and shall be used for the purposes described in this section, including but not limited to the addition of full-time equivalent positions for program services and investigations. Notwithstanding section 8.33, moneys retained by the department pursuant to this subsection are not subject to reversion to the general fund of the state.

Sec. 2. Section 144.13A, subsection 4, paragraph a, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

a. 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 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, and shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this paragraph.

Sec. 3. Section 147.13, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 22. For hearing aids, hearing aid dispenser examiners.

NEW SUBSECTION. 23. For nursing home administrators, nursing home administrators examiners.

Sec. 4. Section 147.25, unnumbered paragraph 4, Code 2005, is amended to read as follows:

In addition to any other fee provided by law, a fee may be set by the respective examining boards for each license and renewal of a license to practice a profession, which fee shall be based on the annual cost of collecting information for use by the department in the administration of the system of health personnel statistics established by this section. The fee shall be ~~collected, transmitted to the treasurer of state and deposited in the general fund of the state in the manner in which license and renewal fees of the respective professions are collected, transmitted, and deposited in the general fund~~ retained by the respective examining boards in the manner in which license and renewal fees are retained in section 147.82.

Sec. 5. Section 147.80, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 29A. License to practice hearing aid dispensing, license to practice hearing aid dispensing under a reciprocal license, or renewal of a license to practice hearing aid dispensing.

NEW SUBSECTION. 29B. License to practice nursing home administration, license to practice nursing home administration under a reciprocal license, or renewal of a license to practice nursing home administration.

Sec. 6. Section 147.82, Code Supplement 2005, is amended by striking the section and inserting in lieu thereof the following:

147.82 FEES.

All fees collected by an examining board listed in section 147.80 or by the department for the bureau of professional licensure, and fees collected pursuant to sections 124.301 and 147.80 and chapter 155A by the board of pharmacy, shall be retained by each examining board or by the department for the bureau of professional licensure. The moneys retained by an examining board 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 an examining board pursuant to this section shall be considered repayment receipts as defined in section 8.2. Notwithstanding section 8.33, moneys retained by an examining board pursuant to this section are not subject to reversion to the general fund of the state.

Sec. 7. Section 147.103A, subsection 4, Code 2005, is amended to read as follows:

4. Applications for a license shall be made to the chairperson, executive director, or secretary of the board. All examination, license, and renewal fees shall be paid to and collected by the chairperson, executive director, or secretary of the board~~, who shall transmit the fees to the treasurer of state for deposit in the general fund of the state~~. The salary of the executive director of the board shall be established by the governor with approval of the executive council pursuant to section 8A.413, subsection 2, under the pay plan for exempt positions in the executive branch of government.

Sec. 8. Section 152.3, subsection 2, Code 2005, is amended to read as follows:

2. ~~Notwithstanding section 147.82, to~~ To collect and receive all fees.

Sec. 9. Section 152.3, subsection 3, Code 2005, is amended by striking the subsection.

Sec. 10. Section 152B.6, subsection 2, Code 2005, is amended to read as follows:

2. The establishment of a system for the licensure of respiratory care practitioners and the establishment and collection of licensure fees. ~~The fees charged shall be sufficient to defray the costs of administration of this chapter and all fees collected shall be deposited with the treasurer of state who shall deposit them in the general fund of the state.~~

Sec. 11. Section 152D.5, subsection 4, Code 2005, is amended to read as follows:

4. Establish a system for the collection of licensure fees. ~~The fees charged shall be sufficient to defray the costs of administering this chapter and all fees collected shall be deposited with the treasurer of state who shall deposit them in the general fund of the state.~~

Sec. 12. Section 154E.2, subsection 3, Code Supplement 2005, is amended by striking the subsection.

Sec. 13. Sections 154A.22 and 155.6, Code Supplement 2005, are repealed.

Sec. 14. EXAMINING BOARDS — BUREAU OF PROFESSIONAL LICENSURE — BUREAU OF RADIOLOGICAL HEALTH — NONREVERSION OF FUNDS. Notwithstanding any provision to the contrary, and notwithstanding section 8.33, moneys appropriated for the fiscal year beginning July 1, 2006, and ending June 30, 2007, to an examining board listed in section 147.80, to the bureau of professional licensure, and to the bureau of radiological health that remain unencumbered or unobligated at the close of the fiscal year and repayment receipts and fees authorized to be retained by an examining board listed in section 147.80, the bureau of professional licensure, and the bureau of radiological health, for the fiscal year beginning July 1, 2006, and ending June 30, 2007, shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 15. EFFECTIVE DATES. The section of this Act providing for the nontransferability

of registration fees appropriated in section 144.13A for primary and secondary child abuse prevention programs and for the center for congenital and inherited disorders central registry, being deemed of immediate importance, takes effect upon enactment.

The sections of this Act relating to the addition of the hearing aid dispenser examiners and the nursing home administrators examiners to the list of examining boards in section 147.13, adding those professions to the list of examining boards contained in section 147.80, and providing for nonreversion of certain appropriations made for, and repayment receipts, and retained fees applicable to, the fiscal year beginning July 1, 2006, take effect July 1, 2006. The remaining sections of this Act take effect July 1, 2007.

Approved June 1, 2006

CHAPTER 1156

SCHOOL DISTRICT PROPERTY TAX SHARING AGREEMENTS

H.F. 2764

AN ACT authorizing a school district to share its portion of incremental property taxes with a contiguous school district.

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

Section 1. NEW SECTION. 279.63 TAX-SHARING AGREEMENTS.

A school district may enter into an agreement under chapter 28E with a contiguous school district for the purpose of sharing all or a percentage of school district taxes collected from that portion of valuation described in section 403.19, subsection 2, that is released by the municipality to the school district.

Sec. 2. Section 403.19, subsection 2, Code 2005, is amended to read as follows:

2. That portion of the taxes each year in excess of such amount shall be allocated to and when collected be paid into a special fund of the municipality to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of section 403.9, subsection 1, incurred by the municipality to finance or refinance, in whole or in part, an urban renewal project within the area, and to provide assistance for low and moderate income family housing as provided in section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to section 298.2 and taxes for the payment of bonds and interest of each taxing district must be collected against all taxable property within the taxing district without limitation by the provisions of this subsection. However, all or a portion of the taxes for the physical plant and equipment levy shall be paid by the school district to the municipality if the auditor certifies to the school district by July 1 the amount of such levy that is necessary to pay the principal and interest on bonds issued by the municipality to finance an urban renewal project, which bonds were issued before July 1, 2001. Indebtedness incurred to refund bonds issued prior to July 1, 2001, shall not be included in the certification. Such school district shall pay over the amount certified by November 1 and May 1 of the fiscal year following certification to the school district. Unless and until the total assessed valuation of the taxable property in an urban renewal area exceeds the total assessed value of the taxable property in such area as shown by the last equalized assessment

roll referred to in subsection 1, all of the taxes levied and collected upon the taxable property in the urban renewal area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in such urban renewal area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property. In those instances where a school district has entered into an agreement pursuant to section 279.63 for sharing of school district taxes levied and collected from valuation described in this subsection and released to the school district, the school district shall transfer the taxes as provided in the agreement.

Approved June 1, 2006

CHAPTER 1157

COMMUNITY EMPOWERMENT INITIATIVE

H.F. 2769

AN ACT relating to the community empowerment initiative and making appropriations.

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

DIVISION I
CODE CHANGES

Section 1. Section 28.1, subsection 5, Code Supplement 2005, is amended by striking the subsection.

Sec. 2. Section 28.2, subsection 2, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

It is intended that through the community empowerment initiative~~, by June 30, 2005,~~ every community in Iowa will ~~have developed~~ develop the capacity and commitment for using local decision making to achieve the following initial set of desired results:

Sec. 3. Section 28.2, subsection 2, paragraph e, Code Supplement 2005, is amended to read as follows:

e. Secure and nurturing ~~child~~ early care and education environments.

Sec. 4. Section 28.3, subsection 2, Code Supplement 2005, is amended to read as follows:

2. The Iowa board shall consist of ~~eighteen~~ twenty-two voting members with ~~thirteen~~ sixteen citizen members and ~~five~~ six state agency members. The ~~five~~ six state agency members shall be the directors of the following departments: economic development, education, human rights, human services, ~~and~~ public health, and workforce development. The ~~thirteen~~ sixteen 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 at least 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 represent-

ed 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. 5. Section 28.4, subsection 3, Code Supplement 2005, is amended to read as follows:

3. Develop advanced community empowerment area arrangements for those community empowerment areas which were formed in transition ~~from an innovation zone or~~ from a decategorization governance board or which otherwise provide evidence of extensive successful experience in managing services and funding with high levels of community support and input.

Sec. 6. Section 28.4, subsection 6, Code Supplement 2005, is amended by striking the subsection.

Sec. 7. Section 28.4, subsection 9, paragraphs a and c, Code Supplement 2005, are amended to read as follows:

a. ~~Performance indicators for~~ Indicators of the effectiveness of community empowerment areas, community boards, and the services provided under the auspices of the community boards. The ~~performance~~ indicators shall be developed with input from community boards and shall build upon the core indicators of ~~performance~~ effectiveness for the school ready grant program, as described in section 28.8.

c. Core functions for ~~home visitation~~ family support services, parent ~~support~~ education programs, and preschool services provided under a school ready children grant.

Sec. 8. Section 28.8, subsection 1, paragraph a, Code Supplement 2005, is amended to read as follows:

a. Identify the ~~core~~ indicators ~~of performance~~ that will be used to assess the effectiveness of the school ready children grants, including ~~encouraging~~ the amount of early intellectual stimulation of very young children, ~~increasing~~ the basic skill levels of students entering school, ~~increasing~~ the health status of children, ~~reducing~~ the incidence of child abuse and neglect, ~~increasing the access of children to an adult mentor, increasing~~ the level of parental involvement with their children, and ~~increasing~~ the degree of quality of and accessibility ~~of~~ to child care.

Sec. 9. Section 28.8, subsection 3, paragraph b, Code Supplement 2005, is amended to read as follows:

b. ~~Parent~~ Family support services and parent education programs promoted to parents of children from birth through five years of age. ~~Parent support and education~~ The services and programs shall be offered in a flexible manner to accommodate the varying schedules, meeting place requirements, and other needs of working parents. Family support services shall include but are not limited to home visitation. After a community empowerment area board has committed the portion of school ready grant funding that is designated or authorized by law to be used or set aside for a particular purpose, the community board shall commit approximately sixty percent of the remainder to family support services and parent education programs targeted to families with children who are newborn through age five.

Sec. 10. Section 28.8, subsection 3, paragraph c, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

A comprehensive school ready children grant plan developed by a community board for providing services for children from birth through five years of age including but not limited to child development services, child care services, training child care providers to encourage early intellectual stimulation of very young children, children's health and safety services, assessment services to identify chemically exposed infants and children, ~~and parent~~ family support services, and parent education ~~services~~ programs. At a minimum, the plan shall do all of the following:

Sec. 11. Section 28.8, subsection 6, Code Supplement 2005, is amended to read as follows:

6. The priorities for school ready children grant funds shall include providing preschool services on a voluntary basis to children deemed at risk of not succeeding in elementary school, training child care providers and others to encourage early intellectual stimulation of very young children, and offering ~~parent~~ family support services and parent education programs on a voluntary basis to parents of children from birth through five years of age. The grant funds also may be used to provide other services to children from birth through five years of age as specified in the comprehensive school ready children grant plan.

Sec. 12. Section 28.9, subsection 1, Code Supplement 2005, is amended to read as follows:

1. An Iowa empowerment fund is created in the state treasury. The moneys ~~in~~ credited to the Iowa empowerment fund are not subject to section 8.33 and moneys in the fund shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided by law. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the Iowa empowerment fund shall be credited to the fund.

Sec. 13. Section 28.9, subsection 4, Code Supplement 2005, is amended to read as follows:

~~4.~~ 2A. ~~Beginning July 1, 1999, unless~~ Unless a different amount is authorized by law, up to three percent~~, not to exceed sixty thousand dollars,~~ of the school ready children grant moneys distributed under the auspices of the Iowa board to a community empowerment area board may be used by the community board for administrative costs and other implementation expenses.

Sec. 14. Section 28.9, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A community empowerment gifts and grants account is created in the Iowa empowerment fund under the authority of the department of management. The account shall consist of gift or grant moneys obtained from any source, including but not limited to the federal government. Moneys credited to the account are appropriated to the department of management to be used for the community empowerment-related purposes for which the moneys were received.

Sec. 15. Section 135.106, subsection 3, Code 2005, is amended to read as follows:

3. It is the intent of the general assembly to provide communities with the discretion and authority to redesign existing local programs and services targeted at and assisting families expecting babies and families with children who are newborn through five years of age. The Iowa department of public health, department of human services, department of education, and other state agencies and programs, as appropriate, shall provide technical assistance and support to communities desiring to redesign their local programs and shall facilitate the consolidation of existing state funding appropriated and made available to the community for family support services. Funds which are consolidated in accordance with this subsection shall be used to support the redesigned service delivery system. In redesigning services, communities are encouraged to implement a single uniform family risk assessment mechanism and shall demonstrate the potential for improved outcomes for children and families. Requests by local communities for the redesigning of services shall be submitted to the Iowa department of public health, department of human services, and department of education, and are subject to the approval of the Iowa empowerment board in consultation with the departments, based on the ~~innovation zone principles established in section 8A.2, Code 1997~~ practices utilized with community empowerment areas under chapter 28.

DIVISION II
APPROPRIATIONS — EARLY CARE, HEALTH, AND EDUCATION PROGRAMS

Sec. 16. FAMILY SUPPORT AND PARENT EDUCATION — FY 2006-2007 THROUGH FY

2008-2009. There is appropriated from the general fund of the state to the department of education for deposit in the school ready children grants account of the Iowa empowerment fund for each fiscal year of the period beginning July 1, 2006, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For family support services and parent education programs targeted to families expecting a child or with newborn and infant children through age three, in accordance with this section:
..... $ 5,000,000

The amount appropriated in this section shall be distributed in each of the fiscal years as part of the school ready children grant program funding using the distribution formula approved by the Iowa empowerment board and shall be used by a community empowerment area only for family support services and parent education programs targeted to families expecting a child or with newborn and infant children through age three. The programs funded under this section shall have a home visitation component.

Sec. 17. EARLY CARE, HEALTH, AND EDUCATION PROGRAMS — FY 2006-2007.

1. There is appropriated from the general fund of the state to the school ready children grants account of the Iowa empowerment fund 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 purposes designated:

For early care, health, and education programs, in accordance with this section:
..... $ 10,000,000

2. Of the amount appropriated in subsection 1, $5,500,000 is allocated to increase the funding designated for distribution to community empowerment areas to assist low-income parents with tuition for preschool for children ages four and five who are not attending kindergarten in order to increase the basic family income eligibility requirement to not more than 200 percent of the federal poverty level. In addition, if sufficient funding is available after addressing the needs of those who meet the basic income eligibility requirement, a community empowerment area board may provide for eligibility for those with a family income in excess of the basic income eligibility requirement through use of a sliding scale or other copayment provision.

3. Of the amount appropriated in subsection 1, $3,500,000 is allocated for efforts to improve the quality of early care, health, and education programs. The Iowa empowerment board may reserve a portion of the allocation, not to exceed $100,000 for the technical assistance expenses of the Iowa empowerment office and shall distribute the remainder to community empowerment areas for local quality improvement efforts through a methodology identified by the board to make the most productive use of the funding, which may include use of the distribution formula, grants, or other means.

4. a. Of the amount appropriated in subsection 1, $1,000,000 shall be credited to the community empowerment gifts and grants account created in this Act within the Iowa empowerment fund. The amount credited shall be reserved for distribution to implement those recommendations of the business community investment advisory council created in this subsection that are approved for implementation by the Iowa empowerment board. Not more than 3 percent of the amount allocated in this subsection shall be used for the expenses of the advisory council created in this subsection.

b. A business community investment advisory council is created to advise the Iowa empowerment board. The membership of the advisory council shall be appointed by the governor in a manner to ensure there is representation for rural and urban interests, various geographic areas of the state, and different sizes of businesses. The membership shall be appointed as follows:

(1) Two members from nominees provided by the Iowa business council.

(2) Two members from nominees provided by the Iowa association of business and industry.

(3) One member from nominees provided by the Iowa chamber alliance.

(4) One member from nominees provided by the professional developers of Iowa.

(5) Three members representing early care, health, and education services providers from nominees provided by the state child care advisory council so that representation is provided for for-profit child development home providers, for-profit child care center providers, and nonprofit child care center providers.

(6) One member representing school administrators who have responsibilities involving a public preschool program from nominees provided by the school administrators of Iowa.

(7) One member representing kindergarten teachers from nominees provided by the Iowa state education association, professional educators of Iowa, and nonpublic schools.

(8) One parent of a child from birth through age five who is not attending kindergarten from nominees submitted by community empowerment area boards.

(9) The directors of the state agencies represented on the Iowa empowerment board may serve as nonvoting, ex officio members of the advisory council.

c. The advisory council shall advise the Iowa empowerment board on the best means to leverage private investment in early care, health, and education services and provide options for creating model projects for public-private partnerships to support quality early care, health, and education programming in communities. The advisory council shall complete its deliberations by submitting a report with recommendations and findings to the Iowa empowerment board on or before December 31, 2006. The report shall address all of the following in addition to other items identified by the advisory council:

(1) A strategy for blending funding for early care, health, and education services from the public sector and the private sector, including but not limited to the funding provided by businesses and individual families. The advisory council shall consider an approach based on that used for the vision Iowa program, the grow Iowa values fund, and other economic models.

(2) A strategy for community empowerment area boards to develop and implement local public-private partnership networks and apply for state and private funding to implement innovative early care, health, and education programming, or to be able to apply for competitive grants to enhance such partnership networks. The advisory council shall give consideration to similar approaches that have been successful in other states.

(3) A strategy for requiring local match funding for a community empowerment area to access the funding allocated in this subsection.

(4) Accountability and evaluation measures.

(5) Provisions to ensure efficiency.

Sec. 18. EARLY CARE, HEALTH, AND EDUCATION PROGRAMS — FY 2007-2008 AND 2008-2009.

1. There is appropriated from the general fund of the state to the department of education for deposit in the school ready children grants account of the Iowa empowerment fund for each fiscal year of the fiscal period beginning July 1, 2007, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For early care, health, and education and preschool programs, to continue programs and initiatives developed pursuant to the appropriation made in this division of this Act for this purpose for the fiscal year beginning July 1, 2006:

..... $ 15,000,000

2. Expenditure of the amounts appropriated in this section is subject to enactment of law specifying how the amounts are to be distributed. It is the intent of the general assembly that the increase in funding provided by this section of $5,000,000 over the amount appropriated in this division of this Act for the same purpose for the fiscal year beginning July 1, 2006, will be designated for the expansion of the initiatives implemented pursuant to the business community investment advisory council recommendations adopted pursuant to this Act.

Sec. 19. PROFESSIONAL DEVELOPMENT AND TRAINING ACTIVITIES. The amounts credited to the Iowa empowerment fund for purposes of professional development and training activities for the fiscal year beginning July 1, 2006, in 2006 Iowa Acts, House File 2527[1] and House File 2734,[2] if enacted, are appropriated to be used as provided in this section. For the

[1] Chapter 1180 herein

[2] Chapter 1184 herein

fiscal year beginning July 1, 2006, the Iowa empowerment board shall phase out the professional development activities that began in the previous fiscal year through community empowerment area boards. The designated amounts shall be used for support of professional development and training activities for persons working in early care, health, and education by the Iowa empowerment board in collaboration with representation from Iowa state university of science and technology cooperative extension service in agriculture and home economics, area education agencies, community colleges, child care resource and referral services, and community empowerment area boards. Expenditures shall be limited to professional development and training activities agreed upon by the parties participating in the collaboration.

Approved June 1, 2006

CHAPTER 1158

TAXES, TAX POLICY, AND ADMINISTRATION

H.F. 2794

AN ACT relating to the policy and technical administration of the tax and related laws by the department of revenue, including administration of and tax exemptions under the income, sales, use, local option sales, and property taxes, updating the streamlined sales and use tax, and including effective and retroactive applicability date provisions.

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

DIVISION I
TAX ADMINISTRATION AND POLICY

Section 1. Section 15E.193B, subsection 8, unnumbered paragraph 1, Code Supplement 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 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~~ approve 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~~ approves 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. The department of economic development shall notify the department of revenue of the tax credit certificates which have been approved for transfer. Within ninety days of transfer, the transferee must submit the transferred tax credit certificate to the department of ~~economic development~~ revenue 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~~ revenue 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. Section 68A.102, subsection 21, Code Supplement 2005, is amended to read as follows:

21. "State income tax liability" means the state individual income tax imposed under section 422.5 ~~reduced by the sum of the deductions from the computed tax as provided under section 422.12~~, less the amounts of nonrefundable credits allowed under chapter 422, division II.

Sec. 3. Section 257.21, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The instructional support income surtax shall be imposed on the state individual income tax for the calendar year during which the school's budget year begins, or for a taxpayer's fiscal year ending during the second half of that calendar year and after the date the board adopts a resolution to participate in the program or the first half of the succeeding calendar year, and

shall be imposed on all individuals residing in the school district on the last day of the applicable tax year. As used in this section, "state individual income tax" means the taxes computed under section 422.5, less the amounts of nonrefundable credits allowed ~~in sections 422.11A, 422.11B, 422.12, and 422.12B~~ under chapter 422, division II.

Sec. 4. Section 331.605B, Code 2005, is amended to read as follows:

331.605B FEES COLLECTED — AUDIT.

1. The recorder shall make available any information required by the county or state auditor concerning the fees collected under section 331.605A for the purposes of determining the amount of fees collected and the uses for which such fees are expended.

2. A recorder shall collect only statutorily authorized fees for land records management. A recorder shall not collect a fee for viewing, accessing, or printing documents in the county land record information system unless specifically authorized by statute. However, a recorder 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.

Sec. 5. Section 368.11, subsection 3, paragraph m, Code Supplement 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 allow for an exemption from taxation of the following percentages of assessed valuation according to the following schedule:

(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. If the city council provides for a transition for the imposition of city taxes against property in an annexation area, all property owners included in the annexation area must receive the transition upon completion of the annexation.

Sec. 6. Section 404A.4, subsection 5, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

Tax credit certificates issued under this chapter may be transferred to any person or entity. Within ninety days of transfer, the transferee must submit the transferred tax credit certificate to the ~~state historic preservation office~~ department of revenue 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 ~~office~~ department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required under subsection 2 and must have the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum amount established by rule of the state historic preservation office shall not be transferable. A tax credit shall not be claimed by a transferee under this chapter until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

Sec. 7. Section 421.17, subsection 14, Code Supplement 2005, is amended by striking the subsection.

Sec. 8. Section 422.5, subsection 1, paragraph j, subparagraph (2), unnumbered paragraph 2, Code 2005, is amended to read as follows:

This subparagraph shall not affect the amount of the taxpayer's ~~checkoff to the Iowa election campaign fund under section 68A.601, the checkoff for the fish and game fund in section 456A.16~~ checkoffs under this division, the credits from tax provided ~~in sections 422.10, 422.11A, and 422.12~~ under this division, and the allocation of these credits between spouses if the taxpayers filed separate returns or separately on combined returns.

Sec. 9. Section 422.5, subsection 1, paragraph k, subparagraph (2), subparagraph subdivision (b), Code 2005, is amended to read as follows:

(b) Twenty-six thousand dollars for a single person or ~~an unmarried~~ a head of household.

Sec. 10. Section 422.5, subsection 2, Code 2005, is amended to read as follows:

2. However, the tax shall not be imposed on a resident or nonresident whose net income, as defined in section 422.7, is thirteen thousand five hundred dollars or less in the case of married persons filing jointly or filing separately on a combined return, ~~unmarried~~ heads of household, and surviving spouses or nine thousand dollars or less in the case of all other persons; but in the event that the payment of tax under this division would reduce the net income to less than thirteen thousand five hundred dollars or nine thousand dollars as applicable, then the tax shall be reduced to that amount which would result in allowing the taxpayer to retain a net income of thirteen thousand five hundred dollars or nine thousand dollars as applicable. The preceding sentence does not apply to estates or trusts. For the purpose of this subsection, the entire net income, including any part of the net income not allocated to Iowa, shall be taken into account. For purposes of this subsection, net income includes all amounts of pensions or other retirement income received from any source which is not taxable under this division as a result of the government pension exclusions in section 422.7, or any other state law. If the combined net income of a husband and wife exceeds thirteen thousand five hundred dollars, neither of them shall receive the benefit of this subsection, and it is immaterial whether they file a joint return or separate returns. However, if a husband and wife file separate returns and have a combined net income of thirteen thousand five hundred dollars or less, neither spouse shall receive the benefit of this paragraph, if one spouse has a net operating loss and elects to carry back or carry forward the loss as provided in section 422.9, subsection 3. A person who is claimed as a dependent by another person as defined in section 422.12 shall not receive the benefit of this subsection if the person claiming the dependent has net income exceeding thirteen thousand five hundred dollars or nine thousand dollars as applicable or the person claiming the dependent and the person's spouse have combined net income exceeding thirteen thousand five hundred dollars or nine thousand dollars as applicable.

In addition, if the married persons', filing jointly or filing separately on a combined return, ~~unmarried~~ head of household's, or surviving spouse's net income exceeds thirteen thousand five hundred dollars, the regular tax imposed under this division shall be the lesser of the maximum state individual income tax rate times the portion of the net income in excess of thirteen thousand five hundred dollars or the regular tax liability computed without regard to this sentence. Taxpayers electing to file separately shall compute the alternate tax described in this paragraph using the total net income of the husband and wife. The alternate tax described in this paragraph does not apply if one spouse elects to carry back or carry forward the loss as provided in section 422.9, subsection 3.

Sec. 11. Section 422.6, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The tax imposed by section 422.5 less the amounts of nonrefundable credits allowed under ~~sections 15.333, 15.335, 422.10, 422.11, 422.11A, and 422.11B, and the personal exemption~~

~~credit allowed under section 422.12~~ this division apply to and are a charge against estates and trusts with respect to their taxable income, and the rates are the same as those applicable to individuals. The fiduciary shall make the return of income for the estate or trust for which the fiduciary acts, whether the income is taxable to the estate or trust or to the beneficiaries. However, for tax years ending after August 5, 1997, if the trust is a qualified preneed funeral trust as set forth in section 685 of the Internal Revenue Code and the trustee has elected the special tax treatment under section 685 of the Internal Revenue Code, neither the trust nor the beneficiary is subject to Iowa income tax on income accruing to the trust.

Sec. 12. Section 422.7, subsection 21, paragraph a, subparagraph (1), unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

Net capital gain from the sale of real property used in a business, in which the taxpayer materially participated for ten years, as defined in section 469(h) of the Internal Revenue Code, and which has been held for a minimum of ten years, or from the sale of a business, as defined in section 423.1, ~~in which the taxpayer was employed or~~ in which the taxpayer materially participated for ten years, as defined in section 469(h) of the Internal Revenue Code, and which has been held for a minimum of ten years. The sale of a business means the sale of all or substantially all of the tangible personal property or service of the business.

Sec. 13. Section 422.9, subsection 1, Code Supplement 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~~ a 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. 14. Section 422.10, subsection 4, Code Supplement 2005, is amended to read as follows:

4. Any credit in excess of the tax liability imposed by section 422.5 less the amounts of nonrefundable credits allowed under ~~sections 422.11A, 422.12, and 422.12B~~ this division for the taxable year 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 taxable year.

Sec. 15. Section 422.10, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. An individual may claim an additional research activities credit authorized pursuant to section 15.335 if the eligible business is a partnership, S corporation, limited liability company, or estate or trust which elects to have the income taxed directly to the individual. The amount of the credit shall be as provided in section 15.335.

Sec. 16. Section 422.11, Code 2005, is amended to read as follows:

422.11 FRANCHISE TAX CREDIT.

The taxes imposed under this division, less the credits allowed under ~~section~~ sections 422.12 and 422.12B, shall be reduced by a franchise tax credit. A taxpayer who is a shareholder in a financial institution, as defined in section 581 of the Internal Revenue Code, which has in effect for the tax year an election under subchapter S of the Internal Revenue Code, or is a member of a financial institution organized as a limited liability company under chapter 524 that is taxed as a partnership for federal income tax purposes, shall compute the amount of the tax credit by recomputing the amount of tax under this division by reducing the taxable income of the taxpayer by the taxpayer's pro rata share of the items of income and expense of the financial institution and subtracting the credits allowed under ~~section~~ sections 422.12 and 422.12B. This recomputed tax shall be subtracted from the amount of tax computed under

this division after the deduction for credits allowed under ~~section~~ sections 422.12 and 422.12B. The resulting amount, which shall not exceed the taxpayer's pro rata share of the franchise tax paid by the financial institution, is the amount of the franchise tax credit allowed.

Sec. 17. Section 422.11B, subsection 1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The minimum tax credit for a tax year is the excess, if any, of the ~~adjusted~~ net minimum tax imposed for all prior tax years beginning on or after January 1, 1987, over the amount allowable as a credit under this section for those prior tax years.

Sec. 18. Section 422.11B, subsection 2, unnumbered paragraph 3, Code 2005, is amended to read as follows:

~~The adjusted net minimum tax for a tax year is the net minimum tax for the tax year reduced by the amount which would be the net minimum tax if the only item of tax preference taken into account was that described in paragraph (6) of section 57(a) of the Internal Revenue Code.~~

Sec. 19. Section 422.11F, Code 2005, is amended to read as follows:

422.11F INVESTMENT TAX CREDITS.

1. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an investment tax credit authorized pursuant to section 15E.43 for an investment in a qualifying business or a community-based seed capital fund.

2. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by investment tax credits authorized pursuant to sections 15.333 and 15E.193B, subsection 6.

Sec. 20. NEW SECTION. 422.11M IOWA FUND OF FUNDS TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a tax credit authorized pursuant to section 15E.66, if redeemed, for investments in the Iowa fund of funds.

Sec. 21. Section 422.12, subsection 3, Code 2005, is amended to read as follows:

3. For the purpose of this section, the determination of whether an individual is married shall be made ~~as of the close of the individual's tax year unless the individual's spouse dies during the individual's tax year, in which case the determination shall be made as of the date of the spouse's death~~ in accordance with section 7703 of the Internal Revenue Code. ~~An individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance shall not be considered married.~~

Sec. 22. Section 422.12A, subsection 2, Code 2005, is amended to read as follows:

2. The director of revenue shall draft the income tax form to allow the designation of contributions to the keep Iowa beautiful fund on the tax return. The department of revenue, on or before January 31, shall transfer the total amount designated on the tax return forms due in the preceding calendar year to the keep Iowa beautiful fund. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of ~~revenue~~ administrative services and accounts identified as owing under section ~~421.17~~ 8A.504 and the political contribution allowed under section 68A.601 shall be satisfied.

Sec. 23. Section 422.12C, subsection 1, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

The taxes imposed under this division, less the amounts of nonrefundable credits allowed under ~~sections 422.11A, 422.11B, 422.12, and 422.12B~~ this division, shall be reduced by a child and dependent care credit equal to the following percentages of the federal child and dependent care credit provided in section 21 of the Internal Revenue Code:

Sec. 24. Section 422.12C, subsection 2, paragraph a, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

~~In lieu of the child and dependent care credit authorized in subsection 1, a taxpayer may claim~~ The taxes imposed under this division, less the amounts of nonrefundable credits allowed under this division, may be reduced by 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 for the tax year beginning in the 2006 calendar year only, 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:

Sec. 25. Section 422.12C, subsection 2, paragraph b, Code Supplement 2005, is amended by striking the paragraph.

Sec. 26. Section 422.12F, subsection 2, Code 2005, is amended to read as follows:

2. The director of revenue shall draft the income tax form to allow the designation of contributions to the volunteer fire fighter preparedness fund on the tax return. The department of revenue, on or before January 31, shall certify the total amount designated on the tax return forms due in the preceding calendar year and shall report the amount to the treasurer of state. The treasurer of state shall credit the amount to the volunteer fire fighter preparedness fund. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of ~~revenue~~ administrative services and accounts identified as owing under section ~~421.17~~ 8A.504 and the political contribution allowed under section 68A.601 shall be satisfied.

Sec. 27. NEW SECTION. 422.12G INCOME TAX CHECKOFF FOR IOWA ELECTION CAMPAIGN FUND.

A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate a contribution to the Iowa election campaign fund authorized pursuant to section 68A.601.

Sec. 28. NEW SECTION. 422.12H INCOME TAX CHECKOFF FOR FISH AND GAME PROTECTION FUND.

A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate a contribution to the state fish and game protection fund authorized pursuant to section 456A.16.

Sec. 29. Section 422.33, subsection 5, Code Supplement 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. f. A corporation which is a primary business or a supporting business in a quality jobs enterprise zone may claim the research activities credit authorized pursuant to section 15A.9, subsection 8, in lieu of the credit computed in paragraph "a" or "b".

NEW PARAGRAPH. g. A corporation which is an eligible business may claim an additional research activities credit authorized pursuant to section 15.335.

Sec. 30. Section 422.33, subsection 7, paragraph a, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

The minimum tax credit for a tax year is the excess, if any, of the ~~adjusted~~ net minimum tax

imposed for all prior tax years beginning on or after January 1, 1987, over the amount allowable as a credit under this subsection for those prior tax years.

Sec. 31. Section 422.33, subsection 7, paragraph b, unnumbered paragraph 3, Code Supplement 2005, is amended to read as follows:

~~The adjusted net minimum tax for a tax year is the net minimum tax for the tax year reduced by the amount which would be the net minimum tax if the only item of tax preference taken into account was that described in paragraph (6) of section 57(a) of the Internal Revenue Code.~~

Sec. 32. Section 422.33, subsection 12, Code Supplement 2005, is amended to read as follows:

12. a. The taxes imposed under this division shall be reduced by an investment tax credit authorized pursuant to section 15E.43 for an investment in a qualifying business or a community-based seed capital fund.

b. The taxes imposed under this division shall be reduced by investment tax credits authorized pursuant to sections 15.333, 15A.9, subsection 4, and 15E.193B, subsection 6.

Sec. 33. Section 422.33, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 20. The taxes imposed under this division shall be reduced by a corporate tax credit authorized pursuant to section 15.331C for certain sales taxes paid by a third-party developer.

NEW SUBSECTION. 21. The taxes imposed under this division shall be reduced by a tax credit authorized pursuant to section 15E.66, if redeemed, for investments in the Iowa fund of funds.

Sec. 34. Section 422.60, subsection 2, paragraphs a and b, Code Supplement 2005, are amended to read as follows:

a. Add items of tax preference included in federal alternative minimum taxable income under section 57, except subsections (a)(1) and (a)(5), of the Internal Revenue Code, make the adjustments included in federal alternative minimum taxable income under section 56, except subsections (a)(4), (c)(1), (d), ~~(f),~~ and (g), of the Internal Revenue Code, and add losses as required by section 58 of the Internal Revenue Code.

b. Make the adjustments provided in section 56(c)(1) of the Internal Revenue Code, except that in making the calculation under ~~sections 56(f)(1) and~~ section 56(g)(1) of the Internal Revenue Code the state alternative minimum taxable income, computed without regard to the adjustments made by this paragraph, the exemption provided for in paragraph "d", and the state alternative tax net operating loss described in paragraph "e", shall be substituted for the items described in ~~sections 56(f)(1)(B) and~~ section 56(g)(1)(B) of the Internal Revenue Code.

Sec. 35. Section 422.60, subsection 3, paragraph a, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

The minimum tax credit for a tax year is the excess, if any, of the ~~adjusted~~ net minimum tax imposed for all prior tax years beginning on or after January 1, 1987, over the amount allowable as a credit under this subsection for those prior tax years.

Sec. 36. Section 422.60, subsection 3, paragraph b, unnumbered paragraph 3, Code Supplement 2005, is amended to read as follows:

~~The adjusted net minimum tax for a tax year is the net minimum tax for the tax year reduced by the amount which would be the net minimum tax if the only item of tax preference taken into account was that described in paragraph (6) of section 57(a) of the Internal Revenue Code.~~

Sec. 37. Section 422.60, subsection 5, Code Supplement 2005, is amended to read as follows:

5. a. The taxes imposed under this division shall be reduced by an investment tax credit au-

thorized pursuant to section 15E.43 for an investment in a qualifying business or a community-based seed capital fund.

b. The taxes imposed under this division shall be reduced by investment tax credits authorized pursuant to sections 15.333 and 15E.193B, subsection 6.

Sec. 38. Section 422.60, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 11. The taxes imposed under this division shall be reduced by a corporate tax credit authorized pursuant to section 15.331C for certain sales taxes paid by a third-party developer.

NEW SUBSECTION. 12. The taxes imposed under this division shall be reduced by a tax credit authorized pursuant to section 15E.66, if redeemed, for investments in the Iowa fund of funds.

Sec. 39. Section 422D.2, Code 2005, is amended to read as follows:

422D.2 LOCAL INCOME SURTAX.

A county may impose by ordinance a local income surtax as provided in section 422D.1 at the rate set by the board of supervisors, of up to one percent, on the state individual income tax of each individual residing in the county at the end of the individual's applicable tax year. However, the cumulative total of the percents of income surtax imposed on any taxpayer in the county shall not exceed twenty percent. The reason for imposing the surtax and the amount needed shall be set out in the ordinance. The surtax rate shall be set to raise only the amount needed. For purposes of this section, "state individual income tax" means the tax computed under section 422.5, less the amounts of nonrefundable credits allowed ~~in sections 422.11A, 422.11B, 422.12, and 422.12B~~ under chapter 422, division II.

Sec. 40. Section 423.3, subsection 18, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Home and community-based services providers certified to offer Medicaid waiver services by the department of human services that are any of the following:

(1) Ill and handicapped waiver service providers, described in 441 IAC 77.30.
(2) Hospice providers, described in 441 IAC 77.32.
(3) Elderly waiver service providers, described in 441 IAC 77.33.
(4) AIDS/HIV waiver service providers, described in 441 IAC 77.34.
(5) Federally qualified health centers, described in 441 IAC 77.35.
(6) MR waiver service providers, described in 441 IAC 77.37.
(7) Brain injury waiver service providers, described in 441 IAC 77.39.

Sec. 41. Section 423.3, subsection 39, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Notwithstanding paragraph "a", the sale, furnishing, or performance of a service that is of a recurring nature by the owner if, at the time of the sale, all of the following apply:

(1) The seller is not engaged for profit in the business of the selling, furnishing, or performance of services taxed under section 423.2. For purposes of this subparagraph, the fact of the recurring nature of selling, furnishing, or performance of services does not constitute by itself engaging for profit in the business of selling, furnishing, or performance of services.
(2) The owner of the business is the only person performing the service.
(3) The owner of the business is a full-time student.
(4) The total gross receipts from the sales, furnishing, or performance of services during the calendar year does not exceed five thousand dollars.

Sec. 42. Section 423.3, subsection 50, Code Supplement 2005, is amended to read as follows:

50. The sales price of sales of electricity, steam, or any taxable service when purchased and

used in the processing of tangible personal property intended to be sold ultimately at retail or of any fuel which is consumed in creating power, heat, or steam for processing or for generating electric current.

Sec. 43. Section 423.3, subsection 86, Code Supplement 2005, is amended to read as follows:

86. 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.~~ b. The service is used to repair or restore a defect in the vessel.

~~d.~~ c. The vessel is engaged in interstate commerce and will continue in interstate commerce once the repairs or restoration is completed.

~~e.~~ d. The vessel is in navigable water that borders ~~the eastern~~ a boundary of this state.

For purposes of this exemption, "vessel" includes a ship, barge, or other waterborne vessel.

Sec. 44. Section 423.3, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 89. a. The sales price from the sale of coins, currency, or bullion.

b. For purposes of this subsection:

(1) "Bullion" means bars, ingots, or commemorative medallions of gold, silver, platinum, palladium, or a combination of these where the value of the metal depends on its content and not the form.

(2) "Coins" or "currency" means a coin or currency made of gold, silver, or other metal or paper which is or has been used as legal tender.

Sec. 45. Section 423.6, subsection 10, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This exemption applies to corporations that have been in existence for not longer than twenty-four months.

Sec. 46. Section 423.6, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 25. Exempted from the purchase price of a replacement motor vehicle owned by a motor vehicle dealer licensed under chapter 322 which is being registered by that dealer and is not otherwise exempt from tax is the fair market value of a replaced motor vehicle if all of the following conditions are met:

a. The motor vehicle being registered is being placed in service as a replacement motor vehicle for a motor vehicle registered by the motor vehicle dealer.

b. The motor vehicle being registered is taken from the motor vehicle dealer's inventory.

c. Use tax on the motor vehicle being replaced was paid by the motor vehicle dealer when that motor vehicle was registered.

d. The replaced motor vehicle is returned to the motor vehicle dealer's inventory for sale.

e. The application for registration and title of the motor vehicle being registered is filed with the county treasurer within two weeks of the date the replaced motor vehicle is returned to the motor vehicle dealer's inventory.

f. The motor vehicle being registered is placed in the same or substantially similar service as the replaced motor vehicle.

Sec. 47. Section 423.8, Code 2005, is amended to read as follows:

423.8 LEGISLATIVE FINDING AND INTENT.

The general assembly finds that Iowa should enter into an agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. It is the intent of the general assembly that entering into this agreement will lead to simplification and modernization of the sales and use tax law and not to the imposition of new taxes or an increase or de-

crease in the existing number of exemptions, unless such a result is unavoidable under the terms of the agreement. Entering into this agreement should not cause businesses to sustain additional administrative burden.

It is the intent of the general assembly to provide Iowa sellers, impacted by the agreement, with the assistance necessary to alleviate administrative burdens that result in participation in the agreement. The director and the Iowa streamlined sales tax advisory council shall provide recommendations to address the new administrative burden identified in the Iowa streamlined sales tax advisory council 2005 report submitted to the Iowa general assembly. The recommendations must be submitted to the general assembly by January 1, 2007, and shall include the expenses associated and all relevant data including but not limited to the number of intrastate sellers impacted by the agreement.

Sec. 48. Section 423.9, Code 2005, is amended to read as follows:

423.9 AUTHORITY TO ENTER AGREEMENT AND TO REPRESENT THE STATE.

1. The director is authorized and directed to enter into the streamlined sales and use tax agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.

2. The director is further authorized to take other actions reasonably required to implement the provisions set forth in this chapter. Other actions authorized by this section include, but are not limited to, the adoption of rules and the joint procurement, with other member states, of goods and services in furtherance of the cooperative agreement.

~~The director or the director's designee is authorized to be a member of the governing board established pursuant to the agreement and to represent Iowa before that body.~~

3. Four representatives are authorized to be members of the governing board established pursuant to the agreement and to represent Iowa before that body as one vote. The representatives shall be appointed as follows:

a. One representative shall be a member of the house of representatives who is appointed by the speaker of the house of representatives or the delegate's designee who shall also be a member of the house of representatives.

b. One representative shall be a member of the senate who is appointed by the majority leader of the senate or the delegate's designee who shall also be a member of the senate.

c. Two representatives from the executive branch shall be appointed by the governor, one of whom shall be the director, or each delegate's designee who shall also be employed by the executive branch.

Sec. 49. NEW SECTION. 423.9A IOWA STREAMLINED SALES TAX ADVISORY COUNCIL.

1. An Iowa streamlined sales tax advisory council is created. The advisory council shall review, study, and submit recommendations to the Iowa streamlined sales and use tax representatives appointed pursuant to section 423.9, subsection 3, regarding the streamlined sales and use tax agreement formalized by the project's member states on November 12, 2002, agreement amendments, proposed language conforming Iowa's sales and use tax to the national agreement, and the following issues:

a. Uniform definitions proposed in the current agreement and future proposals.

b. Effects upon taxability of items newly defined in Iowa.

c. Impacts upon business as a result of the agreement.

d. Technology implementation issues.

e. Any other issues that are brought before the streamlined sales and use tax member state[1] or the streamlined sales and use tax governing board.

2. The department shall provide administrative support to the Iowa streamlined sales tax advisory council. The advisory council shall be representative of Iowa's business community and economy when reviewing and recommending solutions to streamlined sales and use tax issues. The advisory council shall provide the general assembly and the governor with final

[1] The word "states" probably intended

recommendations made to the Iowa streamlined sales and use tax representatives upon the conclusion of each calendar year.

3. The director, in consultation with the Iowa taxpayers association, Iowa retail federation, and the Iowa association of business and industry, shall appoint members to the Iowa streamlined sales tax advisory council, which shall consist of the following members:

a. One member from the department.

b. Three members representing small Iowa businesses, at least one of whom must be a retailer, and at least one of whom shall be a supplier.

c. Three members representing medium Iowa businesses, at least one of whom shall be a retailer, and at least one of whom shall be a supplier.

d. Three members representing large Iowa businesses, at least one of whom shall be a retailer, and at least one of whom shall be a supplier.

e. One member representing taxpayers as a whole.

f. One member representing the retail community as a whole.

g. Any other member representative of business the director deems appropriate.

Sec. 50. Section 423.33, subsection 3, Code Supplement 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~~ determined to qualify as an event involving casual sales pursuant to section 423.3, subsection 39, or the state fair or a fair as defined in section 174.1.

Sec. 51. Section 423.37, subsection 2, Code 2005, is amended to read as follows:

2. If a return required by this subchapter is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the same is required by notice from the department, the department shall determine the amount of tax due from information as the department may be able to obtain and, if necessary, may estimate the tax on the basis of external indices, such as number of employees of the person concerned, rentals paid by the person, stock on hand, or other factors. The determination may be made using any generally recognized valid and reliable sampling technique, whether or not the person being audited has complete records, as mutually agreed upon by the department and the taxpayer. The department shall give notice of the determination to the person liable for the tax. The determination shall fix the tax unless the person against whom it is assessed shall, within sixty days after the giving of notice of the determination, apply to the director for a hearing or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. At the hearing, evidence may be offered to support the determination or to prove that it is incorrect. After the hearing the director shall give notice of the decision to the person liable for the tax.

Sec. 52. Section 423B.1, subsection 3, Code 2005, is amended to read as follows:

3. A local option tax shall be imposed only after an election at which a majority of those voting on the question favors imposition and shall then be imposed until repealed as provided in subsection 6, paragraph "a". If the tax is a local vehicle tax imposed by a county, it shall apply to all incorporated and unincorporated areas of the county. If the tax is a local sales and servic-

es tax imposed by a county, it shall only apply to those incorporated areas and the unincorporated area of that county in which a majority of those voting in the area on the tax favors its imposition. For purposes of the local sales and services tax, 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. In the case of a local sales and services tax submitted to the registered voters of two or more contiguous counties as provided in subsection 4, paragraph "c", all cities contiguous to each other shall be treated as part of one incorporated area, even if the corporate boundaries of one or more of the cities include areas of more than one county, and the tax shall be imposed in each of those contiguous cities only if a majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition. For purposes of the local sales and services tax, a city is not contiguous to another city if the only road access between the two cities is through another state.

Sec. 53. Section 423B.1, subsection 4, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Upon receipt of petitions or motions calling for the submission of the question of the imposition of a local sales and services tax as described in paragraph "a" or "b", the boards of supervisors of two or more contiguous counties in which the question is to be submitted may enter into a joint agreement providing that for purposes of this chapter, a city whose corporate boundaries include areas of more than one county shall be treated as part of the county in which a majority of the residents of the city reside. In such event, the county commissioners of elections from each such county shall cooperate in the selection of a single date upon which the election shall be held, and for all purposes of this chapter relating to the imposition, repeal, change of use, or collection of the tax, such a city shall be deemed to be part of the county in which a majority of the residents of the city reside. A copy of the joint agreement shall be provided promptly to the director of revenue.

Sec. 54. Section 423B.1, subsection 6, paragraph a, Code 2005, is amended to read as follows:

a. If a majority of those voting on the question of imposition of a local option tax favors imposition of a local option tax, the governing body of that county shall impose the tax at the rate specified for an unlimited period. However, in the case of a local sales and services tax, the county shall not impose the tax in any incorporated area or the unincorporated area if the majority of those voting on the tax in that area did not favor its imposition. For purposes of the local sales and services tax, all cities contiguous to each other shall be treated as part of one incorporated area and the tax shall be imposed in each of those contiguous cities only if the majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition. In the case of a local sales and services tax submitted to the registered voters of two or more contiguous counties as provided in subsection 4, paragraph "c", all cities contiguous to each other shall be treated as part of one incorporated area, even if the corporate boundaries of one or more of the cities include areas of more than one county, and the tax shall be imposed in each of those contiguous cities only if a majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition.

PARAGRAPH DIVIDED. The local option tax may be repealed or the rate increased or decreased or the use thereof changed after an election at which a majority of those voting on the question of repeal or rate or use change favored the repeal or rate or use change. The date on which the repeal, rate, or use change is to take effect shall not be earlier than ninety days following the election. The election at which the question of repeal or rate or use change is offered shall be called and held in the same manner and under the same conditions as provided in subsections 4 and 5 for the election on the imposition of the local option tax. However, in the case of a local sales and services tax where the tax has not been imposed countywide, the question of repeal or imposition or rate or use change shall be voted on only by the registered

voters of the areas of the county where the tax has been imposed or has not been imposed, as appropriate. However, the governing body of the incorporated area or unincorporated area where the local sales and services tax is imposed may, upon its own motion, request the county commissioner of elections to hold an election in the incorporated or unincorporated area, as appropriate, on the question of the change in use of local sales and services tax revenues. The election may be held at any time but not sooner than sixty days following publication of the ballot proposition. If a majority of those voting in the incorporated or unincorporated area on the change in use favors the change, the governing body of that area shall change the use to which the revenues shall be used. The ballot proposition shall list the present use of the revenues, the proposed use, and the date after which revenues received will be used for the new use.

When submitting the question of the imposition of a local sales and services tax, the county board of supervisors may direct that the question contain a provision for the repeal, without election, of the local sales and services tax on a specific date, which date shall be as provided in section 423B.6, subsection 1.

Sec. 55. Section 423B.5, unnumbered paragraph 1, Code Supplement 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 sale of equipment by the state department of transportation, 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 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 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. 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. In the case of a local sales and services tax submitted to the registered voters of two or more contiguous counties as provided in section 423B.1, subsection 4, paragraph "c", all cities contiguous to each other shall be treated as part of one incorporated area, even if the corporate boundaries of one or more of the cities include areas of more than one county, and the tax shall be imposed in each of those contiguous cities only if a majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition.

Sec. 56. Section 425.11, subsection 4, Code Supplement 2005, is amended to read as follows:

4. The word "owner" shall mean the person who holds the fee simple title to the homestead, and in addition shall mean the person occupying as a surviving spouse or the person occupying under a contract of purchase which contract has been recorded in the office of the county recorder of the county in which the property is located~~,~~; or the person occupying the homestead under devise or by operation of the inheritance laws where the whole interest passes or where the divided interest is shared only by persons related or formerly related to each other by blood, marriage or adoption~~,~~; or the person occupying the homestead is a shareholder of a family farm corporation that owns the property~~,~~; or the person occupying the homestead under

a deed which conveys a divided interest where the divided interest is shared only by persons related or formerly related to each other by blood, marriage or adoption; or where the person occupying the homestead holds a life estate with the reversion interest held by a nonprofit corporation organized under chapter 504, provided that the holder of the life estate is liable for and pays property tax on the homestead; or where the person occupying the homestead holds an interest in a horizontal property regime under chapter 499B, regardless of whether the underlying land committed to the horizontal property regime is in fee or as a leasehold interest, provided that the holder of the interest in the horizontal property regime is liable for and pays property tax on the homestead; or where the person occupying the homestead is a member of a community land trust as defined in 42 U.S.C. § 12773, regardless of whether the underlying land is in fee or as a leasehold interest, provided that the member of the community land trust is occupying the homestead and is liable for and pays property tax on the homestead. For the purpose of this chapter the word "owner" shall be construed to mean a bona fide owner and not one for the purpose only of availing the person of the benefits of this chapter. In order to qualify for the homestead tax credit, evidence of ownership shall be on file in the office of the clerk of the district court or recorded in the office of the county recorder at the time the owner files with the assessor a verified statement of the homestead claimed by the owner as provided in section 425.2.

Sec. 57. Section 427.1, subsection 2, Code Supplement 2005, is amended to read as follows:

2. MUNICIPAL AND MILITARY PROPERTY. The property of a county, township, city, school corporation, levee district, drainage district, or the Iowa national guard, when devoted to public use and not held for pecuniary profit, except property of a municipally owned electric utility held under joint ownership and property of an electric power facility financed under chapter 28F or 476A that shall be subject to taxation under chapter 437A and facilities of a municipal utility that are used for the provision of local exchange services pursuant to chapter 476, but only to the extent such facilities are used to provide such services, which shall be subject to taxation under chapter 433, except that section 433.11 shall not apply. The exemption for property owned by a city or county also applies to property which is operated by a city or county as a library, art gallery or museum, conservatory, botanical garden or display, observatory or science museum, or as a location for holding athletic contests, sports or entertainment events, expositions, meetings or conventions, or leased from the city or county for any such purposes, or leased from the city or county by the Iowa national guard or by a federal agency for the benefit of the Iowa national guard when devoted for public use and not for pecuniary profit. Food and beverages may be served at the events or locations without affecting the exemptions, provided the city has approved the serving of food and beverages on the property if the property is owned by the city or the county has approved the serving of food and beverages on the property if the property is owned by the county. The exemption for property owned by a city or county also applies to property which is located at an airport and leased to a fixed base operator providing aeronautical services to the public.

Sec. 58. Section 427.1, subsection 21A, Code Supplement 2005, is amended to read as follows:[2]

21A. DWELLING UNIT PROPERTY OWNED BY NONPROFIT ORGANIZATIONS. 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. For the 2005 and 2006 assessment years, an application is not required to be filed to receive the exemption. For the 2007 and subsequent assessment years, an application for exemption must be filed with the assessing authority not later than February 1 of the assessment year for which the exemption is sought. Upon the filing and allowance of the claim, the claim shall be allowed on the property for successive years without further filing as long as the property continues to qualify for the exemption.

[2] See chapter 1182, §66 herein

Sec. 59. Section 427A.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. Notwithstanding the other provisions of this section, property that is equipment used for the washing, waxing, drying, or vacuuming of motor vehicles and point-of-sale equipment necessary for the purchase of car wash services shall not be assessed and taxed as real property.

Sec. 60. Section 432.12C, Code 2005, is amended to read as follows:

432.12C INVESTMENT TAX CREDITS.

1. The tax imposed under this chapter shall be reduced by an investment tax credit authorized pursuant to section 15E.43 for an investment in a qualifying business or a community-based seed capital fund.

2. The taxes imposed under this division shall be reduced by investment tax credits authorized pursuant to sections 15.333A and 15E.193B, subsection 6.

Sec. 61. NEW SECTION. 432.12H TAX CREDIT FOR CERTAIN SALES TAXES PAID BY THIRD-PARTY DEVELOPERS.

The taxes imposed under this chapter shall be reduced by a tax credit authorized pursuant to section 15.331C for certain sales taxes paid by a third-party developer.

Sec. 62. NEW SECTION. 432.12I IOWA FUND OF FUNDS TAX CREDIT.

The taxes imposed under this chapter shall be reduced by a tax credit authorized pursuant to section 15E.66, if redeemed, for investments in the Iowa fund of funds.

Sec. 63. Section 441.38, subsection 2, Code Supplement 2005, is amended to read as follows:

2. ~~Notice~~ If the appeal to district court is taken from the action of the local board of review, notice of appeal shall be served as an original notice on the chairperson, presiding officer, or clerk of the board of review ~~within twenty days after its adjournment or May 31, whichever is later, and~~ after the filing of notice under subsection 1 with the clerk of district court. If the appeal to district court is taken from the action of the property assessment appeal board, notice of appeal shall be served as an original notice 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. 64. Section 468.55, Code 2005, is amended to read as follows:

468.55 ASSESSMENTS — MATURITY AND COLLECTION.

If a landowner selects an option provided in section 468.57, all drainage or levee tax assessments become due and payable with the first half of ordinary taxes, and shall be collected in the same manner with the same interest for delinquency and the same manner of enforcing collection by tax sales. As an alternative, the ~~certifying authority may request that~~ landowner may pay the annual installment ~~be payable~~ in two equal payments, one-half with the September payment of ordinary taxes and one-half payable with the March payment of ordinary taxes. All drainage or levee tax assessments not optioned for installment payments by the landowner shall become due and payable within thirty days after the levy of assessments.

Sec. 65. Section 533.24, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 8. The moneys and credits tax imposed under this section shall be reduced by an investment tax credit authorized pursuant to section 15.333.

NEW SUBSECTION. 9. The moneys and credits tax imposed under this section shall be reduced by a tax credit authorized pursuant to section 15.331C for certain sales taxes paid by a third-party developer.

NEW SUBSECTION. 10. The moneys and credits tax imposed under this section shall be

reduced by a tax credit authorized pursuant to section 15E.66, if redeemed, for investments in the Iowa fund of funds.

Sec. 66. 2005 Iowa Acts, chapter 140, section 72, is amended to read as follows:

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~~ fifty 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~~ fifty thousand dollars in the aggregate, the department of revenue shall prorate the ~~twenty-five~~ fifty thousand dollars among all claimants in relation to the amounts of the claimants' valid claims.

Sec. 67. 2005 Iowa Acts, chapter 179, section 100, is amended to read as follows:

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 updated integration plan with the governor and the general assembly on or before November 1, ~~2005~~ 2006.

Sec. 68. 2005 Iowa Acts, chapter 179, section 101, subsection 3, is repealed.

Sec. 69. EFFECTIVE AND APPLICABILITY DATES.

1. The sections of this division of this Act amending section 422.12C, subsection 2, apply retroactively to January 1, 2006, for tax years beginning on or after that date.

2. The section of this division of this Act amending section 425.11, being deemed of immediate importance, takes effect upon enactment and applies to taxes due and payable in fiscal years beginning on or after July 1, 2006.

3. The section of this division of this Act enacting section 427A.1, subsection 5A, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2006, for assessment years beginning on or after that date.

4. The section of this division of this Act amending 2005 Iowa Acts, chapter 140, section 72, being deemed of immediate importance, takes effect upon enactment and applies retroactively to June 30, 2005.

DIVISION II
STREAMLINED SALES AND USE TAX UPDATES

Sec. 70. Section 423.2, subsection 8, Code Supplement 2005, is amended by striking the subsection and inserting in lieu thereof the following:

8. a. A tax of five percent is imposed on the sales price from sales of bundled transactions. For the purposes of this subsection, a "bundled transaction" is the retail sale of two or more distinct and identifiable products, except real property and services to real property, which are sold for one nonitemized price. A "bundled transaction" does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

b. "Distinct and identifiable products" does not include any of the following:

(1) Packaging or other materials that accompany the retail sale of the products and are incidental or immaterial to the retail sale of the products.

(2) A product provided free of charge with the required purchase of another product. A product is "provided free of charge" if the sales price of the product purchased does not vary depending on the inclusion of the product which is provided free of charge.

(3) Items included in the definition of "sales price" pursuant to section 423.1.

c. "One nonitemized price" does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form.

Sec. 71. Section 423.18, Code Supplement 2005, is amended by striking the section and inserting in lieu thereof the following:

423.18 MULTIPLE POINTS OF USE.

1. Notwithstanding the provisions of section 423.15, a business purchaser that is not a holder of a direct pay permit that knows at the time of purchase of a digital good, computer software, or a service that the digital good, computer software, or service will be concurrently available for use in more than one jurisdiction shall deliver to the seller in conjunction with its purchase an exemption certificate claiming multiple points of use or meet the requirements of subsection 2 or 3. For the purpose of this section only, "computer software" includes but is not limited to computer software delivered electronically, by load and leave, or in tangible form. "Computer software" does not include computer software received in person by a business purchaser at a business location of the seller.

a. Upon receipt of an exemption certificate claiming multiple points of use, the seller is relieved of all obligation to collect, pay, or remit the applicable tax, and the purchaser shall be obligated to collect, pay, or remit the applicable tax on a direct pay basis.

b. A purchaser delivering an exemption certificate claiming multiple points of use may use any reasonable, but consistent and uniform, method of apportionment that is supported by the purchaser's business books and records as they exist at the time the transaction is reported for sales or use tax purposes.

c. A purchaser delivering an exemption certificate claiming multiple points of use shall report and pay the appropriate tax to each jurisdiction where concurrent use occurs. The tax due shall be calculated as if the apportioned amount of the digital good, computer software, or service had been delivered to each jurisdiction to which the sale is apportioned pursuant to paragraph "b".

d. The exemption certificate claiming multiple points of use shall remain in effect for all future sales by the seller to the purchaser, except as to the subsequent sale's specific apportionment that is governed by the principles of paragraphs "b" and "c", until the exemption certificate is revoked in writing.

2. Notwithstanding subsection 1, when the seller knows that the product will be concurrently available for use in more than one jurisdiction, but the purchaser does not provide an exemption certificate claiming multiple points of use as required in subsection 1, the seller may work with the purchaser to produce the correct apportionment. The purchaser and seller may use

any reasonable, but consistent and uniform, method of apportionment that is supported by the seller's and purchaser's business books and records as they exist at the time the transaction is reported for sales or use tax purposes. If the purchaser certifies the accuracy of the apportionment and the seller accepts the certification, the seller shall collect and remit the tax pursuant to subsection 1, paragraph "c". In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax pursuant to the information certified by the purchaser.

3. When the seller knows that the product will be concurrently available for use in more than one jurisdiction and the purchaser does not have a direct pay permit and does not provide the seller with an exemption certificate claiming a multiple points of use exemption as required in subsection 1, or certification pursuant to subsection 2, the seller shall collect and remit the tax based on the provisions of section 423.15.

4. A holder of a direct pay permit shall not be required to deliver an exemption certificate claiming multiple points of use to the seller. A direct pay permit holder shall follow the provisions of subsection 1, paragraphs "b" and "c", in apportioning the tax due on a digital good, computer software, or a service that will be concurrently available for use in more than one jurisdiction.

5. Nothing in this section shall limit a person's obligation for sales or use tax to this state in which the qualifying purchases are concurrently available for use, or limit a person's ability under local, state, federal, or constitutional law, to claim a credit for sales or use taxes legally due and paid to other jurisdictions.

Sec. 72. Section 423.20, subsection 1, paragraph j, Code 2005, is amended to read as follows:

j. "Postpaid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A "postpaid calling service" includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunications service.

Sec. 73. Section 423.20, subsection 1, Code 2005, is amended by adding the following new paragraph after paragraph k, and relettering the remaining paragraphs:

NEW PARAGRAPH. 1. "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance and that is sold in predetermined units or dollars of which the amount declines with use in a known amount.

Sec. 74. Section 423.20, subsection 2, paragraph c, subparagraphs (1) and (3), Code 2005, are amended to read as follows:

(1) A sale of mobile telecommunications services other than air-to-ground radiotelephone service, ~~or~~ prepaid calling service, or prepaid wireless calling service is sourced to the customer's place of primary use as required by the federal Mobile Telecommunications Sourcing Act.

(3) A sale of prepaid calling service or a sale of prepaid wireless calling service is sourced in accordance with section 423.15. However, in the case of a sale of ~~mobile telecommunications services that is a prepaid telecommunications~~ a prepaid wireless calling service, the rule provided in section 423.15, subsection 1, paragraph "e", shall include as an option the location associated with the mobile telephone number.

Sec. 75. Section 423.45, subsection 4, paragraph b, Code 2005, is amended to read as follows:

b. The sales tax liability for all sales of tangible personal property and all sales of services

is upon the seller and the purchaser unless the seller takes ~~in good faith~~ from the purchaser a valid exemption certificate stating under penalty of perjury that the purchase is for a nontaxable purpose and is not a retail sale as defined in section 423.1, or the seller is not obligated to collect tax due, or unless the seller takes a fuel exemption certificate pursuant to subsection 5. If the tangible personal property or services are purchased tax free pursuant to a valid exemption certificate ~~which is taken in good faith by the seller,~~ and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes and shall remit the taxes directly to the department and sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42 shall apply to the purchaser.

Sec. 76. Section 423.45, subsection 4, paragraph d, Code 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

d. The protection afforded a seller by paragraph "b" does not apply to a seller who fraudulently fails to collect tax or to a seller who solicits purchasers to participate in the unlawful claim of an exemption.

Sec. 77. Section 423.51, subsection 2, Code 2005, is amended to read as follows:

2. Sellers that follow the requirements of this section are relieved from any tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption and that the purchaser is liable for the nonpayment of tax. This relief from liability does not apply to a seller who ~~fraudulently~~ does any of the following:

a. Fraudulently fails to collect ~~the tax or solicits~~ tax.

b. Solicits purchasers to participate in the unlawful claim of an exemption.

c. Accepts an exemption certificate when the purchaser claims an entity-based exemption when the following conditions are met:

(1) The subject of the transaction sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the seller.

(2) The state provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in the state.

d. Accepts an exemption certificate claiming multiple points of use for tangible personal property other than computer software for which an exemption claiming multiple points of use is acceptable under section 423.18.

Sec. 78. Section 423.51, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 3. a. A seller otherwise obligated to collect tax from a purchaser is relieved of that obligation if the seller obtains a fully completed exemption certificate or secures the relevant data elements of a fully completed exemption certificate within ninety days after the date of sale.

b. If the seller has not obtained an exemption certificate or all relevant data elements as provided in paragraph "a", the seller may, within one hundred twenty days after a request for substantiation by the department, either prove that the transaction was not subject to tax by other means or obtain a fully completed exemption certificate from the purchaser, taken in good faith.

c. Nothing in this subsection shall affect the ability of the state to require purchasers to update exemption certificate information or to reapply with the state to claim certain exemptions.

d. Notwithstanding paragraphs "a", "b", and "c", a seller is relieved of its obligation to collect tax from a purchaser if the seller obtains a blanket exemption certificate from the purchaser, and the seller and purchaser have a recurring business relationship. For the purposes of this paragraph, a recurring business relationship exists when a period of no more than twelve months elapses between sales transactions. The department may not request from the seller renewal of blanket certificates or updates of exemption certificate information or data elements when there is a recurring business relationship between the purchaser and seller.

NEW SUBSECTION. 4. All relief that this section provides to sellers is also provided to certified service providers under this chapter.

Sec. 79. Section 423.52, Code 2005, is amended to read as follows:

423.52 RELIEF FROM LIABILITY FOR SELLERS AND CERTIFIED SERVICE PROVIDERS.

1. Sellers and certified service providers using databases derived from zip codes or state or vendor provided address-based databases are relieved from liability to this state or its local taxing jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider relying on erroneous data provided by this state on tax rates, boundaries, or taxing jurisdiction assignments. If this state provides an address-based system for assigning taxing jurisdictions ~~whether or not pursuant to the federal Mobile Telecommunications Sourcing Act~~, the director is not required to provide liability relief for errors resulting from reliance on the information provided by this state if the director has given adequate notice, as determined by the governing board, to affected parties of the decision to end this relief.

2. a. Model 2 sellers and certified service providers are relieved of liability to Iowa for any failure to charge and collect the correct amount of sales or use tax if this failure results from the model 2 seller's or the certified service provider's reliance upon this state's certification to the governing board that Iowa has accepted the governing board's certification of a piece of software as a certified automated system. The relief provided by this paragraph to a model 2 seller or certified service provider does not extend to a seller or provider who has incorrectly classified an item or transaction into the product-based exemptions portion of a certified automated system. However, any model 2 seller or certified service provider who has relied upon an individual listing of items or transactions within a product definition approved by the governing board or Iowa may claim the relief allowed by this paragraph.

b. If the department determines that an item or transaction is incorrectly classified as to its taxability, the department shall notify the model 2 seller or certified service provider of the incorrect classification. The model 2 seller or certified service provider shall have ten days to revise the classification after receipt of notice of the determination. Upon expiration of the ten days, the model 2 seller or certified service provider shall be liable for the failure to collect the correct amount of sales or use taxes due and owing to the member state.

Sec. 80. EFFECTIVE DATES.

1. Except as provided in subsection 2, this division of this Act takes effect January 1, 2008.

2. The sections of this division of this Act amending section 423.45, subsection 4, and section 423.52, being deemed of immediate importance, take effect upon enactment.

Approved June 1, 2006

CHAPTER 1159

HEALTH AND HUMAN SERVICES PROGRAMS AND PROCEDURES

S.F. 2217

AN ACT relating to health and human services programs and procedures involving compliance with privacy laws applicable to mental health, mental retardation, developmental disabilities, and brain injury services data, medical assistance program eligibility, creation of an electronic health records system task force, foster parent training, young adults transitioning from foster care, and persons with a developmental disability or other special need and the persons' families, and involuntary hospitalization proceedings.

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

DIVISION I
DISABILITY SERVICES DATA

Section 1. Section 225C.6A, subsection 2, paragraph c, Code 2005, is amended to read as follows:

c. (1) Plan, collect, and analyze data as necessary to issue cost estimates for serving additional populations and providing core disability services statewide. The department shall maintain compliance with applicable federal and state privacy laws to ensure the confidentiality and integrity of individually identifiable disability services data. The department shall regularly assess the status of the compliance in order to assure that data security is protected.

(2) In implementing a system under this paragraph "c" for collecting and analyzing state, county, and private contractor data, the department shall establish a client identifier for the individuals receiving services. The client identifier shall be used in lieu of the individual's name or social security number. The client identifier shall consist of the last four digits of an individual's social security number, the first three letters of the individual's last name, the individual's date of birth, and the individual's gender in an order determined by the department.

Sec. 2. EMERGENCY RULES. 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 of this division of this Act, and the rules shall become effective immediately upon filing or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 5, and section 17A.8, subsection 9, shall be applicable to a delay imposed under this section, notwithstanding a provision in those sections making them inapplicable to section 17A.5, subsection 2, paragraph "b". Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

Sec. 3. USE OF CLIENT IDENTIFIER. The client identifier established pursuant to section 225C.6A, subsection 2, paragraph "c", subparagraph (2), as enacted by this division of this Act, shall be used beginning with the data for disability services provided in the fiscal year beginning July 1, 2005, that is submitted by counties in December 2006.

DIVISION II
MEDICAID ELIGIBILITY — VEHICLE DISREGARD

Sec. 4. Section 249A.3, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5B. In determining eligibility for adults under subsection 1, para-

graphs "b", "e", "h", "j", "k", "n", "s", and "t"; subsection 2, paragraphs "d", "e", "h", "i", and "j"; and subsection 5, paragraph "b", one motor vehicle per household shall be disregarded.

DIVISION III
ELECTRONIC HEALTH RECORDS

Sec. 5. NEW SECTION. 217.41A ELECTRONIC HEALTH RECORDS SYSTEM TASK FORCE.

1. The department of human services shall establish an electronic health records system task force to provide a structure that enables the state to act in a leadership role in the development of state and federal standards for and in the implementation and use of an electronic health records system.

2. The task force shall consist of no more than nine voting members, selected by the director of human services, who represent entities with expertise in developing or implementing electronic health records, including but not limited to the United States veterans administration facilities in the state, multifacility hospital systems in the state, Des Moines university, the university of Iowa hospitals and clinics, and the Iowa healthcare collaborative. In addition, two members of the senate appointed by the president of the senate after consultation with the majority leader and the minority leader of the senate, two members of the house of representatives appointed by the speaker of the house after consultation with the majority leader and the minority leader of the house of representatives, and the commissioner of insurance shall serve as ex officio, nonvoting members of the task force.

3. The task force shall do all of the following:

a. Develop an electronic health records system that provides linkages between multiple settings that utilize health records and that is consistent with requirements for community health records and electronic prescribing.

b. Evaluate the economic model and the anticipated benefits of electronic health records.

c. Provide quarterly updates to the governor and the general assembly regarding progress in the development of national standards and the work of the task force.

DIVISION IV
FOSTER PARENT TRAINING

Sec. 6. Section 237.5A, unnumbered paragraph 1, Code 2005, is amended to read as follows:

As a condition for initial licensure, each individual licensee shall complete thirty hours of foster parent training offered or approved by the department. However, if the licensee has completed relevant training or has a combination of completed relevant training and experience, and the department deems such training or combination to be an acceptable equivalent to all or a portion of the initial licensure training requirement, or based upon the circumstances of the child and the licensee the department finds there is other good cause, the department may waive all or a portion of the training requirement. Prior to annual renewal of licensure, each individual licensee shall also complete six hours of foster parent training. The training shall include but is not limited to physical care, education, learning disabilities, referral to and receipt of necessary professional services, behavioral assessment and modification, self-assessment, self-living skills, and biological parent contact. An individual licensee may complete the training as part of an approved training program offered by a public or private agency with expertise in the provision of child foster care or in related subject areas. The department shall adopt rules to implement and enforce this training requirement.

DIVISION V
PREPARATION FOR ADULT LIVING PROGRAM

Sec. 7. NEW SECTION. 234.46 PREPARATION FOR ADULT LIVING PROGRAM.

1. For the purposes of this section, "young adult" means a person who is described by all of the following conditions:

a. The person is a resident of this state.

b. The person is age eighteen, nineteen, or twenty.

c. At the time the person became age eighteen, the person received foster care services that were paid for by the state under section 234.35 and the person is no longer receiving such services.

d. The person enters into and participates in an individual self-sufficiency plan that complements the person's own efforts for achieving self-sufficiency and the plan provides for one or more of the following:

(1) The person attends an accredited school full-time pursuing a course of study leading to a high school diploma.

(2) The person attends an instructional program leading to a high school equivalency diploma.

(3) The person is enrolled in or pursuing enrollment in a postsecondary education or training program or work training.

(4) The person is employed or seeking employment.

2. The division shall establish a preparation for adult living program directed to young adults. The purpose of the program is to assist persons who are leaving foster care services at age eighteen or older in making the transition to self-sufficiency. The department shall adopt rules necessary for administration of the program, including but not limited to eligibility criteria for young adult participation and the services and other support available under the program. The services and other support available under the program may include but are not limited to any of the following:

a. Support for the young adult continuing to reside with the family that provided family foster care to the young adult.

b. Support for a supervised apartment living arrangement.

c. Support for participation in education, training, or employment activities.

d. Other assistance to enhance the young adult's ability to achieve self-sufficiency.

3. This section shall not be construed as granting an entitlement for any program, services, or other support for the persons described in this section. Any state obligation to provide a program, services, or other support pursuant to this section is limited to the extent of the funds appropriated for the purposes of the program.

Sec. 8. Section 249A.3, subsection 2, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. As allowed under 42 U.S.C. § 1396a(a)(10)(A)(ii)(XVII), individuals under twenty-one years of age who were in foster care under the responsibility of the state on the individuals' eighteenth birthday, and whose income is less than two hundred percent of the most recently revised official poverty guidelines published by the United States department of health and human services. Medical assistance may be provided for an individual described by this paragraph regardless of the individual's resources.

DIVISION VI
FAMILY SUPPORT SUBSIDY AND COMPREHENSIVE FAMILY SUPPORT PROGRAMS

Sec. 9. Section 216E.1, subsection 1, Code 2005, is amended to read as follows:

1. "Assistive device" means any item, piece of equipment, or product system which is purchased, or whose transfer is accepted in this state, and which is used to increase, maintain, or improve the functional capabilities of individuals with disabilities concerning a major life activity ~~as defined in section 225C.46~~. "Assistive device" does not mean any medical device, surgical device, or organ implanted or transplanted into or attached directly to an individual. "Assistive device" does not mean any device for which a certificate of title is issued by the state department of transportation but does mean any item, piece of equipment, or product system

otherwise meeting the definition of "assistive device" that is incorporated, attached, or included as a modification in or to such a certificated device.

Sec. 10. Section 216E.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. "Major life activity" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

Sec. 11. Section 225C.37, subsection 2, Code 2005, is amended to read as follows:

2. Verification that the family member meets the definitional requirements of section 225C.35, subsection 3. Along with the verification, the application shall identify an age when the family member's eligibility for the family support subsidy under such definitional requirements will end. The age identified is subject to approval by the department.

Sec. 12. Section 225C.38, subsection 1, paragraphs b and c, Code Supplement 2005, are amended to read as follows:

b. A family support subsidy shall be used to meet the special needs of the family. This subsidy is intended to complement but not supplant public assistance or social service benefits based on economic need, available through governmental programs or other means available to the family.

c. Except as provided in section 225C.41, a family support subsidy for a fiscal year shall be in an amount ~~equivalent to the monthly maximum supplemental security income payment available in Iowa on July 1 of that fiscal year for an adult recipient living in the household of another, as formulated under federal regulations. In addition, the parent or legal guardian of a family member who is in an out-of-home placement at the time of application may receive a one-time lump-sum advance payment of twice the monthly family support subsidy amount for the purpose of meeting the special needs of the family in preparing for in-home care~~ determined by the department in consultation with the comprehensive family support council created in section 225C.48. The parent or legal guardian receiving a family support subsidy may elect to receive a payment amount which is less than the amount determined in accordance with this paragraph.

Sec. 13. Section 225C.38, subsection 2, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Unless there are exceptional circumstances and the family requests and receives approval from the department for an exception to policy, a family is not eligible to receive the family support subsidy if any of the following are applicable to the family or the family member for whom the application was submitted:

(1) The family member is a special needs child who was adopted by the family and the family is receiving financial assistance under section 600.17.

(2) Medical assistance home and community-based waiver services are provided for the family member and the family lives in a county in which comprehensive family support program services are available.

(3) Medical assistance home and community-based waiver services are provided for the family member under a consumer choices option.

Sec. 14. Section 225C.40, subsection 3, Code 2005, is amended to read as follows:

3. If an application for a family support subsidy is denied, the family member end-of-eligibility age identified in the application is not approved by the department, or a family support subsidy is terminated by the department, the parent or legal guardian of the affected family member may request, in writing, a hearing before an impartial hearing officer.

Sec. 15. Section 225C.41, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Notwithstanding section 8.33, funds remaining unexpended on June 30 of any fiscal year shall not revert to the general fund of the state but shall remain available to provide family support subsidy payments or to expand the comprehensive family support program in the succeeding fiscal year.

Sec. 16. Section 225C.42, subsection 1, Code Supplement 2005, is amended to read as follows:

1. The department shall conduct ~~a periodic~~ an annual evaluation of the family support subsidy program in conjunction with the comprehensive family support council and shall submit the evaluation report with recommendations to the governor and general assembly. The report shall be submitted on or before October 30 and provide an evaluation of the latest completed fiscal year.

Sec. 17. Section 225C.47, subsection 4, Code 2005, is amended to read as follows:

4. A family may apply to the department or to a family support center developed pursuant to this section for assistance under the comprehensive family support program. The department or family support center shall determine eligibility for the program in accordance with the provisions of this section.

Sec. 18. Section 225C.47, subsection 5, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The department shall design the program in consultation with the ~~personal assistance and~~ comprehensive family support ~~services~~ council created in section 225C.48. The department shall adopt rules to implement the program which provide for all of the following:

Sec. 19. Section 225C.47, subsection 5, paragraph e, Code 2005, is amended to read as follows:

e. A process is available to appeal the department's or family support center's decisions involving families ~~which~~ that apply for the comprehensive family support program and are denied services and support under the comprehensive family support program. The department shall make reasonable efforts to utilize telecommunications so that a family initiating an appeal may complete the appeal process in the family's local geographic area.

Sec. 20. Section 225C.47, subsection 5, paragraph i, Code 2005, is amended to read as follows:

i. The utilization of a voucher system for payment provisions for the ~~children-at-home~~ family support center component of the program developed under subsection 7.

Sec. 21. Section 225C.47, subsection 7, Code 2005, is amended to read as follows:

7. The comprehensive family support program shall include a ~~children-at-home~~ family support center component developed by the department in accordance with this subsection. ~~A family eligible for the comprehensive family support program may choose the children-at-home component.~~ Under the ~~children-at-home~~ component, a family member of an individual with a disability shall be assisted by ~~department staff~~ a family support center in identifying the services and support to be provided to the family under the family support subsidy program or the comprehensive family support program. The identification of services and support shall be based upon the specific needs of the individual and the individual's family which are not met by other service programs available to the individual and the individual's family. ~~Based upon the services and support identified, the department shall develop a contract for direct payment of the services and support provided to the family.~~

Sec. 22. Section 225C.48, Code 2005, is amended to read as follows:

225C.48 ~~PERSONAL ASSISTANCE AND~~ COMPREHENSIVE FAMILY SUPPORT ~~SERVICES~~ COUNCIL.

1. a. An eleven-member ~~personal assistance and~~ comprehensive family support ~~services~~ council is created in the department. The members of the council shall be appointed by the following officials as follows: governor, five members; majority leader of the senate, three members; and speaker of the house, three members. At least three of the governor's appointments and one of each legislative chamber's appointments shall be a family member of an individual with a disability as defined in section 225C.47. At least five of the members shall be current or former service consumers ~~of personal services~~ or family members of such service consumers. Members shall serve for three-year staggered terms. A vacancy on the council shall be filled in the same manner as the original appointment.

b. The members of the council ~~shall be~~ are entitled to reimbursement of actual and necessary expenses incurred in the performance of their official duties. In addition, the members who are current or former service consumers or family members of such service consumers are entitled to a stipend of fifty dollars for each council meeting attended, subject to a limit of one meeting per month. The expenses and stipend shall be paid from the appropriation made for purposes of the comprehensive family support program.

c. The council shall elect officers from among the council's members.[1]

2. The council shall provide ongoing guidance, advice, and direction to the department and other agencies working with the department in the development and implementation of the ~~personal assistance services~~ family support subsidy program created in section ~~225C.46~~ 225C.36 and the comprehensive family support program created in section 225C.47. The council shall perform an annual evaluation of each program, and annually make recommendations concerning each program to the governor and general assembly. The evaluation and recommendations shall be prepared and submitted in conjunction with the evaluation report submitted by the department pursuant to section 225C.42. The department shall provide sufficient staff support to the council to enable the council to carry out its responsibilities.

3. The council shall perform the following duties in consultation with the department and any department staff with duties associated with the ~~personal assistance services~~ family support subsidy and comprehensive family support programs:

a. Oversee the operations of the programs.

b. Coordinate with the department of education and programs administered by the department of education to individuals with a disability, in providing information to individuals and families eligible for the programs ~~under sections 225C.46 and 225C.47~~.

c. Work with the department and counties regarding managed care provisions utilized by the department and counties for services to individuals with a disability to advocate the inclusion of ~~personal assistance services~~ family[2] support subsidy and the comprehensive family support ~~program~~ programs as approved service provisions under managed care.

d. Develop and oversee implementation of evaluation processes for the programs.

e. Oversee statewide training of department and family support center staff regarding the ~~two~~ programs.

f. Oversee efforts to promote public awareness of the programs.

4. The department shall consider recommendations from the council in developing and implementing each program, including the development of administrative rules. The department shall regularly report to the council on the status of each program and any actions planned or taken by the department related to each program.

Sec. 23. Section 225C.49, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. Utilize internal training resources or contract for additional training of staff concerning the information under paragraph "a" and training of families and individuals as necessary to

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[1] See chapter 1185, §75 herein

[2] The phrase "the family" probably intended

~~develop plans and contracts~~ implement the family support subsidy and comprehensive family support programs under ~~sections 225C.46 and 225C.47~~ this chapter.

Sec. 24. Section 225C.49, subsection 4, Code 2005, is amended to read as follows:

4. The department shall designate one individual whose sole duties are to provide central coordination of the programs under sections ~~225C.46~~ 225C.36 and 225C.47 and to work with the ~~personal assistance and~~ comprehensive family support services council[3] to oversee development and implementation of the programs.

Sec. 25. Section 422.11E, subsection 4, paragraph b, Code 2005, is amended to read as follows:

b. "Disability" means the same as defined in section ~~225C.46~~ 15.102 except that it does not include alcoholism.

Sec. 26. Section 422.33, subsection 9, paragraph c, subparagraph (2), Code Supplement 2005, is amended to read as follows:

(2) "Disability" means the same as defined in section ~~225C.46~~ 15.102, except that it does not include alcoholism.

Sec. 27. Section 225C.46, Code 2005, is repealed.

Sec. 28. CODE EDITOR DIRECTIVE. The Code editor shall revise the headnote to section 225C.42 to change the word "periodic" to "annual".

Sec. 29. TRANSITION PROVISIONS — EFFECTIVE DATE.

1. If a family that adopted a special needs child receives the family support subsidy under section 225C.38 and also receives financial assistance under section 600.17 for the same child as of July 1, 2006, the department of human services shall provide notice to the family that effective January 1, 2007, the family will no longer be eligible for the family support subsidy. The department shall notify the families affected by this subsection on before[4] July 1, 2006. This subsection, being deemed of immediate importance, takes effect upon enactment.

2. If a family that receives the family support subsidy under section 225C.38 as of July 1, 2006, also receives medical assistance home and community-based waiver services and lives in a county in which the comprehensive family support program services are available, effective January 1, 2007, the family is not eligible to receive the family support subsidy. The department of human services shall notify the families affected by this subsection on or before July 1, 2006. This subsection, being deemed of immediate importance, takes effect upon enactment.

3. a. The provision of this division of this Act enacting section 225C.38, subsection 2, paragraph "c", subparagraph (3), relating to medical assistance home and community-based waiver services provided under a consumer choices option, is contingent upon receipt of federal approval of a waiver authorizing utilization of the consumer choices option. The department of human services shall notify the Code editor regarding the receipt of the federal approval and the implementation date.

b. A family receiving family support services that also receives medical assistance home and community-based waiver services and resides in an area in which the consumer choices option is available under the waiver is ineligible to receive the family support subsidy. The department shall notify a family affected by this subsection six months prior to terminating the family support subsidy.

c. This subsection, being deemed of immediate importance, takes effect upon enactment.

4. Any savings generated by the requirements of this section and the program changes implemented pursuant to this Act during the fiscal year beginning July 1, 2006, shall be used by the department of human services to provide eligibility for families on the waiting list for the

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[3] The phrase "comprehensive family support ~~services~~ council" probably intended

[4] According to enrolled Act; the phrase "on or before" probably intended

family support subsidy program. If the waiting list is eliminated, any remaining funds shall be used to expand the comprehensive family support program during that fiscal year.

DIVISION VII
INVOLUNTARY HOSPITALIZATION PROCEEDINGS

Sec. 30. Section 125.82, subsection 3, Code 2005, as amended by 2006 Iowa Acts, Senate File 2362,[5] section 1, if enacted, is amended to read as follows:

3. The person who filed the application and a licensed physician or qualified mental health professional as defined in section 229.1 who has examined the respondent in connection with the commitment hearing shall be present at the hearing, unless ~~prior to the hearing~~ the court for good cause finds that their presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or telephonic appearance of the licensed physician or qualified mental health professional who examined the respondent and agree to submit as evidence the written report of the licensed physician or qualified mental health professional. The respondent's attorney shall inform the court if the respondent's attorney reasonably believes that the respondent, due to diminished capacity, cannot make an adequately considered waiver decision. "Good cause" for finding that the testimony of the licensed physician or qualified mental health professional who examined the respondent is not necessary may include, but is not limited to, such a waiver. If the court determines that the testimony of the licensed physician or qualified mental health professional is necessary, the court may allow the licensed physician or qualified mental health professional to testify by telephone. The respondent shall be present at the hearing unless prior to the hearing the respondent's attorney stipulates in writing that the attorney has conversed with the respondent, and that in the attorney's judgment the respondent cannot make a meaningful contribution to the hearing, or that the respondent has waived the right to be present, and the basis for the attorney's conclusions. A stipulation to the respondent's absence shall be reviewed by the court before the hearing, and may be rejected if it appears that insufficient grounds are stated or that the respondent's interests would not be served by the respondent's absence.[6]

Sec. 31. Section 229.12, subsection 3, Code 2005, as amended by 2006 Iowa Acts, Senate File 2362,[7] section 3, if enacted is amended to read as follows:

3. The respondent's welfare shall be paramount and the hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, but consistent therewith the issue shall be tried as a civil matter. Such discovery as is permitted under the Iowa rules of civil procedure shall be available to the respondent. The court shall receive all relevant and material evidence which may be offered and need not be bound by the rules of evidence. There shall be a presumption in favor of the respondent, and the burden of evidence in support of the contentions made in the application shall be upon the applicant. The licensed physician or qualified mental health professional who examined the respondent shall be present at the hearing unless ~~prior to the hearing~~ the court for good cause finds that the licensed physician's or qualified mental health professional's presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or the telephonic appearance of the licensed physician or qualified mental health professional who examined the respondent and agree to submit as evidence the written report of the licensed physician or qualified mental health professional. The respondent's attorney shall inform the court if the respondent's attorney reasonably believes that the respondent, due to diminished capacity, cannot make an adequately considered waiver decision. "Good cause" for finding that the testimony of the licensed physician or qualified mental health professional who examined the respondent is not necessary may include, but is not limited to, such a waiver. If the court determines that the testimony of the licensed physician or qualified mental health professional is necessary, the court may allow the licensed physician or the qualified mental health professional to testify by telephone. If upon completion of the hearing the court finds that the conten-

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[5] Chapter 1116 herein

[6] See chapter 1115, §1 herein

[7] Chapter 1116 herein

tion that the respondent is seriously mentally impaired has not been sustained by clear and convincing evidence, it shall deny the application and terminate the proceeding.

Approved June 2, 2006

CHAPTER 1160

FOSTER CARE PROVIDER RIGHTS AND RESPONSIBILITIES

S.F. 2249

AN ACT relating to the rights and responsibilities of a person providing family foster care.

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

Section 1. SHORT TITLE. This Act shall be known and may be cited as the "Foster Parents Bill of Rights".

Sec. 2. Section 237.3, subsection 2, paragraph k, Code 2005, is amended to read as follows:

k. Elements of a foster care placement agreement outlining rights and responsibilities associated with an individual providing family foster care. The rights and responsibilities shall include but are not limited to all of the following:

(1) Receiving information prior to the child's placement regarding risk factors concerning the child that are known to the department.

(2) Having regularly scheduled meetings with each case manager assigned to the child.

(3) Receiving access to any reports prepared by a service provider who is working with the child unless the access is prohibited by state or federal law.

Approved June 2, 2006

CHAPTER 1161

AGRICULTURAL PRODUCTION TAX INCENTIVES

S.F. 2268

AN ACT relating to financial transactions associated with agricultural production, by providing for tax credits and tax exemptions, and including effective and retroactive and other applicability dates.

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

Section 1. Section 175.2, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 0A. "Agricultural assets" means agricultural land, depreciable agricultural property, crops, or livestock.

Sec. 2. NEW SECTION. 175.37 AGRICULTURAL ASSETS TRANSFER TAX CREDIT — AGREEMENT.

1. An agricultural assets transfer tax credit is allowed under this section. The tax credit is allowed against the taxes imposed in chapter 422, division II, as provided in section 422.11M, and in chapter 422, division III, as provided in section 422.33, to facilitate the transfer of agricultural assets from a taxpayer to a beginning farmer.

2. In order to qualify for the tax credit, the taxpayer must meet qualifications established by rules adopted by the authority. At a minimum, the taxpayer must comply with all of the following:

a. Be a person who may acquire or otherwise obtain or lease agricultural land in this state pursuant to chapter 9H or 9I. However, the taxpayer must not be a person who may acquire or otherwise obtain or lease agricultural land exclusively because of an exception provided in one of those chapters or in a provision of another chapter of this Code including but not limited to chapter 10, 10C, 10D, or 501, or section 15E.207.

b. Execute an agricultural assets transfer agreement with a beginning farmer as provided in this section.

3. 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.

4. The tax credit is allowed only for agricultural assets that are subject to an agricultural assets transfer agreement. The agreement shall provide for the lease of agricultural land including any improvements and may provide for the rental of agricultural equipment as defined in section 322F.1.

a. The agreement may be made on a cash basis or on a commodity share basis which includes a share of the crops or livestock produced on the agricultural land. The agreement must be in writing.

b. The agreement shall be for at least two years, but not more than five years. The agreement or that part of the agreement providing for the lease may be renewed by the beginning farmer for a term of at least two years, but not more than five years. An agreement does not include a lease or the rental of equipment intended as a security.

5. The tax credit shall be calculated based on the gross amount paid to the taxpayer under the agricultural assets transfer agreement.

a. Except as provided in paragraph "b", the tax credit shall equal five percent of the amount paid to the taxpayer under the agreement.

b. The tax credit shall equal fifteen percent of the amount paid to the taxpayer from crops or animals sold under an agreement in which the payment is exclusively made from the sale of crops or animals.

6. In order to qualify as a beginning farmer, a person must be eligible to receive financial assistance under section 175.12.

7. A tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier. 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 shall not be transferable to any other person other than the taxpayer's estate or trust upon the taxpayer's death.

8. A taxpayer shall not claim a tax credit under this section unless a tax credit certificate issued by the authority is attached to the taxpayer's tax return for the tax year for which the tax credit is claimed. The authority must review and approve an application for a tax credit as provided by rules adopted by the authority. The application must include a copy of the agricultural assets transfer agreement. The authority may approve an application and issue a tax credit certificate to a taxpayer who has previously been allowed a tax credit under this section. The authority may require that the parties to an agricultural assets transfer agreement provide additional information as determined relevant by the authority. The authority shall review an application for a tax credit which includes the renewal of an agricultural assets transfer agree-

ment to determine that the parties to the renewed agreement meet the same qualifications as required for an original application. However, the authority shall not approve an application or issue a certificate to a taxpayer if any of the following applies:

a. The taxpayer is at fault for terminating a prior agricultural assets transfer agreement as determined by the authority.

b. The taxpayer is any of the following:

(1) A party to a pending administrative or judicial action, including a contested case proceeding under chapter 17A, relating to an alleged violation involving an animal feeding operation as regulated by the department of natural resources, regardless of whether the pending action is brought by the department or the attorney general.

(2) Classified as a habitual violator for a violation of state law involving an animal feeding operation as regulated by the department of natural resources.

c. The beginning farmer is responsible for managing or maintaining agricultural land and other agricultural assets that are greater than necessary to adequately support a beginning farmer as determined by the authority according to rules which shall be adopted by the authority.

d. The agricultural assets are being leased or rented at a rate which is substantially higher or lower than the market rate for similar agricultural assets leased or rented within the same community, as determined by the authority.

9. A taxpayer or the beginning farmer may terminate an agricultural assets transfer agreement as provided in the agreement or by law. The taxpayer must immediately notify the authority of the termination.

a. If the authority determines that the taxpayer is not at fault for the termination, the authority shall not issue a tax certificate[1] to the taxpayer for a subsequent tax year based on the approved application. Any prior tax credit is allowed as provided in this section. The taxpayer may apply for and be issued another tax credit certificate for the same agricultural assets as provided in this section for any remaining tax years for which a certificate was not issued.

b. If the authority determines that the taxpayer is at fault for the termination, any prior tax credit allowed under this section is disallowed. The tax credit shall be recaptured and the amount of the tax credit shall be immediately due and payable to the department of revenue. If a taxpayer does not immediately notify the authority of the termination, the taxpayer shall be conclusively deemed at fault for the termination.

Sec. 3. NEW SECTION. 422.11M AGRICULTURAL ASSETS TRANSFERRED TO BEGINNING FARMERS.

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an agricultural assets transfer tax credit as allowed under section 175.37.

Sec. 4. Section 422.33, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 20. The taxes imposed under this division shall be reduced by an agricultural assets transfer tax credit as allowed under section 175.37.

Sec. 5. Section 423.3, subsection 11, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

The sales price exclusive of services of farm machinery and equipment, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the machinery and equipment, and including auger systems, curtains and curtain systems, drip systems, fan and fan systems, shutters, inlets and shutter or inlet systems, and refrigerators, and replacement parts, if all of the following conditions are met:

Sec. 6. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the amendment of section 423.3, subsection 11, in this Act, for the exemption of sales

[1] The phrase "tax credit certificate" probably intended

of auger systems, curtains and curtain systems, drip systems, fan and fan systems, shutters, inlets and shutter or inlet systems, and refrigerators occurring between January 1, 1992, and the effective date of this section 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, 2006, 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. Claimants shall not be entitled to interest on any refunds.

Sec. 7. EFFECTIVE DATES AND RETROACTIVE APPLICABILITY PROVISIONS.

1. Except as provided in subsection 2, this Act takes effect January 1, 2007, and is applicable to tax years beginning on or after that date.

2. The section of this Act amending section 423.3 and the section of this Act providing refunds resulting from the amendment of section 423.3, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 1992.

Approved June 2, 2006

CHAPTER 1162

SALES AND USE TAX — TELECOMMUNICATIONS PROVIDERS — CENTRAL OFFICE AND TRANSMISSION EQUIPMENT

S.F. 2390

AN ACT relating to the sales and use tax exemption for central office equipment and transmission equipment used in telecommunications operations.

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

Section 1. Section 423.3, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 47A. a. Subject to paragraph "b", the sales price from the sale or rental of central office equipment or transmission equipment primarily used by local exchange carriers and competitive local exchange service providers as defined in section 476.96; by franchised cable television operators, mutual companies, municipal utilities, cooperatives, and companies furnishing communications services that are not subject to rate regulation as provided in chapter 476; by long distance companies as defined in section 477.10; or for a commercial mobile radio service as defined in 47 C.F.R. § 20.3 in the furnishing of telecommunications services on a commercial basis. For the purposes of this subsection, "central office equipment" means equipment utilized in the initiating, processing, amplifying, switching, or monitoring of telecommunications services. "Transmission equipment" means equipment utilized in the process of sending information from one location to another location. "Central office equipment" and "transmission equipment" also include ancillary equipment and apparatus which support, regulate, control, repair, test, or enable such equipment to accomplish its function.

b. The exemption in this subsection shall be phased in by means of tax refunds as follows:

(1) If the sale or rental occurs on or after July 1, 2006, through June 30, 2007, one-seventh of the state tax on the sales price shall be refunded.

(2) If the sale or rental occurs on or after July 1, 2007, through June 30, 2008, two-sevenths of the state tax on the sales price shall be refunded.

(3) If the sale or rental occurs on or after July 1, 2008, through June 30, 2009, three-sevenths of the state tax on the sales price shall be refunded.

(4) If the sale or rental occurs on or after July 1, 2009, through June 30, 2010, four-sevenths of the state tax on the sales price shall be refunded.

(5) If the sale or rental occurs on or after July 1, 2010, through June 30, 2011, five-sevenths of the state tax on the sales price shall be refunded.

(6) If the sale or rental occurs on or after July 1, 2011, through June 30, 2012, six-sevenths of the state tax on the sales price shall be refunded.

(7) If the sale or rental occurs on or after July 1, 2012, the sales price is exempt and no payment of tax and subsequent refund are required.

c. For sales or rentals occurring on or after July 1, 2006, through June 30, 2012, a refund of the tax paid as provided in paragraph "b", subparagraph (1), (2), (3), (4), (5), or (6), must be applied for, not later than six months after the month in which the sale or rental occurred, in the manner and on the forms provided by the department. Refunds shall only be of the state tax collected. Refunds authorized 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.

Approved June 2, 2006

CHAPTER 1163

INDIVIDUAL INCOME TAXES —
SCHOOL TUITION ORGANIZATION CONTRIBUTIONS

S.F. 2409

AN ACT allowing individual income tax credits for contributions made to certain school tuition organizations and including effective and retroactive applicability date provisions.

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

Section 1. NEW SECTION. 422.11M SCHOOL TUITION ORGANIZATION 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 school tuition organization tax credit equal to sixty-five percent of the amount of the voluntary cash contributions made by the taxpayer during the tax year to a school tuition organization, subject to the total dollar value of the organization's tax credit certificates as computed in subsection 7. The tax credit shall be claimed by use of a tax credit certificate as provided in subsection 6.

2. To be eligible for this credit, all of the following shall apply:

a. A deduction pursuant to section 170 of the Internal Revenue Code for any amount of the contribution is not taken for state tax purposes.

b. The contribution does not designate that any part of the contribution be used for the direct benefit of any dependent of the taxpayer or any other student designated by the taxpayer.

3. Any credit in excess of the tax liability is not refundable but the excess for the tax year may be credited to the tax liability for the following five tax years or until depleted, whichever is the earlier.

4. Married taxpayers who file separate returns or file separately on a combined return form

must determine the tax credit under subsection 1, 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 tax 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 tax 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.

5. For purposes of this section:

a. "Eligible student" means a student who is a member of a household whose total annual income during the calendar year before the student receives a tuition grant for purposes of this section does not exceed an amount equal to three times the most recently published federal poverty guidelines in the federal register by the United States department of health and human services.

b. "Qualified school" means a nonpublic elementary or secondary school in this state which is accredited under section 256.11 and adheres to the provisions of the federal Civil Rights Act of 1964 and chapter 216.

c. "School tuition organization" means a charitable organization in this state that is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code and that does all of the following:

(1) Allocates at least ninety percent of its annual revenue in tuition grants for children to allow them to attend a qualified school of their parents' choice.

(2) Only awards tuition grants to children who reside in Iowa.

(3) Provides tuition grants to students without limiting availability to only students of one school.

(4) Only provides tuition grants to eligible students.

(5) Prepares an annual reviewed financial statement certified by a public accounting firm.

6. a. In order for the taxpayer to claim the school tuition organization tax credit under subsection 1, a tax credit certificate issued by the school tuition organization to which the contribution was made shall be attached to the person's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the contribution, the amount of the credit, and other information required by the department.

b. The department shall authorize a school tuition organization to issue tax credit certificates for contributions made to the school tuition organization. The aggregate amount of tax credit certificates that the department shall authorize for a school tuition organization for a tax year shall be determined for that organization pursuant to subsection 7. However, a school tuition organization shall not be authorized to issue tax credit certificates unless the organization is controlled by a board of directors consisting of seven members. The names and addresses of the members shall be provided to the department and shall be made available by the department to the public, notwithstanding any state confidentiality restrictions.

c. Pursuant to rules of the department, a school tuition organization shall initially register with the department. The organization's registration shall include proof of section 501(c)(3) status and provide a list of the schools the school tuition organization serves. Once the school tuition organization has registered, it is not required to subsequently register unless the schools it serves changes.

d. Each school that is served by a school tuition organization shall submit a participation form annually to the department by October 15 providing the following information:

(1) Certified enrollment as of the third Friday of September.

(2) The school tuition organization that represents the school. A school shall only be represented by one school tuition organization.

7. a. For purposes of this subsection:

(1) "Certified enrollment" means the enrollment at schools served by school tuition organizations as indicated by participation forms provided to the department each October.

(2) "Total approved tax credits" means for the tax year beginning in the 2006 calendar year,

two million five hundred thousand dollars and for tax years beginning on or after January 1, 2007, five million dollars.

(3) "Tuition grant" means grants to students to cover all or part of the tuition at a qualified school.

b. Each year by November 15, the department shall authorize school tuition organizations to issue tax credit certificates for the following tax year. However, for the tax year beginning in the 2006 calendar year only, the department, by September 1, 2006, shall authorize school tuition organizations to issue tax credit certificates for the 2006 calendar tax year. For the tax year beginning in the 2006 calendar year only, each school served by a school tuition organization shall submit a participation form to the department by August 1, 2006, providing the certified enrollment as of the third Friday of September 2005, along with the school tuition organization that represents the school. Tax credit certificates available for issue by each school tuition organization shall be determined in the following manner:

(1) Total the certified enrollment of each participating qualified school to arrive at the total participating certified enrollment.

(2) Determine the per student tax credit available by dividing the total approved tax credits by the total participating certified enrollment.

(3) Multiply the per student tax credit by the total participating certified enrollment of each school tuition organization.

8. A school tuition organization that receives a voluntary cash contribution pursuant to this section shall report to the department, on a form prescribed by the department, by January 12 of each tax year all of the following information:

a. The name and address of the members and the chairperson of the governing board of the school tuition organization.

b. The total number and dollar value of contributions received and the total number and dollar value of the tax credits approved during the previous tax year.

c. A list of the individual donors for the previous tax year that includes the dollar value of each donation and the dollar value of each approved tax credit.

d. The total number of children utilizing tuition grants for the school year in progress and the total dollar value of the grants.

e. The name and address of each represented school at which tuition grants are currently being utilized, detailing the number of tuition grant students and the total dollar value of grants being utilized at each school served by the school tuition organization.

Sec. 2. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2006, for tax years beginning on or after that date.

Approved June 2, 2006

CHAPTER 1164

JUVENILE COURT RECORDS AND RESTITUTION ORDERS

H.F. 2651

AN ACT relating to juvenile court records and restitution orders.

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

Section 1. Section 232.147, subsection 2, Code Supplement 2005, is amended to read as follows:

2. Official juvenile court records in cases alleging delinquency, including complaints under section 232.28, shall be public records, subject to ~~sealing under section 232.150~~ the following restrictions:

a. Official juvenile court records containing a petition or complaint alleging delinquency filed prior to January 1, 2007, shall be public records subject to a confidentiality order under section 232.149A or sealing under section 232.150.

b. Official juvenile court records containing a petition or complaint alleging delinquency filed on or after January 1, 2007, shall be public records subject to a confidentiality order under section 232.149A or sealing under section 232.150. However, the official records shall not be available to the public through the internet or in an electronic customized data report unless the child has been adjudicated delinquent.[1]

c. If the court has excluded the public from a hearing under division II of this chapter, the transcript of the proceedings shall not be deemed a public record and inspection and disclosure of the contents of the transcript shall not be permitted except pursuant to court order or unless otherwise provided in this chapter.

d. Complaints under section 232.28 shall be released in accordance with section 915.25. Other official juvenile court records may be released under this section by a juvenile court officer.

Sec. 2. NEW SECTION. 232.149A CONFIDENTIALITY ORDERS.

1. Notwithstanding any other provision of the Code to the contrary, upon application of a person who was taken into custody for a delinquent act or was the subject of a complaint alleging delinquency or was the subject of a delinquency petition, or upon the court's own motion, the court after hearing, shall order official juvenile court records in the case to be kept confidential and no longer public records under sections 232.147 and 232.149, if the court finds both of the following apply:

a. The case has been dismissed and the person is no longer subject to the jurisdiction of the juvenile court.

b. Making the records confidential is in the best interests of the person and the public.

2. The records subject to a confidentiality order may be sealed at a later date if section 232.150 applies.

3. Official juvenile court records subject to a confidentiality order may be inspected and their contents shall be disclosed to the following without court order:

a. The judge and professional court staff, including juvenile court officers.

b. The child and the child's counsel.

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.

d. The county attorney and the county attorney's assistants.

e. An agency, association, facility, or institution which has custody of the child, or is legally responsible for the care, treatment, or supervision of the child, including but not limited to the department of human services.

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[1] See chapter 1185, §76 herein

f. A court, court professional staff, and adult probation officers in connection with the preparation of a presentence report concerning a person who had been the subject of a juvenile court proceeding.

g. The child's foster parent or an individual providing preadoptive care to the child.

h. A state or local law enforcement agency.[2]

4. If the child has been discharged from the jurisdiction of the juvenile court due to reaching the age of eighteen and restitution remains unpaid, the name of the court, the title of the action, and the court's file number shall not be kept confidential, and the restitution amount shall be a judgment and lien as provided in sections 910.7A, 910.8, 910.10, and 915.28 until the restitution is paid.

5. Pursuant to court order, official juvenile court records subject to a confidentiality order may be inspected by and their contents may be disclosed to:

a. A person conducting bona fide research for research purposes under whatever conditions the court may deem proper, provided that no personal identifying data shall be disclosed to such a person.

b. Persons who have a direct interest in a proceeding or in the work of the court.

Sec. 3. Section 232.150, subsection 1, Code 2005, is amended to read as follows:

1. a. Upon application of a person who was taken into custody for a delinquent act or was the subject of a complaint alleging delinquency or was the subject of a delinquency petition, or upon the court's own motion, the court, after hearing, shall order the official juvenile court records in the case including those specified in sections 232.147 and 232.149 sealed if the court finds all of the following:

~~a.~~ (1) ~~Two~~ The person is eighteen years of age or older and two years have elapsed since ~~the final discharge of the person or since~~ the last official action in the person's case ~~if there was no adjudication and disposition~~.

~~b.~~ (2) The person has not been subsequently convicted of a felony or an aggravated or serious misdemeanor or adjudicated a delinquent child for an act which if committed by an adult would be a felony, an aggravated misdemeanor or a serious misdemeanor and no proceeding is pending seeking such conviction or adjudication.

~~c.~~ (3) The person was not placed on youthful offender status, transferred back to district court after the youthful offender's eighteenth birthday, and sentenced for the offense which precipitated the youthful offender placement.

b. ~~However, if~~ If the person was adjudicated delinquent for an offense which if committed by an adult would be an aggravated misdemeanor or a felony, the court shall not order the records in the case sealed unless, upon application of the person or upon the court's own motion and after hearing, the court finds that ~~paragraphs "a" and "b"~~ subparagraphs (1) and (2)[3] apply and that the sealing is in the best interests of the person and the public.

c. If the person is required to pay monetary restitution to a victim due to a delinquent act and the restitution is unpaid, the records in the case may be sealed, but the name of the court, the title of the action, and the court's file number shall remain unsealed as provided in section 910.10 and the restitution amount shall be a judgment and lien as provided in sections 910.7A, 910.8, 910.10, and 915.28 until the restitution is paid in full.

Sec. 4. Section 910.10, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. cc. If applicable, any juvenile delinquency proceeding pursuant to which the lien is filed, including only the name of the court, the title of the action, and the court's file number.

Sec. 5. Section 910.10, subsection 3, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. A victim in a juvenile delinquency proceeding after restitution has been determined and ordered by the juvenile court and the juvenile offender has been discharged from the jurisdiction of the juvenile court due to reaching the age of eighteen years.

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[2] See chapter 1185, §77 herein

[3] The phrase "paragraph 'a', subparagraphs (1) and (2)" probably intended

Sec. 6. Section 915.28, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Upon final discharge from the jurisdiction of juvenile court due to the juvenile reaching the age of eighteen years, any restitution order consisting of monetary payment to the victim due to a delinquent act shall constitute a judgment and lien against all property of the person liable for the amount the person was obligated to pay under the order of the juvenile court, and may be recorded and enforced as provided in sections 910.7A, 910.8, and 910.10.

Approved June 2, 2006

CHAPTER 1165

LINKED INVESTMENTS FOR TOMORROW ACT REVISIONS

H.F. 2661

AN ACT relating to the linked investments for tomorrow Act.

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

Section 1. Section 12.31, Code 2005, is amended to read as follows:

12.31 SHORT TITLE.

This section and sections 12.32 through ~~12.43B~~ 12.43 shall be known as the "Linked Investments for Tomorrow Act".

Sec. 2. Section 12.32, Code 2005, is amended to read as follows:

12.32 DEFINITIONS.

As used in section 12.31, this section, and sections ~~12.33~~ 12.34 through ~~12.43B~~ 12.43, unless the context otherwise requires:

1. "Eligible borrower" means any person who is ~~in the business or is entering the business of producing, processing, or marketing horticultural crops or nontraditional crops in this state or any person in this state who is~~ qualified to participate in one of the programs in this section and sections ~~12.33~~ 12.34 through ~~12.43B~~ 12.43. "Eligible borrower" does not include a person who has been determined to be delinquent in making child support payments or any other payments due the state.

2. "Eligible lending institution" means a financial institution that is empowered to make commercial loans and is eligible pursuant to chapter 12C to be a depository of state funds.

3. "Linked investment" means a certificate of deposit ~~placed~~ issued pursuant to this section and sections ~~12.33~~ 12.34 through ~~12.43B by~~ 12.43 to the treasurer of state ~~with~~ by an eligible lending institution, at an interest rate not more than three percent below current market rate on the condition that the institution agrees to lend the value of the deposit, according to the investment agreement provided in section 12.35, to an eligible borrower at a rate not to exceed four percent above the rate paid on the certificate of deposit. The treasurer of state shall determine and make available the current market rate which shall be used each month.

~~4. "Qualified linked investment" means a linked investment in which a certificate of deposit is placed by the treasurer of state with an eligible lending institution under the traditional livestock producers linked investment loan program established under section 12.43A.~~

Sec. 3. Section 12.34, Code 2005, is amended to read as follows:

12.34 LINKED INVESTMENTS — LIMITATIONS — RULES — MATURITY AND RENEWAL OF CERTIFICATES.

1. The treasurer of state may invest up to the lesser of one hundred eight million dollars or

~~ten~~ twenty-five percent of the balance of the state pooled money fund in certificates of deposit in eligible lending institutions as provided in ~~sections~~ section 12.32 ~~and 12.33~~, this section, and sections 12.35 through ~~12.43B~~ 12.43. ~~The moneys invested pursuant to this section shall be used as follows:~~

~~a. The treasurer of state may invest up to sixty-eight million dollars to support programs provided in sections 12.32 and 12.33, this section, and sections 12.35 through 12.43B other than the traditional livestock producers linked investment loan program as provided in section 12.43A and the value-added agricultural linked investment loan program as provided in section 12.43B.~~

~~b. The treasurer of state shall invest the remaining amount as follows:~~

~~(1) At least twenty million dollars shall be invested in order to support the traditional livestock producers linked investment loan program as provided in section 12.43A.~~

~~(2) At least twenty million dollars shall be invested in order to support the value-added agricultural linked investment loan program as provided in section 12.43B.~~ One-half of the moneys invested pursuant to this section shall be made available under the program implemented pursuant to section 12.43 to increase the availability of lower cost moneys for purposes of injecting needed capital into small businesses which are fifty-one percent or more owned, operated, and actively managed by one or more women, minority persons, or persons with disabilities. "Disability" means the same as defined in section 15.102, subsection 5. A "minority person" means the same as defined in section 15.102, subsection 5. The treasurer shall invest the remaining one-half of the moneys invested pursuant to this section to support any other eligible applicant as provided in section 12.43.

2. ~~a.~~ The treasurer of state shall adopt rules pursuant to chapter 17A to administer ~~sections~~ section 12.32 ~~and 12.33~~, this section, and sections 12.35 through ~~12.43B~~ 12.43.

~~b. The treasurer of state in cooperation with the board of directors of the agricultural development authority as established in section 175.3 shall adopt rules for the administration of the traditional livestock producers linked investment loan program as provided in section 12.43A. The treasurer of state in cooperation with the agricultural products advisory council established in section 15.203 shall adopt rules for the administration of the value-added agricultural linked investment loan program as provided in section 15.204.~~

3. A certificate of deposit~~, which is placed by~~ that is issued to the treasurer of state ~~with~~ by an eligible lending institution on or after July 1, ~~1996~~ 2006, may be renewed at the option of the treasurer on an annual basis for a total term not to exceed five years. ~~The following shall apply to the certificate of deposit:~~

~~a. For a linked investment other than a qualified linked investment, the initial certificate of deposit for a given borrower shall have a maturity of one year. The certificate of deposit may be renewed on an annual basis for a total term not to exceed five years.~~

~~b. For a qualified linked investment, the initial certificate of deposit for a given borrower shall have a maturity of one year. The certificate of deposit may be renewed on an annual basis for a total term not to exceed three years.~~ All participants with certificates of deposit issued prior to July 1, 2006, are subject, for renewal certificates of deposit, to the requirements and terms applicable to the certificates of deposit issued prior to July 1, 2006.

Sec. 4. Section 12.35, subsection 1, Code 2005, is amended to read as follows:

1. An eligible lending institution that desires to receive a linked investment shall enter into an agreement with the treasurer of state, which shall include requirements necessary for the eligible lending institution to comply with sections 12.32 through 12.34, this section, and sections 12.36 through ~~12.43B~~ 12.43.

Sec. 5. Section 12.36, subsection 2, Code 2005, is amended to read as follows:

2. Upon acceptance of the linked investment loan package or any portion of the package, the treasurer of state shall ~~place certificates of~~ deposit funds with the eligible lending institution ~~at a rate not more than three percent below the current market rate~~ and the eligible lending institution shall issue to the treasurer of state one or more certificates of deposit with in-

terest at a rate determined pursuant to section 12.32, subsection 3. The treasurer of state shall not ~~place a certificate of~~ deposit funds with an eligible lending institution pursuant to sections 12.32 ~~through~~, 12.34, 12.35, this section, and sections 12.37 through ~~12.43B~~ 12.43, unless the certificate of deposit earns a rate of interest of at least ~~two~~ one percent. Interest earned on the certificate of deposit and principal not renewed shall be remitted to the treasurer of state at the time the certificate of deposit matures. Interest from the linked investments for tomorrow program shall be considered earnings of the general fund of the state. Certificates of deposit ~~placed~~ issued pursuant to sections 12.32 ~~through~~, 12.34, 12.35, this section, and sections 12.37 through ~~12.43B~~ 12.43 are not subject to a penalty for early withdrawal.

Sec. 6. Section 12.38, Code 2005, is amended to read as follows:

12.38 REPORTS.

By February 1 of each year, the treasurer of state shall report on the linked investments for tomorrow programs for the preceding calendar year to the governor, the department of economic development, the speaker of the house of representatives, and the president of the senate. The speaker of the house shall transmit copies of this report to the house co-chair of the joint economic development appropriations subcommittee and the chairs of the standing committees in the house which customarily consider legislation regarding agriculture, ~~and~~ commerce, and economic growth, and the president of the senate shall transmit copies of this report to the senate co-chair of the joint economic development appropriations subcommittee and the chairs of the standing committees in the senate which customarily consider legislation regarding agriculture, ~~and~~ commerce, and economic growth. The report shall set forth the linked investments made by the treasurer of state under the program during the year, the total amount deposited, the number of deposits, and an estimate of foregone interest, and shall include information regarding the nature, terms, and amounts of the loans upon which the linked investments were based and ~~the~~ a listing of eligible borrowers to which the loans were made.

Sec. 7. Section 12.43, Code 2005, is amended to read as follows:

12.43 ~~FOCUSED~~ SMALL BUSINESS LINKED INVESTMENTS PROGRAM CREATED — DEFINITIONS.

The treasurer of state shall adopt rules to implement a ~~focused~~ small business linked investments program to increase the availability of lower cost funds to inject needed capital into small businesses owned and operated ~~by women or minorities~~ in this state by residents of this state, which is the public policy of the state. The rules shall be in accordance with the following:

1. As used in this section~~:~~,

~~a. "Disability" is defined as provided in section 15.102, subsection 5.~~

~~b. "Focused small~~ "small business" means ~~a~~ one of the following:

a. A new or existing small business ~~which is fifty-one percent or more owned, operated, and actively managed by one or more women, minority persons, or persons with a disability, provided the business~~ that meets all the requirements of subsection 5.

~~c. "Major life activity" is defined as provided in section 15.102, subsection 5.~~

~~d. "Minority person" is defined as provided in section 15.102, subsection 5.~~

b. For applications to transfer an existing small business to a new owner, the small business must also meet the requirements of subsection 5 when local competition does not exist in the principal area of business activity of the existing small business, and the loss of the existing small business would result in a hardship on the community.

2. Loan applications for a ~~focused~~ new or existing small business shall be for the purchase of land, improvements, fixtures, machinery, inventory, supplies, equipment, information technology, or licenses, or patent, trademark, or copyright fees and expenses. Loan applications for the transfer of an existing small business shall be to assist in the transfer of ownership of retail,[1] wholesale, manufacturing, service, or agricultural business that may close in the absence of sufficient financial assistance.

[1] The phrase "a retail" probably intended

3. During the lifetime of this loan program, the maximum amount of assistance that an eligible borrower or business may borrow or receive through this loan program shall be ~~one~~ two hundred thousand dollars. An eligible borrower or business under this program shall be limited to one loan from one financial institution.

4. A preference shall be given to those persons who are less able than other persons to secure funds for a ~~focused~~ small business without participation in the ~~focused~~ small business linked investment program.

5. In order to qualify under this program, all owners of the business or borrowers must not have a combined net worth exceeding ~~five~~ seven hundred fifty thousand dollars as defined in rules adopted by the treasurer of state pursuant to chapter 17A and the ~~focused~~ small business must meet all of the following criteria:

a. Be a for-profit business.

b. ~~Have~~ If an application involves an existing business or the transfer of an existing business to a new owner, the business must have annual gross sales of two million dollars or less at the time the application is submitted under section 12.35.

c. Not be operated out of the home of any person, unless the person is eligible for a deduction on federal income taxes pursuant to 26 U.S.C. § 280A.

d. Not involve real estate investments, rental of real estate, leasing of real estate, or real estate speculation.

e. Liquor, beer, and wine sales must not exceed twenty percent of annual sales for establishments holding a class "C" liquor license issued pursuant to section 123.30.

f. If an application involves the transfer of an existing small business, the transfer must be by purchase, lease-purchase, or contract of sale. The purchase must be for all or a portion of the business which is essential to its continued viability, including land where the business is located, fixtures attached to the land, machinery, inventory, supplies, equipment, information technology, or licenses, patents, trademarks, copyrights, or other intellectual property relied upon by the business, and inventory for sale by the business.

6. Loan proceeds shall not be used to refinance existing debt, including credit card debt. However, proceeds may be used to refinance a short-term bridge loan made in anticipation of the treasurer of state's approval of the linked investment loan package.

7. Eligible lending institutions shall verify the borrower is eligible to participate under the provisions of this section pursuant to rules adopted by the treasurer of state pursuant to chapter 17A.

Sec. 8. Sections 12.33, 12.40, 12.41, 12.43A, 12.43B, and 15.204, Code 2005, are repealed.

Approved June 2, 2006

CHAPTER 1166

COURT COSTS, FINES, AND INDIGENT DEFENSE
— AMOUNTS AND ALLOCATIONS

H.F. 2789

AN ACT relating to assessing court costs and modifying fines, providing for indigent defense, and making appropriations to the judicial branch, attorney general, department of corrections, and department of inspections and appeals.

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

Section 1. Section 321J.2, subsection 2, paragraph a, subparagraph (2), Code 2005, is amended to read as follows:

(2) Assessment of a fine of one thousand two hundred fifty dollars. However, in the discretion of the court, if no personal or property injury has resulted from the defendant's actions, the court may waive up to ~~five~~ six hundred twenty-five dollars of the fine when the defendant presents to the court at the end of the minimum period of ineligibility, a temporary restricted license issued pursuant to section 321J.20. As an alternative to a portion or all of the fine, the court may order the person to perform unpaid community service.

Sec. 2. Section 321J.2, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. An aggravated misdemeanor for a second offense, and shall be imprisoned in the county jail or community-based correctional facility not less than seven days, and assessed a fine of not less than one thousand ~~five~~ eight hundred seventy-five dollars nor more than ~~five~~ six thousand two hundred fifty dollars.

Sec. 3. Section 321J.2, subsection 2, paragraph c, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A class "D" felony for a third offense and each subsequent offense, and shall be committed to the custody of the director of the department of corrections for an indeterminate term not to exceed five years, shall be confined for a mandatory minimum term of thirty days, and shall be assessed a fine of not less than ~~two~~ three thousand ~~five~~ one hundred twenty-five dollars nor more than ~~seven~~ nine thousand ~~five~~ three hundred seventy-five dollars.

Sec. 4. Section 602.1304, subsection 2, paragraph b, Code Supplement 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, subsection 7, the judicial branch pursuant to section 602.8108, subsection 8, the department of inspections and appeals pursuant to section 602.8108, subsection 8A, the office of attorney general pursuant to section 602.8108, subsection 8B, the department of corrections pursuant to section 602.8108, subsection 8C, and the road use tax fund 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 8, and after the required amount is allocated to the department of inspections and appeals pursuant to section 602.8108, subsection 8A, the office of attorney general pursuant to section 602.8108, subsection 8B, and the department of corrections pursuant to section 602.8108, subsection 8C, 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. 5. Section 602.8106, subsection 1, paragraphs a, b, d, and e, Code Supplement 2005, are amended to read as follows:

a. Except as otherwise provided in paragraphs "b" and "c", for filing and docketing a criminal case to be paid by the county or city which has the duty to prosecute the criminal action, payable as provided in section 602.8109, ~~thirty~~ one hundred dollars. When judgment is rendered against the defendant, costs collected from the defendant shall be paid to the county or city which has the duty to prosecute the criminal action to the extent necessary for reimbursement for fees paid. However, the fees which are payable by the county to the clerk of the district court for services rendered in criminal actions prosecuted under state law and the court costs taxed in connection with the trial of those actions or appeals from the judgments in those actions are waived.

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, ~~thirty~~ fifty dollars.

d. The court costs in scheduled violation cases where a court appearance is required, ~~thirty~~ fifty dollars.

e. For court costs in scheduled violation cases where a court appearance is not required, ~~thirty~~ fifty dollars.

Sec. 6. Section 602.8108, subsection 2, Code Supplement 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, 8, 8A, 8B, 8C, 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. 7. Section 602.8108, subsection 8, Code Supplement 2005, is amended to read as follows:

8. The state court administrator shall allocate to the judicial branch for the fiscal year beginning July 1, ~~2005~~ 2006, and for each fiscal year thereafter, ~~seven~~ fourteen 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. 8. Section 602.8108, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 8A. The state court administrator shall allocate to the office of the state public defender of the department of inspections and appeals for the fiscal year beginning July 1, 2006, and for each fiscal year thereafter, three million dollars of the moneys received annually under subsection 2, to be used for fees of court-appointed attorneys for indigent adults and juveniles, in accordance with section 232.141 and chapter 815.

NEW SUBSECTION. 8B. The state court administrator shall allocate to the office of attorney general for the fiscal year beginning July 1, 2006, and for each fiscal year thereafter, three hundred thousand dollars of the moneys received annually under subsection 2, to be used for legal services for persons in poverty grants as provided in section 13.34.[1]

NEW SUBSECTION. 8C. The state court administrator shall allocate to the department of corrections for the fiscal year beginning July 1, 2006, and for each fiscal year thereafter, five hundred sixty thousand dollars of the moneys received annually under subsection 2, to be used for offenders transferred to the department pursuant to section 229A.5, subsection 5.

Sec. 9. Section 815.7, Code 2005, is amended to read as follows:

815.7 FEES TO ATTORNEYS.

An attorney who has not entered into a contract authorized under section 13B.4 and who is appointed by the court to represent any person ~~charged with a crime in this state, seeking postconviction relief, against whom a contempt action is pending, appealing a criminal conviction, appealing a denial of postconviction relief, or subject to a proceeding under section 811.1A or chapter 229A or 812, or to serve as counsel for any person or guardian ad litem for any child in juvenile court,~~ pursuant to section 814.11 or 815.10 shall be entitled to reasonable compensation and expenses. For appointments made on or after July 1, 1999, through June 30, 2006, the reasonable compensation shall be calculated on the basis of sixty dollars per hour for class "A" felonies, fifty-five dollars per hour for class "B" felonies, and fifty dollars per hour for all other cases. For appointments made on or after July 1, 2006, the reasonable compensation shall be calculated on the basis of sixty-five dollars per hour for class "A" felonies, sixty dollars per hour for all other felonies, sixty dollars per hour for misdemeanors, and fifty-five dollars per hour for all other cases. The expenses shall include any sums as are necessary for investigations in the interest of justice, and the cost of obtaining the transcript of the trial record and briefs if an appeal is filed. The attorney need not follow the case into another county or into the appellate court unless so directed by the court. If the attorney follows the case into another county or into the appellate court, the attorney shall be entitled to compensation as provided in this section. Only one attorney fee shall be so awarded in any one case except that in class "A" felony cases, two may be authorized.

Sec. 10. Section 903.1, subsection 1, paragraphs a and b, Code 2005, are amended to read as follows:

a. For a simple misdemeanor, there shall be a fine of at least ~~fifty~~ sixty-five dollars but not to exceed ~~five~~ six hundred twenty-five dollars. The court may order imprisonment not to exceed thirty days in lieu of a fine or in addition to a fine.

b. For a serious misdemeanor, there shall be a fine of at least ~~two~~ three hundred ~~fifty~~ fifteen dollars but not to exceed one thousand ~~five~~ eight hundred seventy-five dollars. In addition, the court may also order imprisonment not to exceed one year.

[1] See chapter 1182, §64 herein

Sec. 11. Section 903.1, subsection 2, Code 2005, is amended to read as follows:

2. When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years. There shall be a fine of at least ~~five~~ six hundred twenty-five dollars but not to exceed ~~five~~ six thousand two hundred fifty dollars. When a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

Approved June 2, 2006

CHAPTER 1167

SUPPLEMENTAL APPROPRIATIONS — VETERANS PROGRAMS

H.F. 2080

AN ACT revising and making appropriations involving veterans programs for the fiscal year beginning July 1, 2005, and providing an effective date.

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

Section 1. 2005 Iowa Acts, chapter 169, section 2, subsection 4, 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 for the purposes designated until the close of the succeeding fiscal year.

Sec. 2. 2005 Iowa Acts, chapter 175, section 4, subsection 2, is amended to read as follows:

2. IOWA VETERANS HOME

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

. . . . . $ ~~16,309,443~~
13,309,443

. . . . . FTEs 855.22

It is the intent of the general assembly to appropriate at least $3,000,000 in funding from the rebuild Iowa infrastructure fund to support necessary projects at the Iowa veterans home.

Sec. 3. 2005 Iowa Acts, chapter 175, section 4, is amended by adding the following new subsections:

NEW SUBSECTION. 3. VETERANS APPRECIATION PROGRAM

For implementation of a new veterans appreciation program, contingent upon enactment of law by the Eighty-first General Assembly, 2006 Session, codifying the new program requirements in chapter 35A, for providing hardship grants[1] to military veterans seriously injured in a combat zone since September 11, 2001:

. . . . . $ 1,000,000

If the general assembly enacts law codifying a new fund or other requirements for the new program for which the appropriation is made in this subsection, then 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 pur-

[1] See chapter 1106, §3 herein

poses designated until the close of the succeeding fiscal year. However, if the general assembly does not enact such law, the appropriation made in this subsection shall revert as provided in section 8.33.

NEW SUBSECTION. 4. HOME OWNERSHIP ASSISTANCE PROGRAM

For transfer to the Iowa finance authority to be used for continuation of the home ownership assistance program for persons who are or were eligible members of the armed forces of the United States, implemented pursuant to 2003 Iowa Acts, chapter 179, section 21, subsection 5, as amended by 2005 Iowa Acts, chapter 161, section 1, and chapter 115, section 37:
. . . . . $ 2,000,000

a. The Iowa finance authority shall give priority to processing the applications for assistance received after the original allotment of funding for the program was exhausted.

b. 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 beginning July 1, 2007.[2]

Sec. 4. 2003 Iowa Acts, chapter 179, section 21, subsection 5, as enacted by 2005 Iowa Acts, chapter 161, section 1, and amended by 2005 Iowa Acts, chapter 115, section 37, is amended to read as follows:

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 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~~ 2007.

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

Approved January 23, 2006

CHAPTER 1168

FEDERAL BLOCK GRANT APPROPRIATIONS

H.F. 2238

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

[2] See chapter 1185, §48 herein

public health for the federal fiscal year beginning October 1, 2006, and ending September 30, 2007, the following amount:

. . . . . $ 13,613,905

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, 2005, for pregnant women and women with dependent children.

d. Of the funds appropriated in this subsection, an amount not exceeding $24,585 shall be used for audits.

2. At least 20 percent of the funds remaining from the appropriation made in subsection 1 shall be allocated for prevention programs.

3. In implementing the federal substance abuse prevention and treatment block grant under 42 U.S.C., chapter 6A, subchapter XVII, and any other applicable provisions of the federal Public Health Service Act under 42 U.S.C., chapter 6A, subchapter III-A, the department shall apply the provisions of Pub. L. No. 106-310, § 3305, as codified in 42 U.S.C. § 300x-65, relating to services under such federal law being provided by religious and other nongovernmental organizations.

Sec. 2. COMMUNITY MENTAL HEALTH SERVICES APPROPRIATION.

1. a. There is appropriated from the fund created by section 8.41 to the Iowa department of human services for the federal fiscal year beginning October 1, 2006, and ending September 30, 2007, the following amount:

. . . . . $ 3,699,900

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,[1] 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

[1] See chapter 1185, §125 herein

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, 2006, and ending September 30, 2007, the following amount:

. . . . . $ 6,737,839

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, 2006, and ending September 30, 2007, the following amount:

. . . . . $ 1,342,075

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 may 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.

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, 2006, and ending September 30, 2007, the following amount:

. . . . . $ 1,446,000

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, 2006, and ending September 30, 2007, the following amount:

. . . . . $ 100,000

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 JUSTICE ASSISTANCE 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, 2006, and ending September 30, 2007, the following amount:

. . . . . $ 2,000,000

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, which provides for the Edward Byrne memorial justice assistance 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, 2006, and ending September 30, 2007, the following amount:

. . . . . $ 6,858,167

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 106, which provides for the community services block grant. The division of community action agencies of the department of human rights shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

b. The administrator of the division of community action agencies of the department of human rights shall allocate not less than 96 percent of the amount of the block grant to eligible community action agencies for programs benefiting low-income persons. Each eligible agency shall receive a minimum allocation of not less than $100,000. The minimum allocation shall be achieved by redistributing increased funds from agencies experiencing a greater share of available funds. The funds shall be distributed on the basis of the poverty-level population in the area represented by the community action areas compared to the size of the poverty-level population in the state.

2. An amount not exceeding 4 percent of the funds appropriated in subsection 1 shall be used by the division of community action agencies of the department of human rights for administrative expenses. From the funds set aside by this subsection for administrative expenses, the division of community action agencies of the department of human rights shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the division of community action agencies for the costs of the audits.

Sec. 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, 2006, and ending September 30, 2007, the following amount:

. . . . . $ 29,258,000

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 $1,270,320 for the federal fiscal year beginning October 1, 2006, 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 $685,160 for the federal fiscal year beginning October 1, 2006, of funds appropriated in subsection 1 and a matching contribution from the state equal to $585,160 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, 2006, and ending September 30, 2007, the following amount:

. . . . . $ 34,572,452

The funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 94, subchapter II, which provides for the low-income home energy assistance block grants. The division of community action agencies of the department of human rights shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Up to 15 percent of the amount appropriated in this section that is actually received shall be used for residential weatherization or other related home repairs for low-income households. Of this allocation amount, not more than 10 percent may be used for administrative expenses.

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, 2006, and ending September 30, 2007, the following amount:

. . . . . $ 16,902,644

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 $1,074,798 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, 2006, for the following programs within the department of human services:

a. Field operations:

. . . . . $ 6,428,488

b. Child and family services:

. . . . . $ 961,523

c. Local administrative costs and other local services:

. . . . . $ 681,759

d. Volunteers:

. . . . . $ 74,510

e. Community-based services:
. . . . . $ 85,685
f. MH/MR/DD/BI community services (local purchase):
. . . . . $ 7,595,881

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, 2006, and ending September 30, 2007, 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, 2006, and ending September 30, 2007, the following amount:
. . . . . $ 40,426,890

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, 2006 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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. IOWA DEPARTMENT 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, 2006, and ending June 30, 2007, are appropriated to the Iowa department 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, 2006, and ending June 30, 2007, 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 March 9, 2006

CHAPTER 1169

MEDICAL ASSISTANCE —
PROVIDER PAYMENT ADJUSTMENTS AND FUNDING

H.F. 2347

AN ACT relating to the medical assistance provider payment adjustments, providing for transfer, appropriation, and deposit of funds, providing an effective date, and providing for retroactive applicability.

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

Section 1. Section 249J.23, subsection 1, Code Supplement 2005, is amended to read as follows:

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",~~ from sources including but not limited to appropriations from the general fund of the state, grants, and contributions 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.

Sec. 2. 2004 Iowa Acts, chapter 1175, section 86, subsection 2, paragraph b, unnumbered paragraph 2, and subparagraphs (1), (2), and (3), as amended by 2005 Iowa Acts, chapter 167, section 35, are amended to read as follows:

(1) ~~If the~~ The department of human services ~~adjusts~~ shall adjust 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 July 1~~ during the fiscal year ending June 30, 2005~~, a portion of the amount specified in this unnumbered paragraph equal to the increased Medicaid payment shall 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.~~ The amount of the payment adjustment made pursuant to this subparagraph (1) shall be $20,216,039.

(2) Any incremental increase in the base rate made pursuant to subparagraph (1) shall not be used in determining the university of Iowa ~~hospital~~ hospitals and clinics disproportionate share rate or when determining the statewide average base rate for purposes of calculating indirect medical education rates.

Sec. 3. 2003 Iowa Acts, chapter 112, section 11, subsection 1, as amended by 2005 Iowa Acts, chapter 167, section 36, is amended to read as follows:

1. For the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2004, and 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~~ state-owned acute care teaching hospitals. The adjustment shall generate supplemental payments to physicians which are equal to the difference between the physician's ~~charge~~ average reimbursement from nongovernmental payors 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 payment adjustment amount made pursuant to this subsection shall equal $34,423,090. 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. 4. TRANSFER, APPROPRIATION, AND DEPOSIT OF FUNDS. Upon receipt of the supplemental payments described in sections 2 and 3 of this Act, the university of Iowa shall transfer to the general fund of the state, from whatever source available, $54,639,129, which is an amount equal to the appropriations made pursuant to 2003 Iowa Acts, chapter 182, section 9, subsection 2, paragraph "b", as modified by executive orders 31 and 36, and pursuant to 2004 Iowa Acts, chapter 1175, section 86, subsection 2, paragraph "b". Of the amount transferred to the general fund of the state pursuant to this section, $19,350,061 is appropriated and shall be deposited in the medical assistance account of the department of human services and $35,289,068 is appropriated and shall be deposited in the account for health care transformation created in section 249J.23.

Sec. 5. APPROPRIATION — HEALTH CARE TRANSFORMATION ACCOUNT. There is appropriated from the account for health care transformation created in section 249J.23, 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, for the purposes designated:

For payments to the university of Iowa hospitals and clinics for provision of services pursuant to and for costs associated with chapter 249J:

. . . . . $ 2,000,000

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 expenditure for the purposes designated until the close of the succeeding fiscal year.[1]

Sec. 6. ACTIVITIES SUBSEQUENT TO TRANSFER AND PAYMENTS. Subsequent to the transfer of funds by the university of Iowa to the general fund of the state pursuant to section 4 of this Act, the supplemental payments made to the university of Iowa hospitals and clinics and to the carver college of medicine faculty practice plan by the department of human services pursuant to sections 2 and 3 of this Act are irrevocable, notwithstanding any subsequent decision by the centers for Medicare and Medicaid services of the United States department

[1] See chapter 1184, §65, 69 herein

of health and human services or any other state or federal agency. The department of human services is solely responsible for any repayment or payment of any penalty or fine assessed by any state or federal agency on any party relative to the transactions pursuant to sections 2, 3, and 4 of this Act.

Sec. 7. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. This Act, being deemed of immediate importance, takes effect upon enactment.

2. The provision of this Act amending 2003 Iowa Acts, chapter 112, section 11, is retroactively applicable to May 2, 2003.

3. The provision of this Act amending 2004 Iowa Acts, chapter 1175, section 86, is retroactively applicable to May 17, 2004.

Approved March 9, 2006

CHAPTER 1170

APPROPRIATIONS — TRANSPORTATION

S.F. 2232

AN ACT relating to and making transportation and other infrastructure-related appropriations to the state department of transportation, including allocation and use of moneys from the road use tax fund and the primary road fund.

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

Section 1. ROAD USE TAX FUND. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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, 2007, 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:

..... $ 5,602,060

b. Administrative services:

..... $ 548,222

c. Planning:

..... $ 470,476

d. Motor vehicles:

..... $ 32,155,203

3. For payments to the department of administrative services for utility services:

..... $ 140,000

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:
..... $ 125,480
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:
..... $ 56,420
8. For automation, telecommunications, and related costs associated with the county issuance of driver's licenses and vehicle registrations and titles:
..... $ 2,064,000
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 development of a reporting database:
..... $ 500,000
13. For development of an international registration plan and international fuel tax administration system:
..... $ 1,000,000
Notwithstanding section 8.33, moneys appropriated in subsections 12 and 13 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. 2. PRIMARY ROAD FUND. There is appropriated from the primary road fund to the state department of transportation 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. For salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:
a. Operations and finance:
..... $ 34,412,659
..... FTEs 269.00
b. Administrative services:
..... $ 3,400,067
..... FTEs 35.00
c. Planning:
..... $ 8,901,251
..... FTEs 136.00
d. Highways:
..... $ 198,956,346
..... FTEs 2,452.00
e. Motor vehicles:
..... $ 1,283,891
..... FTEs 483.00
2. For payments to the department of administrative services for utility services:
..... $ 860,000
3. Unemployment compensation:
..... $ 328,000
4. For payments to the department of administrative services for paying workers' compen-

sation claims under chapter 85 on behalf of the employees of the state department of transportation:
. . . . . $ 3,011,520
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:
. . . . . $ 346,580
8. For costs associated with producing transportation maps:
. . . . . $ 235,000
9. For inventory and equipment replacement:
. . . . . $ 2,250,000
10. For utility improvements at various locations:
. . . . . $ 400,000
11. For garage roofing projects at various locations:
. . . . . $ 100,000
12. For heating, cooling, and exhaust system improvements at various locations:
. . . . . $ 100,000
13. For deferred maintenance projects at field facilities throughout the state:
. . . . . $ 351,500
14. For construction of a new Fairfield garage:
. . . . . $ 2,500,000
15. For federal Americans With Disabilities Act improvements at various locations:
. . . . . $ 200,000
16. For paving the Ames complex south parking lot:
. . . . . $ 200,000
17. For elevator upgrades at the Ames complex:
. . . . . $ 100,000

Notwithstanding section 8.33, moneys appropriated in subsections 10 through 17 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, 2009.

Sec. 3. DES MOINES SATELLITE DRIVER'S LICENSE STATION — LEGISLATIVE INTENT. It is the intent of the general assembly that the satellite driver's license station to be established by the state department of transportation within the city of Des Moines be open for the renewal of driver's licenses no later than the date of the opening of the new motor vehicle division facility in Ankeny, whether or not there is a commitment from the Polk county treasurer to operate or staff the satellite station. The general assembly further intends that, to the extent practicable, the satellite station be located as close as possible to the site of the office of driver services currently operated by the department within the city of Des Moines.

Approved March 21, 2006

CHAPTER 1171

MISCELLANEOUS SUPPLEMENTAL APPROPRIATIONS
AND FINANCIAL REGULATION

S.F. 2273

AN ACT relating to financial and regulatory matters by making and revising appropriations for the fiscal year beginning July 1, 2005, and providing an effective date.

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

DIVISION I
EDUCATION

Section 1. STATE BOARD OF REGENTS — UNIVERSITY OF NORTHERN IOWA'S GILCHRIST HALL. There is appropriated from the rebuild Iowa infrastructure 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 purpose designated:

For repair and restoration of Gilchrist hall at the university of northern Iowa:

..... $ 2,000,000

Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall revert at the close of the fiscal year beginning July 1, 2007. However, if the projects for which the moneys are appropriated are completed in an earlier fiscal year, unencumbered or unobligated moneys shall revert at the close of that fiscal year.

DIVISION II
HEALTH AND HUMAN SERVICES
MENTAL HEALTH INSTITUTE AT CLARINDA

Sec. 2. 2005 Iowa Acts, chapter 175, section 21, subsection 2, is amended to read as follows:

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~~
7,689,591

..... FTEs 113.15

DIVISION III
JUSTICE SYSTEM
DEPARTMENT OF CORRECTIONS — FACILITIES

Sec. 3. 2005 Iowa Acts, chapter 174, section 4, 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, 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~~
40,398,034

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... $ ~~27,199,702~~
27,345,641

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~~
25,856,042

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ ~~24,916,132~~
25,085,801

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ ~~23,694,840~~
23,779,085

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ ~~8,039,378~~
8,088,024

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ ~~22,853,497~~
22,970,960

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~~
13,935,233

i. For the operation of the Fort Dodge correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ ~~26,244,693~~
26,368,089

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~~
799,954

k. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

. . . . . $ 241,293

DEPARTMENT OF CORRECTIONS — ADMINISTRATION

Sec. 4. 2005 Iowa Acts, chapter 174, section 5, 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:

. . . . . $ ~~2,829,708~~
3,454,708

STATE PUBLIC DEFENDER

Sec. 5. 2005 Iowa Acts, chapter 174, section 10, subsection 2, is amended to read as follows:

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~~
25,163,082

DEPARTMENT OF PUBLIC SAFETY

Sec. 6. 2005 Iowa Acts, chapter 174, section 14, subsections 1 and 2, are amended to read as follows:

1. For the department's administrative functions, including the criminal justice information system, and for not more than the following full-time equivalent positions:

..... $ ~~3,073,274~~
3,473,274
..... 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~~
15,760,898
..... FTEs ~~228.50~~
257.50

DIVISION IV
MISCELLANEOUS

Sec. 7. Section 7D.29, Code 2005, is amended to read as follows:

7D.29 PERFORMANCE OF DUTY — EXPENSE.

1. The executive council shall not employ others, or incur any expense, for the purpose of performing any duty imposed upon the council when the duty may, without neglect of their usual duties, be performed by the members, or by their regular employees, but, subject to this limitation, the council may incur the necessary expense to perform or cause to be performed any legal duty imposed on the council, and pay the same out of any money in the state treasury not otherwise appropriated.

2. At least two weeks prior to the executive council's approval of a payment authorization under this section, the secretary of the executive council shall notify the legislative services agency that the authorization request will be considered by the executive council and shall provide background information justifying the request.

3. The duties of the executive council under subsection 1 shall include but are not limited to the authority provided by this subsection. If repairs to state property are necessary on an emergency basis in order to address health or safety considerations and if sufficient funds for making the repairs have not been appropriated to the state department responsible for the state property or are not otherwise available for such purposes within the budget of the state department, the executive council may authorize payment for the expenses needed by the state department for repairing the state property. This subsection is repealed June 30, 2008.[1]

Sec. 8. Section 476C.3, subsection 3, Code Supplement 2005, is amended to read as follows:

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. However, a

[1] See chapter 1185, §54, 89 herein

wind energy conversion facility that is approved as eligible under this section but is not operational within eighteen months due to the unavailability of necessary equipment shall be granted an additional twelve months to become operational. A facility that is granted and thereafter loses approval may reapply to the board for a new determination.

DIVISION V
EFFECTIVE DATE

Sec. 9. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 29, 2006

CHAPTER 1172

OFFICE OF GRANTS ENTERPRISE MANAGEMENT — FUNDING

S.F. 2338

AN ACT modifying provisions relating to utilization of indirect cost reimbursements in appropriations to the office of grants enterprise management of the department of management, and making an appropriation.

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

Section 1. Section 8A.505, subsection 2, Code 2005, is amended to read as follows:

2. There is appropriated annually from ~~the increase in~~ indirect cost reimbursements ~~over the amount of indirect cost reimbursements received during the fiscal year beginning July 1, 2002,~~ to the office of grants enterprise management of the department of management the sum of up to one hundred twenty-five thousand dollars for the expenses of the office, and annually for the fiscal period beginning July 1, 2006, and ending June 30, 2008, the sum of thirty-five thousand dollars to provide grant identification and writing assistance to state agencies. The director shall transfer the funds appropriated to the department of management as provided in this subsection and shall make the funds ~~resulting from the increase in reimbursements~~ available during the fiscal year to the department of management on a monthly basis. ~~If the amount of the increase in indirect cost reimbursements is insufficient to pay the maximum appropriation provided for in this subsection, the amount appropriated is equal to the amount of such increase.~~

Approved April 11, 2006

CHAPTER 1173

SENIOR LIVING TRUST FUND —
APPROPRIATIONS, REVERSIONS, AND TRANSFERS

H.F. 2002

AN ACT increasing the standing amount required to be appropriated, reverted, or transferred to the credit of the senior living trust fund and including effective and retroactive applicability date provisions.

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

Section 1. Section 8.55, subsection 2, paragraph b, Code Supplement 2005, is amended to read as follows:

b. 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 shall not be transferred to the general fund of the state but shall be transferred to the senior living trust fund. The total amount appropriated, reverted, or transferred, in the aggregate, under this paragraph, section 8.57, subsection 2, and any other law providing for an appropriation or reversion or transfer of an appropriation to the credit of the senior living trust fund, for all fiscal years beginning on or after July 1, 2004, shall not exceed ~~one hundred eighteen million dollars~~ the amount specified in section 8.57, subsection 2, paragraph "c".

Sec. 2. Section 8.57, subsection 2, paragraphs c, d, and e, Code Supplement 2005, are amended to read as follows:

c. The appropriation made in paragraph "a" shall continue until the aggregate amount of the appropriations made, reverted, or transferred to the senior living trust fund for all fiscal years beginning on or after July 1, 2004, pursuant to paragraph "a" of this subsection, ~~and~~ section 8.55, subsection 2, paragraph "b", and any other law providing for an appropriation or reversion or transfer of an appropriation to the senior living trust fund is equal to ~~one~~ three hundred ~~eighteen~~ million dollars.

~~d. The aggregate amount of the appropriations to be transferred from the Iowa economic emergency fund to the senior living trust fund pursuant to section 8.55, subsection 2, paragraph "b", shall be reduced by the appropriations made pursuant to paragraph "a" of this subsection.~~

~~e.~~ d. This subsection ~~is~~ and section 8.55, subsection 2, paragraph "b", are repealed when the aggregate amount ~~of appropriations~~ specified in paragraph "c" has been distributed, appropriated, reverted, or transferred to the senior living trust fund. The director of the department of management shall notify the Iowa Code editor when the aggregate amount has been distributed, appropriated, reverted, or transferred.

Sec. 3. RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 2004, and is applicable on and after that date.

Approved May 22, 2006

CHAPTER 1174

APPROPRIATIONS — JUDICIAL BRANCH

H.F. 2557

AN ACT relating to and making appropriations to the judicial branch.

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

DIVISION I — APPROPRIATIONS

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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries of supreme court justices, appellate court judges, district court judges, district associate judges, judicial magistrates and staff, state court administrator, clerk of the supreme court, district court administrators, clerks of the district court, juvenile court officers, board of law examiners and board of examiners of shorthand reporters and judicial qualifications commission, receipt and disbursement of child support payments, reimbursement of the auditor of state for expenses incurred in completing audits of the offices of the clerks of the district court during the fiscal year beginning July 1, 2006, and maintenance, equipment, and miscellaneous purposes:

. . . . . $ 123,237,410

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, 2006.

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 in-

formation 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, 2007, 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 7, during the fiscal year beginning July 1, 2005, and ending June 30, 2006, and the plans for expenditures from each fund during the fiscal year beginning July 1, 2006, and ending June 30, 2007. 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, 2006, and ending June 30, 2007, 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 9.16 percent of the basic salaries of the judges covered under chapter 602, article 9:

..... $ 2,039,664

Sec. 3. APPOINTMENT OF CLERK OF COURT. The appointment of a clerk of the district court shall not occur unless the state court administrator approves the appointment.

Sec. 4. POSTING OF REPORTS IN ELECTRONIC FORMAT — LEGISLATIVE SERVICES AGENCY. All reports or copies of reports required to be provided by the judicial branch for fiscal year 2006-2007 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.

DIVISION II — STATUTORY CHANGES

Sec. 5. NEW SECTION. 602.1614 ACCEPTANCE, DISTRIBUTION, AND RETENTION OF ELECTRONIC RECORDS BY THE JUDICIAL BRANCH.

1. As used in this section, "governmental agencies" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.

2. Notwithstanding section 554D.120, the supreme court may prescribe by rule whether and to what extent the judicial branch will accept, process, distribute, and retain electronic records and electronic signatures from litigants, governmental agencies, and other persons, and to what extent the judicial branch will create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

3. If the supreme court prescribes rules relating to electronic records and electronic signatures under subsection 2, the rules may include but are not limited to the following:

a. Defining terms.

b. The manner and format in which an electronic record is created, generated, sent, communicated, received, filed, recorded, and stored.

c. Establishing the information process system to create, generate, send, communicate, receive, file, record, and store an electronic record.

d. How a traditional written signature will relate to an electronic signature.

e. The criteria establishing when an electronic document must be electronically signed.

f. The type of electronic signature required.

g. The manner and format in which an electronic signature is associated with an electronic record.

h. Who can create an electronic signature.

i. The criteria and procedures to follow when filing an electronic document, including who is allowed to file electronically, how notice is given, and electronic service of process.

j. Establishing processes and procedures to ensure adequate preservation, integrity, security, disposition, and audit worthiness of the electronic records.

k. Establishing the criteria for the retention of paper documents when deemed necessary to promote the integrity of electronic records.

l. Establishing the appropriate level of public access to differing classes of electronic records and other court records to ensure the confidentiality of any records that are required by law to be confidential.

m. Establishing any other process or procedures attributable to creating, generating, communicating, storing, processing, and using electronic records and electronic signatures, and how these electronic records and electronic signatures will relate to nonelectronic court records.

4. Rules prescribed pursuant to this section shall prevail over any other laws or court rules that specify the method, manner, or format for sending, receiving, retaining, or creating paper records relating to the courts. The supreme court may limit the applicability and scope of any rules prescribed pursuant to this section to single offices, courts, judicial election districts, or by specific case types for the purpose of testing and implementing an electronic information processing system. Temporary rules prescribed pursuant to this section for the purpose of testing an electronic information processing system are not subject to the requirements of section 602.4202.

5. An electronic record that complies with the rules prescribed under this section shall prevail over any law that requires a written record, and an electronic signature that complies with the rules prescribed under this section shall prevail over any law that requires a written signature. An electronic record or signature that complies with rules prescribed under this section shall not be denied legal effect or enforceability based solely because of the record's or signature's electronic form. The determination of an electronic record's or signature's legal consequence is determined by this chapter, applicable law, and court rules.

Sec. 6. Section 622.29, Code 2005, is repealed.

Approved May 30, 2006

CHAPTER 1175

RENEWABLE FUELS — APPROPRIATIONS,
TAX CREDITS, AND SPECIAL FUNDING

H.F. 2759

AN ACT relating to renewable fuel, by providing for the appropriation of moneys to support renewable fuel infrastructure, providing for tax credits, and providing contingent and other effective dates.

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

Section 1. Section 15G.111, subsection 1, paragraph a, Code Supplement 2005, is amended to read as follows:

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, ~~to~~ the following amounts for the purposes designated:

(1) For the fiscal year beginning July 1, 2005, and ending June 30, 2006, to the department of economic development thirty-five million dollars for programs administered by the department of economic development.

(2) For each fiscal year of the fiscal period beginning July 1, 2006, and ending June 30, 2009, to the department of economic development thirty-three million dollars for programs administered by the department of economic development.

(3) For each fiscal year of the fiscal period beginning July 1, 2009, and ending June 30, 2015, to the department of economic development thirty-five million dollars for programs administered by the department of economic development.

Sec. 2. Section 15G.111, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. a. For the fiscal period beginning July 1, 2006, and ending June 30, 2009, there is appropriated for each fiscal year from the grow Iowa values fund created in section 15G.108 two million dollars for deposit in the renewable fuel infrastructure fund as provided in section 15G.119.

b. This subsection is repealed on July 1, 2009.

Sec. 3. Section 15G.114, as enacted by 2006 Iowa Acts, House File 2754,[1] section 28, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "Infrastructure fund" means the renewable fuel infrastructure fund created in section 15G.119.

Sec. 4. Section 15G.116, subsection 3, as enacted by 2006 Iowa Acts, House File 2754, section 30, is amended by striking the subsection.

Sec. 5. Section 15G.117, subsection 2, as enacted by 2006 Iowa Acts, House File 2754, section 31, is amended by striking the subsection.

Sec. 6. NEW SECTION. 15G.119 RENEWABLE FUEL INFRASTRUCTURE FUND.

1. A renewable fuel infrastructure fund is created in the state treasury under the control of the department. The infrastructure fund is separate from the general fund of the state.

2. The renewable fuel infrastructure fund is composed of moneys appropriated by the general assembly and moneys available to and obtained or accepted by the department from the United States government or private sources for placement in the infrastructure fund.

3. Moneys in the renewable fuel infrastructure fund are appropriated to the department ex-

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[1] Chapter 1142 herein

* Item veto; see message at end of the Act

clusively to support the renewable fuel infrastructure programs as provided in sections 15G.116 and 15G.117, as enacted by 2006 Iowa Acts, House File 2754,[2] sections 30 and 31, as allocated in financial incentives by the renewable fuel infrastructure board as created in section 15G.115, as enacted by 2006 Iowa Acts, House File 2754,[3] section 29. Up to fifty thousand dollars shall be allocated each fiscal year to the department to support the administration of the programs. Otherwise the moneys shall not be transferred, used, obligated, appropriated, or otherwise encumbered except to allocate as financial incentives under the programs.

4. a. The recapture of awards or penalties, or other repayments of moneys originating from the renewable fuel infrastructure fund shall be deposited into the infrastructure fund.

b. Notwithstanding section 12C.7, interest or earnings on moneys in the infrastructure fund shall be credited to the infrastructure fund.

c. Notwithstanding section 8.33, unencumbered and unobligated moneys remaining in the infrastructure fund at the close of each fiscal year shall not revert but shall remain available in the infrastructure fund for expenditure for the same purposes in the succeeding fiscal year.[4]

*Sec. 7. NEW SECTION. 214A.1A MOTOR FUEL QUALITY ASSURANCE SCHEDULE.

1. The department shall adopt a schedule which provides a schedule of departmental improvements required for each fiscal year necessary to assure that motor fuel sold and dispensed from motor fuel pumps in this state meets all applicable standards as provided in section 214A.2. On or before June 1 of each year, and based on the schedule of improvements, the secretary of agriculture shall certify the amount required to implement the improvements required for the next fiscal year to the director of the department of management and the fiscal services division of the legislative services agency. The department of management shall conduct a review of the scheduled improvements for that fiscal year and may reduce the amount certified by the secretary if the department of management determines that a lesser amount is adequate. The director of the department of management and the secretary shall report their findings to the legislative government oversight committees as required by the committees' chairpersons.

*2. For each fiscal year, of the moneys appropriated to each state agency to support the production or use of ethanol, ethanol blended gasoline, biodiesel, or biodiesel blended fuel as defined in section 214A.1, the department of management shall transfer a prorated share of the state agency's appropriation as is necessary to satisfy the amount required to comply with the schedule of improvements for that fiscal year as directed by the department of management. The department of management shall identify each affected appropriation and notify each head of a department of the transfer of the prorated share on or before June 15 of each year.**

Sec. 8. Section 214A.2, subsection 2A, paragraph b, subparagraph (4), as enacted by 2006 Iowa Acts, House File 2754,[5] section 7, is amended by striking the subparagraph.

Sec. 9. Section 214A.7, as amended by 2006 Iowa Acts, House File 2754,[6] section 12, is amended to read as follows:

214A.7 DEPARTMENT INSPECTION — SAMPLES TESTED.

The department shall, from time to time, make or cause to be made tests of any motor vehicle fuel or ~~oxygenate octane enhancer~~ biofuel which is being sold, or held or offered for sale within this state. ~~An~~ A departmental inspector may enter upon the premises of ~~any wholesale dealer or retail~~ a dealer, and take from any container a sample of the motor vehicle fuel or ~~oxygenate octane enhancer~~ biofuel, not to exceed sixteen fluid ounces. The sample shall be sealed and appropriately marked or labeled by the inspector and delivered to the department. The department shall make, or cause to be made, complete analyses or tests of the motor vehicle fuel or ~~oxygenate octane enhancer~~ biofuel by the methods specified in section 214A.2.

Sec. 10. Section 422.11N, subsection 4, paragraph b, subparagraph (1), subparagraph sub-

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[2] Chapter 1142 herein

[3] Chapter 1142 herein

[4] See chapter 1185, §56 herein

* Item veto; see message at end of the Act

[5] Chapter 1142 herein

[6] Chapter 1142 herein

division (k), as enacted by 2006 Iowa Acts, House File 2754,[7] section 39, is amended to read as follows:

(k) Twenty-five percent for each determination period in the period beginning on ~~and after~~ January 1, 2019, and ending on December 31, 2020.

Sec. 11. Section 422.11N, subsection 4, paragraph b, subparagraph (2), subparagraph subdivisions (l) and (m), as enacted by 2006 Iowa Acts, House File 2754,[8] section 39, are amended to read as follows:

(l) ~~Twenty-three~~ Twenty-five percent for the determination period beginning on January 1, 2020, and ending December 31, 2020.

~~(m) Twenty-five percent for each determination period beginning on and after January 1, 2021.~~

Sec. 12. Section 422.11N, subsection 4, paragraph c, as enacted by 2006 Iowa Acts, House File 2754,[9] section 39, is amended to read as follows:

c. The retail dealer's biofuel threshold percentage disparity which is a positive percentage difference obtained by taking the minuend which is the retail dealer's biofuel ~~distribution~~ threshold percentage and subtracting from it the subtrahend which is the retail dealer's biofuel ~~threshold~~ distribution percentage, in the retail dealer's applicable determination period.

Sec. 13. Section 422.11N, subsection 5, paragraph b, subparagraphs (1) and (2), as enacted by 2006 Iowa Acts, House File 2754,[10] section 39, are amended to read as follows:

(1) If a retail dealer has not claimed a tax credit in the retail dealer's previous tax year, the retail dealer may claim the tax credit in the retail dealer's current tax year for that period beginning on January 1 of the retail dealer's previous tax year to the last day of the retail dealer's previous tax year. For that period the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on December 31 of that calendar year as provided in paragraph "a".

(2) (a) For the period beginning on the first day of the retail dealer's tax year until December 31, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who calculates the tax credit on that same December 31 as provided in paragraph "a".

~~(2)~~ (b) For the period beginning on January 1 to the end of the retail dealer's tax year, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on the following December 31 as provided in paragraph "a".

Sec. 14. Section 422.11N, subsection 9, as enacted by 2006 Iowa Acts, House File 2754,[11] section 39, is amended to read as follows:

9. This section is repealed on January 1, ~~2026~~ 2021.

Sec. 15. Section 422.11O, subsection 4, paragraphs a and b, as enacted by 2006 Iowa Acts, House File 2754,[12] section 40, are amended to read as follows:

a. If a retail dealer has not claimed a tax credit in the retail dealer's previous tax year, the retail dealer may claim the tax credit in the retail dealer's current tax year for that period beginning on January 1 of the retail dealer's previous tax year to the last day of the retail dealer's previous tax year. For that period the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on December 31 of that calendar year as provided in subsection 3.

b. (1) For the period beginning on the first day of the retail dealer's tax year until December 31, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who calculates the tax credit on that same December 31 as provided in subsection 3.

~~b.~~ (2) For the period beginning on January 1 to the end of the retail dealer's tax year, the

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[7] Chapter 1142 herein
[8] Chapter 1142 herein
[9] Chapter 1142 herein
[10] Chapter 1142 herein
[11] Chapter 1142 herein
[12] Chapter 1142 herein

retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on the following December 31 as provided in subsection 3.

Sec. 16. Section 422.33, subsection 11A, paragraph c, as enacted by 2006 Iowa Acts, House File 2754,[13] section 46, is amended to read as follows:

c. This subsection is repealed on January 1, ~~2026~~ 2021.

Sec. 17. 2006 Iowa Acts, House File 2754,[14] section 49, subsection 2, is amended to read as follows:

2. For a retail dealer who may claim an ethanol promotion tax credit under section 422.11N or 422.33, subsection 11A, as enacted in this Act, in calendar year ~~2025~~ 2020 and whose tax year ends prior to December 31, ~~2025~~ 2020, the retail dealer may continue to claim the tax credit in the retail dealer's following tax year. In that case, the tax credit shall be calculated in the same manner as provided in section 422.11N or 422.33, subsection 11A, as enacted in this Act, for the remaining period beginning on the first day of the retail dealer's new tax year until December 31, ~~2025~~ 2020. For that remaining period, the tax credit shall be calculated in the same manner as a retail dealer whose tax year began on the previous January 1 and who is calculating the tax credit on December 31, ~~2025~~ 2020.

Sec. 18. 2006 Iowa Acts, House File 2754,[15] section 83, subsection 4, is amended to read as follows:

4. Sections 214A.1, 214A.4, ~~214A.5, 214A.7,~~ 214A.8, and 214A.10, Code 2005, are amended by striking from the provisions the words "oxygenate octane enhancer" and inserting the following: "oxygenate".

Sec. 19. NEW SECTION. 455G.3A SPECIAL APPROPRIATION — RENEWABLE FUEL INFRASTRUCTURE FUND.

1. Notwithstanding section 455G.3, for the fiscal period beginning July 1, 2006, and ending June 30, 2008, there is appropriated each fiscal year from the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, to the renewable fuel infrastructure fund, created in section 15G.119, three million five hundred thousand dollars.

2. This section is repealed on July 1, 2008.

Sec. 20. Section 15.401, Code Supplement 2005, is repealed.

Sec. 21. TRANSFER OF MONEYS. Moneys appropriated to the Iowa department of economic development for the purposes provided in section 15.401 shall be transferred to the renewable fuel infrastructure fund created in section 15G.119, as enacted by this Act, to be expended as provided in sections 15G.116 and 15G.117, as enacted by 2006 Iowa Acts, House File 2754, sections 30 and 31.

Sec. 22. MOTOR FUEL INSPECTION. There is appropriated from the renewable fuel infrastructure fund as created in section 15G.119, as enacted in this Act, to the department of agriculture and land stewardship for each fiscal year of the fiscal period beginning July 1, 2006, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of the inspection of motor fuel, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 300,000

..... FTEs 3.00

The department shall establish and administer programs for the auditing of motor fuel including biofuel processing and production plants, for screening and testing motor fuel, including renewable fuel, and for the inspection of motor fuel sold by dealers including retail dealers who sell and dispense motor fuel from motor fuel pumps.

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[13] Chapter 1142 herein

[14] Chapter 1142 herein

[15] Chapter 1142 herein

* Item veto; see message at end of the Act

Sec. 23. CONTINGENT EFFECTIVE DATE. The sections of this Act*, *other than the section of this Act enacting section 214A.1A,** are contingent upon the enactment of 2006 Iowa Acts, House File 2754. [16]

Sec. 24. SPECIAL EFFECTIVE DATE. The section of this Act enacting section 214A.1A, being deemed of immediate importance, takes effect upon enactment.

Approved May 30, 2006, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2759, an Act relating to renewable fuel, by providing for the appropriation of moneys to support renewable fuel infrastructure, providing for tax credits, and providing contingent and other effective dates.

House File 2759 is approved on this date with the following exceptions, which I hereby disapprove:

I am unable to approve the items designated as Sections 20 and 21 in their entirety. These sections would repeal the E-85 cost share program established by the General Assembly last year and transfer the dollars to the newly-established renewable fuels program. I am concerned that these two sections would terminate the successful E-85 program before the new renewable fuels program and the new board is ready to step in and take its place. Because of the success of the E-85 cost share program, we have a pool of applications still pending and additional are ready to go directly to retailers as soon as the new fiscal year begins in July of 2006. Disapproving these items, therefore, will enable Iowa retailers to upgrade facilities for E-85 fuel more promptly and avoid unnecessary delays.

I am unable to approve the items designated as Sections 4 and 5 in their entirety. These two sections remove references to the E-85 cost share program repealed in Sections 20 and 21.

I am unable to approve the item designated as Section 7 in its entirety. This section appropriates an open-ended amount of money to the Department of Agriculture and Land Stewardship for motor fuel quality assurance out of the funds appropriated for financial incentives to fuel retailers. While it is important that the Department obtain the resources necessary to assure motor fuel quality, it should not come at the expense of our critical efforts to promote and expand access to renewable fuels in this State. Rather, the resources for assuring the quality of our motor fuel should be developed through the normal appropriations process.

I will recommend additional funding to the Department of Agriculture and Land Stewardship for motor fuel quality assurance in the final budget that I submit to the General Assembly in January 2007.

Additionally, I am unable to approve a portion of the item designated as Section 23, as well as the item designated as Section 24 in its entirety. These items make the provisions in Section 7 effective upon enactment. Because I have disapproved Section 7, these items should not be approved.

For the above reasons, I respectfully disapprove these items in accordance with Article 3, Sec-

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* Item veto; see message at end of the Act

[16] Chapter 1142 herein

tion 16 of the Constitution of the State of Iowa. All other items in House File 2759 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1176

APPROPRIATIONS — ECONOMIC DEVELOPMENT

H.F. 2459

AN ACT relating to and making appropriations to the department of economic development, certain board of regents institutions, the department of workforce development, the Iowa finance authority, and the public employment relations board, and related matters, and providing effective and retroactive applicability dates.

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, 2006, and ending June 30, 2007, 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 transfer to the Iowa state commission grant program, and for not more than the following full-time equivalent positions:

..... $ 1,990,845
..... 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:

..... $ 6,215,394
..... 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.

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:

..... $ 5,654,173
..... FTEs 61.26

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:

. . . . . $ 400,000

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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, for insurance economic development and international insurance economic development:

. . . . . $ 100,000

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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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, 2006, and any moneys appropriated or credited to the fund during the fiscal year beginning July 1, 2006, shall be transferred to the workforce development fund established pursuant to section 15.343.

* Item veto; see message at end of the Act

Sec. 10. IOWA FINANCE AUTHORITY. There is appropriated from the general fund of the state to the Iowa finance authority 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 the entrepreneurs with disabilities program:

..... $ 200,000

Sec. 11. 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, 2006, and ending June 30, 2007, 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:

..... $ 2,463,557
..... FTEs 56.63

2. Of the moneys appropriated in subsection 1, Iowa state university shall allocate at least $650,000 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. 12. 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, 2006, and ending June 30, 2007, 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. 13. 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, 2006, and ending June 30, 2007, 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. 14. 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, 2007.

Sec. 15. 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, 2006, and ending June 30, 2007, 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 elevator safety fund, salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	5,278,800
.....	FTEs	89.45

Of the moneys appropriated in this subsection, the department shall allocate $225,000 for purposes of reducing the backlog of cases before the commissioner of workers' compensation and for increasing support for the voluntary compliance program.

2. There is appropriated from the general fund of the state to the department of workforce development 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 deposit in the field office operating fund and for not more than the following full-time equivalent positions:

.....	$	5,856,655
.....	FTEs	86.04

3. 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.

4. 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.

5. The department of workforce development shall maintain pilot immigration services 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.

6. 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. 16. ACCOUNTABILITY — AUDIT.

1. The department of workforce development shall establish accountability measures for all subcontractors. By January 15, 2007, the department shall submit a written report to the chairpersons and ranking members of the joint appropriations subcommittee on economic development which shall include a list of contracts held by the department and accountability measures in effect for each contract.

2. The auditor of state shall annually conduct an audit of the department of workforce development and shall report the findings of such annual audit, including the accountability of programs of the department, to the chairpersons and ranking members of the joint appropriations subcommittee on economic development. The department shall pay for the costs associated with the audit.

3. The legislative services agency shall conduct an annual review of salaries paid to employees of entities organized under chapter 28E and salaries paid under a contract with the department of workforce development. The legislative services agency shall report its findings to the chairpersons and ranking members of the joint appropriations subcommittee on economic development.

Sec. 17. 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, 2006, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, for the purposes designated:

For the division of workers' compensation, 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. 18. UNEMPLOYMENT COMPENSATION RESERVE FUND. Notwithstanding section 96.9, subsection 8, paragraph "e", there is appropriated from interest earned on the unemployment compensation reserve fund to the department of workforce development for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the following amount for deposit in the field office operating fund:

..... $ 4,000,000

Sec. 19. 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, 2006, and ending June 30, 2007, 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:

..... $ 1,030,607
..... FTEs 10.00

Sec. 20. Section 15G.111, subsection 6, paragraph b, Code Supplement 2005, is amended to read as follows:

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 state previously served by a small business development center, to develop business succession plans, and to maintain existing small business development centers. Of the three hundred fifty thousand dollars transferred each fiscal year pursuant to this paragraph, not more than one hundred thousand dollars shall be used for business succession activities. Financial assistance for a small business development center shall not exceed fifty thousand dollars per fiscal year and shall not be awarded unless the city or 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 for at least twenty-five percent of the cost of the center. ~~An award of financial assistance to a small business development center under this paragraph shall not exceed twenty thousand dollars.~~

Sec. 21. Section 91C.1, Code 2005, is amended to read as follows:

91C.1 DEFINITION — EXEMPTION.

1. As used in this chapter, unless the context otherwise requires, "contractor" means a person who engages in the business of construction, as the term "construction" is defined in the Iowa administrative code for purposes of the Iowa employment security law. However, a person who earns less than ~~one~~ two thousand dollars annually or who performs work or has work performed on the person's own property is not a contractor for purposes of this chapter. The state, its boards, commissions, agencies, departments, and its political subdivisions including school districts and other special purpose districts, are not contractors for purposes of this chapter.

2. If a contractor's registration application shows that the contractor is self-employed, does not pay more than ~~one~~ two thousand dollars annually to employ other persons in the business, and does not work with or for other contractors in the same phases of construction, the contractor is exempt from the fee requirements under this chapter.

Sec. 22. Section 96.7A, subsection 3, Code 2005, is amended to read as follows:

3. FY 2006-2007 ..... $ ~~3,262,500~~ 0

*Sec. 23. *TRAVEL POLICY.*

1. For the fiscal year beginning July 1, 2006, each department or independent agency receiving an appropriation in this Act shall review the employee policy for daily or short-term travel including but not limited to the usage of motor pool vehicles under the department of administrative services, employee mileage reimbursement for the use of a personal vehicle, and the usage of private automobile rental companies. Following the review, the department or agency shall implement revisions in the employee policy for daily or short-term travel as necessary to minimize oil consumption and maximize cost savings.

*2. Each department or independent agency subject to subsection 1 shall report to the general assembly's standing committees on government oversight regarding the policy revisions implemented and the consumption reduction and savings realized from the changes. An initial report shall be submitted on or before December 1, 2006, and a follow-up report shall be submitted on or before December 1, 2007.**

Sec. 24. 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

* Item veto; see message at end of the Act

and processes financial assistance fund for deposit in the renewable fuels and coproducts fund created in section 159A.7.

Sec. 25. 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. 26. APPLICATION FOR DEPARTMENT OF ECONOMIC DEVELOPMENT MONEYS. For the fiscal year beginning July 1, 2006, 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, 2006, may apply to the department for assistance through the appropriate program. The department shall provide application criteria necessary to implement this section.

Sec. 27. SHELTER ASSISTANCE FUND. In providing moneys from the shelter assistance fund to homeless shelter programs in the fiscal year beginning July 1, 2006, and ending June 30, 2007, the department of economic development shall explore the potential of allocating moneys to homeless shelter programs based in part on their ability to move their clients toward self-sufficiency.

Sec. 28. 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, 2006.

Sec. 29. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. The section of this Act amending section 15G.111, relating to business succession plans at small business development centers, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to June 9, 2005.

Approved May 31, 2006, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2459, an Act relating to and making appropriations to the Department of Economic Development, certain Board of Regents institutions, the Department of Workforce Development, the Iowa Finance Authority, and the Public Employee Relations Board, related matters, and providing effective and retroactive applicability dates.

House File 2459 is approved on this date with the following exceptions, which I hereby disapprove:

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, the brochure enrollment revenue that comes from non-profit organizations is used for staffing these centers. Without those funds, the centers would be closed several days a week.

I am unable to approve the item designated as Section 23. Not only does this language create an unnecessary bureaucratic step in the efficient operation of state government, but it also calls into question the cost-savings produced by the state motor pool while disregarding the benefits that the state of Iowa derives from maintaining a state motor pool.

The cost-savings of maintaining a state motor pool are clear. In meetings with legislators and the private sector this legislative session and prior legislative sessions, the Department of Administrative Services (DAS) has continually shown that it provides a cost-effective service and the private sector has not shown that they can provide a similar service for the same or a lesser amount. It should also be noted that the state motor pool is a marketplace service that currently competes with the private sector for its state customer business.

In addition, this language only addresses the fiscal impact of the state motor pool and does not recognize other benefits of maintaining a state motor pool. The State of Iowa benefits greatly from having accessibility to a full service, on-site motor pool team with the sole responsibility of maintaining the state motor pool, which ensures convenience to the motor pool's customers, state agencies. In signing Executive Order 41, I requested that DAS take the initiative to move its fleet towards flexible fuel vehicles (vehicles that can either use E-85 or soy biodiesel). By December of 2007, 90% of eligible motor pool vehicles will be flexible fuel vehicles, which will encourage and contribute to the use of renewable fuels.

The state motor pool consistently provides cost-effective services to state agencies that enhance the ability of state government to operate efficiently and promotes Iowa's image as a leader in renewable energy.

For the above reasons, I respectfully disapprove of the designated items in accordance with Article 3, Section 16 of the Constitution of the State of Iowa. All other items in House File 2459 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1177

APPROPRIATIONS — ADMINISTRATION AND REGULATION

H.F. 2521

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:

DIVISION I
ADMINISTRATION AND REGULATION APPROPRIATIONS

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, 2006, and ending June 30, 2007, 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:

..... $ 5,836,824
..... FTEs 451.68

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, 2007.

It is the intent of the general assembly that the department shall reduce utility costs through energy conservation practices. The goal of the general assembly is to reduce energy use by ten percent to save money, conserve energy resources, and reduce pollution.

3. For financial administration duties:

..... $ 200,000

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. DEPARTMENTAL START-UP FUNDING — REVOLVING FUNDS.

1. In addition to the amount appropriated to the department of administrative services in section 1, subsection 1 of this Act, the department is authorized to expend an additional amount not to exceed $359,560 per fiscal year for the purposes of the department for the fiscal period commencing July 1, 2006, and ending June 30, 2010, and an additional amount not to exceed $91,810 for the fiscal year commencing July 1, 2010. Such amounts 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.

2. Amounts expended pursuant to this section shall be considered repayment amounts to the general fund and shall reduce the total amount to be repaid to the general fund until such time as the total amount of the 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, are repaid.

Sec. 3. REVOLVING FUNDS. There is appropriated to the department of administrative services for the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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. 4. FUNDING FOR IOWACCESS.

1. Notwithstanding section 321A.3, subsection 1, for the fiscal year beginning July 1, 2006,

and ending June 30, 2007, 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. 5. STATE EMPLOYEE HEALTH INSURANCE ADMINISTRATION CHARGE. For the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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. 6. 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, 2006, and ending June 30, 2007, 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	102.50

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. 7. 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, 2006, and ending June 30, 2007, 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:

	$	497,056
	FTEs	6.00

Sec. 8. 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, 2006, and ending June 30, 2007, 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:

	$	1,930,962
	FTEs	36.00

2. BANKING DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	7,222,008
	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:

..... $ 1,455,874
..... 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:

..... $ 4,517,481
..... 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 BUREAU

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 793,462
..... FTEs 13.50

6. UTILITIES DIVISION

a. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 7,230,820
..... 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. 9. DEPARTMENT OF COMMERCE — PROFESSIONAL LICENSING AND REGULATION. There is appropriated from the housing improvement fund of the Iowa department of economic development to the bureau of professional licensing and regulation of the banking division of the department of commerce 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 purposes designated:

[1] The phrase "national conference of insurance legislators" probably intended

For salaries, support, maintenance, and miscellaneous purposes:
..... $ 62,317

Sec. 10. 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, 2006, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE

For salaries, support, maintenance, and miscellaneous purposes for the general office of the governor and the general office of the lieutenant governor, and for not more than the following full-time equivalent positions:
..... $ 1,823,111
..... 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:
..... $ 378,633
..... 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:
..... $ 150,013
..... 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:
..... $ 115,748
..... FTEs 2.00

6. TRANSITION COSTS

a. For payment of vacation allowances:
..... $ 77,057

b. For payment to the governor-elect expense fund in lieu of the appropriation from the general fund of the state under section 7.13 to the governor-elect expense fund:
..... $ 100,000

Sec. 11. 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, 2006, and ending June 30, 2007, 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:
..... $ 307,730
..... FTEs 8.00

2. The governor's office of drug control policy, in consultation with the Iowa department of public health, and after discussion and collaboration with all interested agencies, shall coordinate substance abuse treatment and prevention efforts in order to avoid duplication of services.

Sec. 12. 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, 2006,

and ending June 30, 2007, 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:

	$	317,028
	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:

	$	374,367
	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. 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:

	$	193,531
	FTEs	3.20

5. LATINO AFFAIRS DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	170,749
	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:

	$	335,501
	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:

	$	121,655
	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:

	$	1,098,026
	FTEs	12.18

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. 13. 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, 2006, and ending June 30, 2007, 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:

.....	$	1,657,318
.....	FTEs	33.25

2. ADMINISTRATIVE HEARINGS DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	634,647
.....	FTEs	23.00

3. INVESTIGATIONS DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,484,421
.....	FTEs	45.00

4. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,339,742
.....	FTEs	118.25

5. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	54,600
.....	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:

.....	$	2,068,667
.....	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. 14. 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, 2006, and ending June 30, 2007, 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 parimutuel racetracks, and for not more than the following full-time equivalent positions:

	$	2,657,394
	FTEs	27.53

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, 2006, and ending June 30, 2007, 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:

	$	3,199,440
	FTEs	43.22

Sec. 15. 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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

	$	1,482,436

Sec. 16. 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, 2006, and ending June 30, 2007, 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:

	$	2,244,335
	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, 2006, then there is appropriated from the general fund of the state to the department of management 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 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:

	$	119,435
	FTEs	1.00

3. SALARY MODEL ADMINISTRATOR

For salaries, support, and miscellaneous purposes of the salary model administrator, and for not more than the following full-time equivalent position:

	$	127,936
	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.

4. 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:

..... $ 108,000
..... FTEs 2.50

5. For the department's LEAN process, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent position:

..... $ 108,000
..... FTEs 1.00

6. For deposit in the local government innovation fund established in section 8.64:

..... $ 300,000

Sec. 17. 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, 2006, and ending June 30, 2007, 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. 18. 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, 2006, and ending June 30, 2007, the following amounts, 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:

..... $ 23,138,575
..... FTEs 392.64

Of the funds appropriated pursuant to this section, $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, 2007, concerning the department's progress in developing a system to track tax credits.

If the director of revenue determines that contracting for an upgrade of the department's computer assisted collections system would result in generating significantly increased net collection revenues for the fiscal year beginning July 1, 2006, and ending June 30, 2007, in excess of $2,000,000, the director is authorized to procure such upgrade from the current vendor.

Sec. 19. 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, 2006, and ending June 30, 2007, 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:

..... $ 1,258,042

Sec. 20. 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, 2006, and ending June 30, 2007, 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:

..... $ 707,942
..... 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:

..... $ 2,003,091
..... FTEs 32.00

Sec. 21. 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 504.113, subsection 1, paragraphs "a", "c", "d", "j", "k", "l", and "m", for the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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. 22. 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, 2006, and ending June 30, 2007, 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:

..... $ 922,899
..... FTEs 28.80

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

Sec. 23. 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, 2006, and ending June 30, 2007, 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 Iowa public employees' retirement system, and for not more than the following full-time equivalent positions:

..... $ 16,756,131
..... FTEs 95.13

**Sec. 24. TRAVEL POLICY.*

1. For the fiscal year beginning July 1, 2006, each department or independent agency receiving an appropriation in this Act shall review the employee policy for daily or short-term travel including but not limited to the usage of motor pool vehicles under the department of administrative services, employee mileage reimbursement for the use of a personal vehicle, and the usage of private automobile rental companies. Following the review, the department or agency shall implement revisions in the employee policy for daily or short-term travel as necessary to maximize cost savings.

* Item veto; see message at end of the Act

*2. Each department or independent agency subject to subsection 1 shall report to the general assembly's standing committees on government oversight regarding the policy revisions implemented and the savings realized from the changes. An initial report shall be submitted on or before December 1, 2006, and a follow-up report shall be submitted on or before December 1, 2007.**

Sec. 25. 2005 Iowa Acts, chapter 179, section 32, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated during the succeeding fiscal year.

Sec. 26. EFFECTIVE DATE. The section of this division of this Act amending 2005 Iowa Acts, chapter 179, being deemed of immediate importance, takes effect upon enactment.

DIVISION II
MISCELLANEOUS PROVISIONS

Sec. 27. Section 70A.20, Code 2005, is amended to read as follows:

70A.20 EMPLOYEES DISABILITY PROGRAM.

A state employees disability insurance program is created, which shall be administered by the director of the department of administrative services and which shall provide disability benefits in an amount and for the employees as provided in this section. The monthly disability benefits shall, at a minimum, provide twenty percent of monthly earnings if employed less than one year, forty percent of monthly earnings if employed one year or more but less than two years, and sixty percent of monthly earnings thereafter, reduced by primary and family social security determined at the time social security disability payments commence, railroad retirement disability income, workers' compensation if applicable, and any other state-sponsored sickness or disability benefits payable. However, the amount of benefits payable under the Iowa public employees' retirement system pursuant to chapter 97B shall not reduce the benefits payable pursuant to this section. Subsequent social security or railroad retirement increases shall not be used to further reduce the insurance benefits payable. As used in this section, "primary and family social security" shall not include social security benefits awarded to an adult child with a disability of the state employee with a disability who does not reside with the state employee with a disability if the social security benefits were awarded to the adult child with a disability prior to the approval of the state employee's benefits under this section, regardless of whether the United States social security administration records the benefits to the social security number of the adult child with a disability, the state employee with a disability, or any other family member, and such social security benefits shall not reduce the benefits payable pursuant to this section. As used in this section, unless the context otherwise requires, "adult" means a person who is eighteen years of age or older. State employees shall receive credit for the time they were continuously employed prior to and on July 1, 1974. The following provisions apply to the employees disability insurance program:

1. Waiting period, of no more than ninety working days of continuous sickness or accident disability or the expiration of accrued sick leave, whichever is greater.

2. Maximum period benefits paid for both accident or sickness disability:

a. If the disability occurs prior to the time the employee attains the age of sixty-one years, the maximum benefit period shall end sixty months after continuous benefit payments begin or on the date on which the employee attains the age of sixty-five years, whichever is later.

b. If the disability occurs on or after the time the employee attains the age of sixty-one years but prior to the age of sixty-nine years, the maximum benefit period shall end sixty months after continuous benefit payments begin or on the date on which the employee attains the age of seventy years, whichever is earlier.

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* Item veto; see message at end of the Act

c. If the disability occurs on or after the time the employee attains the age of sixty-nine years, the maximum benefit period shall end twelve months after continuous benefit payments begin.

3. a. Minimum and maximum benefits~~,~~ of not less than fifty dollars per month and not exceeding ~~two~~ three thousand dollars per month.

b. In no event shall benefits exceed one hundred percent of the claimant's predisability covered monthly compensation.

4. All probationary and permanent full-time state employees shall be covered under the employees disability insurance program, except board members and members of commissions who are not full-time state employees, and state employees who on July 1, 1974, are under another disability program financed in whole or in part by the state, and state employees who have agreed to participation in another disability program through a collective bargaining agreement. For purposes of this section, members of the general assembly serving on or after January 1, 1989, are eligible for the plan during their tenure in office, on the basis of enrollment rules established for full- time state employees excluded from collective bargaining as provided in chapter 20.

Sec. 28. Section 421.17, subsection 27, paragraphs a, c, d, e, g, and h, Code Supplement 2005, are 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 section 8A.504~~ or local government entity including, but not limited to, the department of revenue, along with other boards, commissions, departments, and any other entity reported in the Iowa comprehensive annual financial report, 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 or local government entities 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 or local government entity.

c. The director shall establish a formal debt collection policy for use by state agencies and local government entities which have not established their own policy. Other state agencies and local government entities may use the collection facilities of the department pursuant to formal agreement with the department. The agreement shall provide that the information provided to the department shall be sufficient to establish the obligation in a court of law and to render it as a legal judgment on behalf of the state or the local government agency. After transferring the file to the department for collection, an individual state agency or the local government agency shall terminate all collection procedures and be available to provide assistance to the department. Upon receipt of the file, the department shall assume all liability for its actions without recourse to the agency or the local government agency, and shall comply with all applicable state and federal laws governing collection of the debt. The department may use a participating agency's or local government agency's statutory collection authority to collect the participating agency's delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to or being collected by the state. The department has the powers granted in this section regarding setoff from income tax refunds or other accounts payable by the state for any of the obligations transferred by state agencies or local government agencies.

d. The department's existing right to credit against tax due shall not be impaired by any right granted to, or duty imposed upon, the department or other state agency or local government agency by this section.

e. All state agencies and local government agencies shall be given access, at the discretion of the director, to the centralized computer data bank and, notwithstanding any other provision of law to the contrary, may deny, revoke, or suspend any license or deny any renewal authorized by the laws of this state to any person who has defaulted on an obligation owed to or

collected by the state. The confidentiality provisions of sections 422.20 and 422.72 do not apply to tax information contained in the centralized computer data bank. State agencies and local government agencies shall endeavor to obtain the applicant's social security or federal tax identification number, or state driver's license number from all applicants.

g. The director shall adopt administrative rules to implement this ~~section~~ subsection, including, but not limited to, rules necessary to prevent conflict with federal laws and regulations or the loss of federal funds, to establish procedures necessary to guarantee due process of law, and to provide for reimbursement of the department by other state agencies and local government entities for the department's costs related to debt collection for state agencies and local government entities.

h. The director shall report quarterly to the legislative fiscal committee, the legislative services agency, and the chairpersons and ranking members of the joint ~~administration~~ appropriations subcommittee on administration and regulation concerning the implementation of the centralized debt collection program, the number of departmental collection programs initiated, the amount of debts collected, and an estimate of future costs and benefits which may be associated with the collection program. It is the intent of the general assembly that the centralized debt collection program will result in the collection of at least two dollars of indebtedness for every dollar expended in administering the collection program during a fiscal year. ~~It is also the intent of the general assembly that the centralized debt collection program be administered without the anticipation of future additional commitments of computer equipment and personnel.~~

Sec. 29. Section 421.17, subsection 27, Code Supplement 2005, is amended by adding the following new paragraph:[2]

NEW PARAGRAPH. j. There is appropriated from the amount of any debt actually collected pursuant to this subsection an amount, not to exceed the amount collected, which is sufficient to pay for salaries, support, maintenance, services, and other costs incurred by the department related to the administration of this subsection. The director shall report annually to the legislative fiscal committee and the legislative services agency on any additional positions added and the costs incurred during the previous fiscal year pursuant to this subsection.

Sec. 30. Section 422.26, unnumbered paragraph 6, Code 2005, is amended to read as follows:

The department shall pay~~, from moneys appropriated to the department for this purpose,~~ a recording fee as provided in section 331.604, for the recording of the lien, or for its satisfaction.

DIVISION III
REASSIGNMENT OF PROFESSIONAL LICENSING AND REGULATION DIVISION

Sec. 31. Section 8A.412, subsection 19, Code Supplement 2005, is amended to read as follows:

19. The superintendent of the banking division of the department of commerce, all members of the state banking council, and all employees of the banking division except for employees of the professional licensing and regulation bureau of the division.

Sec. 32. Section 524.208, Code 2005, is amended to read as follows:

524.208 EXAMINERS AND OTHER EMPLOYEES.

The superintendent may appoint examiners and other employees as the superintendent deems necessary to the proper discharge of the duties imposed upon the superintendent by the laws of this state. Pay plans shall be established for employees, other than clerical employees or employees of the professional licensing and regulation bureau of the banking division, who examine the accounts and affairs of state banks and who examine the accounts and affairs of other persons, subject to supervision and regulation by the superintendent, which are substantially equivalent to those paid by the federal deposit insurance corporation and other federal supervisory agencies in this area of the United States.

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[2] See chapter 1185, §82 herein

Sec. 33. Section 524.211, subsection 5, Code 2005, is amended to read as follows:

5. An employee of the banking division, other than the superintendent or a member of the state banking council or one of the boards in the professional licensing and regulation bureau of the division, shall not perform any services for, and shall not be a shareholder, member, partner, owner, director, officer, or employee of, any enterprise, person, or affiliate subject to the regulatory purview of the banking division.

Sec. 34. Section 534.401, subsection 1, Code 2005, is amended to read as follows:

1. SUPERINTENDENT OF SAVINGS AND LOAN ASSOCIATIONS. The superintendent of savings and loan associations is the ~~administrator of professional licensing and regulation appointed pursuant to section 546.10, subsection 2, or an individual appointed by the administrator as provided in section 546.10, subsection 6~~ superintendent of banking.

Sec. 35. Section 542.4, subsections 1 and 6, Code 2005, are amended to read as follows:

1. An Iowa accountancy examining board is created within the professional licensing and regulation bureau of the banking division of the department of commerce to administer and enforce this chapter. The board shall consist of eight members, appointed by the governor and subject to senate confirmation, all of whom shall be residents of this state. Five of the eight members shall be holders of certificates issued under section 542.6, one member shall be the holder of a license issued under section 542.8, and two shall not be certified public accountants or licensed public accountants and shall represent the general public. At least three of the holders of certificates issued under section 542.6 shall also be qualified to supervise attest services as provided in section 542.7. A certified or licensed member of the board shall be actively engaged in practice as a certified public accountant or as a licensed public accountant and shall have been so engaged for five years preceding appointment, the last two of which shall have been in this state. Professional associations or societies composed of certified public accountants or licensed public accountants may recommend the names of potential board members to the governor. However, 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 certified public accountants or licensed public accountants. The term of each member of the board shall be three years, as designated by the governor, and appointments to the board are subject to the requirements of sections 69.16, 69.16A, and 69.19. Members of the board appointed and serving pursuant to chapter 542C, Code 2001, on July 1, 2002, shall serve out the terms for which they were appointed. Vacancies occurring during a term shall be filled by appointment by the governor for the unexpired term. Upon the expiration of the member's term of office, a member shall continue to serve until a successor shall have been appointed and taken office. The public members of the board shall be allowed to participate in administrative, clerical, or ministerial functions incident to giving the examinations, but shall not determine the content or determine the correctness of the answers. The licensed public accountant member shall not determine the content of the certified public accountant examination or determine the correctness of the answers. Any member of the board whose certificate under section 542.6 or license under section 542.8 is revoked or suspended shall automatically cease to be a member of the board, and the governor may, after a hearing, remove any member of the board for neglect of duty or other just cause. A person who has served three successive complete terms shall not be eligible for reappointment, but appointment to fill an unexpired term shall not be considered a complete term for this purpose.

6. The administrator of the professional licensing and regulation bureau of the banking division of the department of commerce shall provide staffing assistance to the board for implementing this chapter.

Sec. 36. Section 542B.3, Code 2005, is amended to read as follows:

542B.3 ENGINEERING AND LAND SURVEYING EXAMINING BOARD CREATED.

An engineering and land surveying examining board is created within the professional licensing and regulation bureau of the banking division of the department of commerce. The

board consists of four members who are licensed professional engineers, one member who is a licensed land surveyor or a professional engineer who is also a licensed land surveyor, and two members who are not licensed professional engineers or land surveyors and who shall represent the general public. Members shall be appointed by the governor subject to confirmation by the senate. A licensed member shall be actively engaged in the practice of engineering or land surveying and shall have been so engaged for five years preceding the appointment, the last two of which shall have been in Iowa. Insofar as practicable, licensed engineer members of the board shall be from different branches of the profession of engineering. Professional associations or societies composed of licensed engineers or licensed land surveyors may recommend the names of potential board members whose profession is representative of that association or society to the governor. However, the governor is not bound by the recommendations. A board member shall not be required to be a member of any professional association or society composed of professional engineers or land surveyors.

Sec. 37. Section 542B.9, Code 2005, is amended to read as follows:

542B.9 ORGANIZATION OF THE BOARD — STAFF.

The board shall elect annually from its members a chairperson and a vice chairperson. The administrator of the professional licensing and regulation bureau of the banking division of the department of commerce shall hire and provide staff to assist the board in implementing this chapter. The board shall hold at least one meeting at the location of the board's principal office, and meetings shall be called at other times by the administrator at the request of the chairperson or four members of the board. At any meeting of the board, a majority of members constitutes a quorum.

Sec. 38. Section 543B.8, Code Supplement 2005, is amended to read as follows:

543B.8 REAL ESTATE COMMISSION CREATED — STAFF.

A real estate commission is created within the professional licensing and regulation bureau of the banking division of the department of commerce. The commission consists of 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 bureau of the banking division shall hire and provide staff to assist the commission with implementing this chapter.

The administrator of the professional licensing and regulation bureau of the banking division of the department of commerce shall hire a real estate education director to assist the commission in administering education programs for the commission.

Sec. 39. Section 543B.54, Code 2005, is amended to read as follows:

543B.54 REAL ESTATE EDUCATION FUND.

The Iowa real estate education fund is created as a financial assurance mechanism to assist

in the establishment and maintenance of a real estate education program at the university of northern Iowa and to assist the real estate commission in providing an education director. The 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 real estate education fund. Twenty-five dollars per license from fees deposited for each real estate salesperson's license and each broker's license shall be distributed and are appropriated to the board of regents for the purpose of establishing and maintaining a real estate education program at the university of northern Iowa. The remaining moneys in the fund shall be distributed and are appropriated to the professional licensing and regulation bureau of the banking division of the department of commerce for the purpose of hiring and compensating a real estate education director and regulatory compliance personnel.

Sec. 40. Section 543D.4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A real estate appraiser examining board is established within the professional licensing and regulation bureau of the banking division of the department of commerce. The board consists of seven members, two of whom shall be public members and five of whom shall be real estate appraisers.

Sec. 41. Section 544A.1, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The architectural examining board is created within the professional licensing and regulation bureau of the banking division of the department of commerce. The board consists of five members who possess a certificate of registration issued under section 544A.9 and who have been in active practice of architecture for not less than five years, the last two of which shall have been in Iowa, and two members who do not possess a certificate of registration issued under section 544A.9 and who shall represent the general public. Members shall be appointed by the governor subject to confirmation by the senate.

Sec. 42. Section 544A.5, Code 2005, is amended to read as follows:

544A.5 DUTIES.

The architectural examining board shall enforce this chapter, shall make rules for the examination of applicants for the certificate of registration provided by this chapter, and shall, after due public notice, hold meetings each year for the purpose of examining applicants for registration and the transaction of business pertaining to the affairs of the board. Examinations shall be given as often as deemed necessary, but not less than annually. Action at a meeting shall not be taken without the affirmative votes of a majority of the members of the board. The administrator of the professional licensing and regulation bureau of the banking division of the department of commerce shall hire and provide staff to assist the board with implementing this chapter.

Sec. 43. Section 544B.3, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A landscape architectural examining board is created within the professional licensing and regulation bureau of the banking division of the department of commerce. The board consists of five members who are professional landscape architects and two members who are not professional landscape architects and who shall represent the general public. Members shall be appointed by the governor, subject to confirmation by the senate. A professional member shall be actively engaged in the practice of landscape architecture or the teaching of landscape architecture in an accredited college or university, and shall have been so engaged for five years preceding appointment, the last two of which shall have been in Iowa. Associations or societies composed of professional landscape architects may recommend the names of potential board members to the governor. However, the governor is not bound by the recommendations. A board member shall not be required to be a member of any professional association or society composed of professional landscape architects.

Sec. 44. Section 544B.5, Code 2005, is amended to read as follows:

544B.5 DUTIES.

The board shall enforce this chapter, shall make rules for the examination of applicants for licensure, and, after public notice, shall conduct examinations of applicants for licensure. The board shall keep a record of its proceedings. The board shall adopt an official seal which shall be affixed to all certificates of licensure granted. The board may make other rules, not inconsistent with law, as necessary for the proper performance of its duties. The board shall maintain a roster showing the name, place of business, and residence, and the date and number of the certificate of licensure of every professional landscape architect in this state. The administrator of the professional licensing and regulation bureau of the banking division of the department of commerce shall hire and provide staff to assist the board in implementing this chapter.

Sec. 45. Section 544C.1, subsection 2, Code Supplement 2005, is amended to read as follows:

2. ~~"Division"~~ "Bureau" means the professional licensing and regulation bureau of the banking division of the department of commerce.

Sec. 46. Section 544C.2, subsection 1, Code Supplement 2005, is amended to read as follows:

1. An interior design examining board is established within the ~~division~~ bureau. 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.

Sec. 47. Section 544C.3, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

The administrator of the ~~division~~ bureau shall provide staff to assist the board in the implementation of this chapter.

Sec. 48. Section 544C.5, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

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~~ bureau 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:

Sec. 49. Section 546.2, subsection 3, paragraph g, Code 2005, is amended by striking the paragraph.

Sec. 50. Section 546.3, Code 2005, is amended to read as follows:

546.3 BANKING DIVISION.

1. The banking division shall regulate and supervise banks under chapter 524, debt management licensees under chapter 533A, money services under chapter 533C, delayed deposit services under chapter 533D, mortgage bankers and brokers under chapter 535B, regulated loan companies under chapter 536, and industrial loan companies under chapter 536A, and shall perform other duties assigned to the division by law. The division is headed by the superintendent of banking who is appointed pursuant to section 524.201. The state banking council shall render advice within the division when requested by the superintendent.

2. The banking division shall administer and manage the professional licensing and regulation bureau within the division. The division shall separately account for funds of the bureau.

However, the division may allocate costs for administrative, technical, support, and other shared services across the entire division.

Sec. 51. Section 546.5, Code 2005, is amended to read as follows:

546.5 SAVINGS AND LOAN DIVISION.

The savings and loan division shall regulate and supervise savings and loan associations and savings banks under chapter 534. The division is headed by the superintendent of savings and loan associations who shall be ~~appointed pursuant to section 534.401~~ the superintendent of banking.

Sec. 52. Section 546.10, Code Supplement 2005, is amended to read as follows:

546.10 PROFESSIONAL LICENSING AND REGULATION ~~DIVISION~~ BUREAU — SUPERINTENDENT OF SAVINGS AND LOAN ASSOCIATIONS.

1. The professional licensing and regulation bureau of the banking division shall administer and coordinate the licensing and regulation of several professions by bringing together the following licensing boards:

a. The engineering and land surveying examining board created pursuant to chapter 542B.

b. The Iowa accountancy examining board created pursuant to chapter 542.

c. The real estate commission created pursuant to chapter 543B.

d. The architectural examining board created pursuant to chapter 544A.

e. The landscape architectural examining board created pursuant to chapter 544B.

f. The real estate appraiser examining board created pursuant to section 543D.4.

g. The interior design examining board created pursuant to chapter 544C.

2. The ~~division~~ bureau is headed by the administrator of professional licensing and regulation who shall be ~~appointed by the governor subject to confirmation by the senate and shall serve a four-year term that begins and ends as provided in section 69.19~~ the superintendent of banking. ~~A vacancy shall be filled for the unexpired portion of the term in the same manner as a full-term appointment is made.~~ The administrator shall appoint and supervise staff and shall coordinate activities for the licensing boards within the ~~division~~ bureau. ~~The administrator shall act as a staff person to one or more of the licensing boards.~~

3. The licensing and regulation examining boards included in the ~~division~~ bureau pursuant to subsection 1 retain the powers granted them pursuant to the chapters in which they are created, except for budgetary and personnel matters which shall be handled by the administrator. Each licensing board shall adopt rules pursuant to chapter 17A. Decisions by a licensing board are final agency actions for purposes of chapter 17A.

Notwithstanding subsection 5, eighty-five percent of the funds received annually resulting from an increase in licensing fees implemented on or after April 1, 2002, by a licensing board or commission listed in subsection 1, is appropriated to the professional licensing and regulation ~~division~~ bureau to be allocated to the board or commission for the fiscal year beginning July 1, 2002, and succeeding fiscal years, for purposes related to the duties of the board or commission, including but not limited to additional full-time equivalent positions. The director of the department of administrative services shall draw warrants upon the treasurer of state from the funds appropriated as provided in this section and shall make the funds available to the professional licensing ~~division~~ and regulation bureau on a monthly basis during each fiscal year.

4. The professional licensing and regulation bureau of the banking division of the department of commerce may expend additional funds, including funds for additional personnel, if those additional expenditures are directly the cause of actual examination expenses exceeding funds budgeted for examinations. Before the ~~division~~ bureau expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the ~~division~~ bureau and the ~~division~~ bureau does not have other funds from which the expenses can be paid. Upon approval of the

director of the department of management, the ~~division~~ bureau may expend and encumber funds for excess examination expenses. The amounts necessary to fund the examination expenses shall be collected as fees from additional examination applicants and shall be treated as repayment receipts as defined in section 8.2, subsection 8.

5. Fees collected under chapters 542, 542B, 543B, 543D, 544A, ~~and~~ 544B, and 544C shall be paid to the treasurer of state and credited to the general fund of the state. All expenses required in the discharge of the duties and responsibilities imposed upon the professional licensing and regulation bureau of the banking division of the department of commerce, the administrator, and the licensing boards by the laws of this state shall be paid from moneys appropriated by the general assembly for those purposes. All fees deposited into the general fund of the state, as provided in this subsection, shall be subject to the requirements of section 8.60.

~~6. The administrator of professional licensing and regulation is the superintendent of savings and loan associations. The administrator may appoint an individual to act as the superintendent who shall serve as the superintendent at the pleasure of the administrator.~~

Approved May 31, 2006, with exception noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2521, 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 2521 is approved on this date with the following exception, which I hereby disapprove:

I am unable to approve the item designated as Section 24 in its entirety. Not only does this language create an unnecessary bureaucratic step in the efficient operation of state government, but it also calls into question the cost-savings produced by the state motor pool while disregarding the benefits that the state of Iowa derives from maintaining a state motor pool.

The cost-savings of maintaining a state motor pool are clear. In meetings with legislators and the private sector this legislative session and prior legislative sessions, the Department of Administrative Services (DAS) has continually shown that it provides a cost-effective service and the private sector has not shown that they can provide a similar service for the same or a lesser amount. It should also be noted that the state motor pool is a marketplace service that currently competes with the private sector for its state customer business.

In addition, this language only addresses the fiscal impact of the state motor pool and does not recognize other benefits of maintaining a state motor pool. The State of Iowa benefits greatly from having accessibility to a full service, on-site motor pool team with the sole responsibility of maintaining the state motor pool, which ensures convenience to the motor pool's customers, state agencies. In signing Executive Order 41, I requested that DAS take the initiative to move its fleet towards flexible fuel vehicles (vehicles that can either use E-85 or soy biodiesel). By December of 2007, 90% of eligible motor pool vehicles will be flexible fuel vehicles, which will encourage and contribute to the use of renewable fuels.

The state motor pool consistently provides cost-effective services to state agencies that enhance the ability of state government to operate efficiently and promotes Iowa's image as a leader in renewable energy.

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 2521 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1178

APPROPRIATIONS — AGRICULTURE AND NATURAL RESOURCES

H.F. 2540

AN ACT relating to and making appropriations involving state government, including provisions affecting agriculture and natural resources, providing fees, and providing an effective date.

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

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
GENERAL APPROPRIATIONS

Section 1. GENERAL FUND — DEPARTMENT. 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, 2006, and ending June 30, 2007, 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:

. . . . . $ 17,837,900
. . . . . FTEs 404.39

Of the amount appropriated in this section at least $50,000 shall be allocated to support a program relating to the detection, surveillance, and eradication of the gypsy moth.

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
DESIGNATED APPROPRIATIONS — ANIMAL HUSBANDRY

Sec. 2. GENERAL FUND — CHRONIC WASTING DISEASE CONTROL 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, 2006, and ending June 30, 2007, 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 for salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 100,000

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. 3. 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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the department's administration and enforcement of horse and dog racing law pursuant to section 99D.22, including for salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 305,516

Sec. 4. GENERAL FUND — DAIRY PRODUCTS CONTROL. 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, 2006, and ending June 30, 2007, 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 for salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 693,166

Sec. 5. GENERAL FUND — AVIAN INFLUENZA CONTROL. 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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purposes of controlling avian influenza by conducting testing and monitoring:

. . . . . $ 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 to be used for the continued testing and monitoring of avian influenza.

Sec. 6. GENERAL FUND — APIARY LAW. 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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of administering and enforcing apiary law as provided in chapter 160, including for salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 40,000

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
DESIGNATED APPROPRIATIONS — MISCELLANEOUS

Sec. 7. GENERAL FUND — 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, 2006, and ending June 30, 2007, 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

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 July 1, 2007, 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. 8. GENERAL FUND — 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, 2006, and ending June 30, 2007, 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 for salaries, support, maintenance, and miscellaneous purposes:

..... $ 77,000

Sec. 9. GENERAL FUND — STATE INTERAGENCY MISSOURI 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, 2006, and ending June 30, 2007, 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. 10. IOWA SHORTHORN ASSOCIATION. 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 allocation to the Iowa shorthorn association in connection with the 2006 national junior shorthorn show:

..... $ 10,000

DEPARTMENT OF NATURAL RESOURCES
GENERAL APPROPRIATIONS

Sec. 11. GENERAL FUND — DEPARTMENT. There is appropriated from the general fund of the state to the department of natural resources 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 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:

..... $ 17,967,579
..... FTEs 1,113.63

Sec. 12. STATE FISH AND GAME PROTECTION FUND — 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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the division of fish and wildlife, including for administration, regulation, and programs, and for salaries, support, maintenance, equipment, and miscellaneous purposes:

..... $ 34,322,525

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 appro-

priations subcommittee on agriculture and natural resources concerning the commission's approval.

Sec. 13. GROUNDWATER PROTECTION FUND — WATER QUALITY.

1. 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, 2006, and ending June 30, 2007, 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 purposes of supporting the department's protection of the state's groundwater, including for administration, regulation, and programs, and for salaries, support, maintenance, equipment, and miscellaneous purposes:

. . . . . $ 3,455,832

2. Of the amount of moneys to be allocated from the solid waste account of the groundwater protection fund to develop and implement demonstration projects for landfill alternatives to solid waste disposal including recycling programs pursuant to section 455E.11, subsection 2, paragraph "a", subparagraph (1), subparagraph subdivision (c), $300,000 shall be used for purposes of supporting a one-year project to recycle hardware or equipment associated with personal computers. The department shall award the moneys provided in this subsection using a competitive grant process on a statewide basis. The department shall make the award to a person or persons who apply in a manner and according to procedures required by the department.

DEPARTMENT OF NATURAL RESOURCES
RELATED TRANSFERS

Sec. 14. SPECIAL SNOWMOBILE FUND — SNOWMOBILE PROGRAM. There is transferred on July 1, 2006, 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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purposes of administering and enforcing the state snowmobile program:

. . . . . $ 100,000

DEPARTMENT OF NATURAL RESOURCES
DESIGNATED APPROPRIATIONS

Sec. 15. UNASSIGNED REVENUE FUND — UNDERGROUND STORAGE TANK SECTION EXPENSES. 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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purposes of paying for administration expenses of the department's underground storage tank section:

. . . . . $ 200,000

Sec. 16. STORMWATER DISCHARGE PERMIT FEES APPROPRIATION — AIR QUALITY MONITORING. Notwithstanding section 8.33, any moneys appropriated to the department of natural resources from stormwater discharge permit fees for the fiscal year beginning July 1, 2005, and ending June 30, 2006, pursuant to 2005 Iowa Acts, chapter 178, section 2, that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available until the close of the succeeding fiscal year for expenditure 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 for miscellaneous purposes.

Sec. 17. STORMWATER DISCHARGE PERMIT FEES — REDUCING FLOODPLAIN PERMIT BACKLOG. Notwithstanding any contrary provision of state law, for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the department of natural resources may use additional moneys available to the department collected from stormwater discharge permit fees for the staffing of the following additional full-time equivalent positions for the purposes designated:

For purposes of reducing the department's floodplain permit backlog:

. . . . . FTEs 2.00

Sec. 18. STORMWATER DISCHARGE PERMIT FEES — IMPLEMENTING THE FEDERAL TOTAL MAXIMUM DAILY LOAD PROGRAM. Notwithstanding any contrary provision of state law, for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the department of natural resources may use additional moneys available to the department from stormwater discharge permit fees for the staffing of the following additional full-time equivalent positions for the purposes designated:

For purposes of implementing the federal total maximum daily load program:

. . . . . FTEs 2.00

IOWA STATE UNIVERSITY
DESIGNATED APPROPRIATIONS

Sec. 19. AGRICULTURAL REMEDIATION FUND — OPEN FEEDLOT WATER QUALITY RESEARCH PROJECT. There is appropriated from the agrichemical remediation fund created in section 161.7 to the Iowa state university of science and technology 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 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:

. . . . . $ 50,000

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 stewardship, and the United States department of agriculture natural resource conservation service.

Sec. 20. VETERINARY DIAGNOSTIC LABORATORY.

1. There is appropriated from the general fund of the state to Iowa state university of science and technology 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 purposes designated:

For purposes of supporting the college of veterinary medicine for the operation of the veterinary diagnostic laboratory:

. . . . . $ 1,000,000

2. Iowa state university of science and technology shall not reduce the amount that it allocates to support the college of veterinary medicine from any other source due to the appropriation made in this section.

3. If by the end of the fiscal year, Iowa state university of science and technology fails to allocate the moneys appropriated in this section to the college of veterinary science in accordance with this section, the moneys appropriated in this section for that fiscal year shall revert to the general fund of the state.

Sec. 21. VETERINARY DIAGNOSTIC LABORATORY — FUTURE YEARS. It is the intent of the general assembly that a future general assembly appropriate moneys to Iowa state university of science and technology for the designated fiscal years, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the college of veterinary medicine for the operation of the veterinary diagnostic laboratory:

1. FY 2007-2008	$	2,000,000
2. FY 2008-2009	$	3,000,000
3. FY 2009-2010	$	4,000,000

MISCELLANEOUS

Sec. 22. Section 455B.103A, subsection 4, Code Supplement 2005, is amended to read as follows:

4. a. ~~An~~ Except as provided in paragraph "b", an applicant to be covered under a general permit shall pay a permit fee, as established by rule of the commission, which is sufficient in the aggregate to defray the costs of the permit program. Moneys collected shall be remitted to the department.

b. The commission shall adopt rules for a general permit described in section 455B.197, including fees, only to the extent that the rules are consistent with that section.

Sec. 23. Section 455B.105, subsection 11, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The commission shall adopt rules for applications or permits related to the national pollutant discharge elimination system (NPDES) coverage as described in section 455B.197, including fees, only to the extent that the rules are consistent with that section.

Sec. 24. NEW SECTION. 455B.196 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FUND.

1. A national pollutant discharge elimination system permit fund is created as a separate fund in the state treasury under the control of the department. The fund is 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 moneys deposited into the fund from fees charged for the processing of applications for the issuance of permits related to the national pollutant discharge elimination system as provided in section 455B.197.

2. Moneys in the national pollutant discharge elimination system permit fund shall be used only as provided in appropriations made from the fund by the general assembly which may include for purposes relating to expediting the department's processing of national pollutant discharge elimination system applications and the issuance of permits.

3. Section 8.33 shall not apply to moneys credited to the national pollutant discharge elimination system permit 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. 25. NEW SECTION. 455B.197 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS.

The department may issue a permit related to the administration of the national pollutant discharge elimination system permit program pursuant to the federal Water Pollution Control Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R., pt. 124 including but not limited to storm water discharge permits issued pursuant to section 455B.103A. The department may provide for the receipt of applications and the issuance of permits as provided by rules adopted by the department which are consistent with this section. The department shall assess and collect fees for the processing of applications and the issuance of permits as provided in this section. The department shall deposit the fees into the national pollutant discharge elimination system permit fund created in section 455B.196. The fees shall be established as follows:

1. For a permit for the discharge from mining and processing facilities, NPDES general permit no. 5, the following fee schedule shall apply:

a. An annual permit, one hundred twenty-five dollars each year.
b. For a multiyear permit, all of the following shall apply:
(1) A three-year permit, three hundred dollars.
(2) A four-year permit, four hundred dollars.
(3) A five-year permit, five hundred dollars.

2. For coverage under the national pollutant discharge elimination system (NPDES) individual permits for storm water, for a construction permit, an application fee of one hundred dollars.

3. For coverage under the national pollutant discharge elimination system (NPDES) individual permits for nonstorm water, the following annual fees apply:
a. For a major municipal facility, one thousand two hundred seventy-five dollars.
b. For a minor municipal facility, two hundred ten dollars.
c. For a semipublic facility, three hundred forty dollars.
d. For a facility that holds an operation permit, with no wastewater discharge into surface waters, one hundred seventy dollars.
e. For a municipal water treatment facility, a fee shall not be charged.
f. For a major industrial facility, three thousand four hundred dollars.
g. For a minor industrial facility, three hundred dollars.
h. For an open feedlot operation as provided in chapter 459A, an annual fee of three hundred forty dollars.
i. For a new facility that has not been issued a current nonstorm water NPDES permit, a prorated amount which shall be calculated by taking the annual fee amount multiplied by the number of months remaining before the next annual fee due date divided by twelve.
j. For a facility covered under an existing nonstorm water NPDES permit, a prorated amount which shall be calculated by taking the annual fee amount multiplied by the number of months remaining before the next annual fee due date divided by twelve.
k. For a nonstorm water permit as provided in this subsection, a single application fee of eighty-five dollars.

Sec. 26. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FUND — APPROPRIATION TO THE DEPARTMENT OF NATURAL RESOURCES. There is appropriated from the national pollutant discharge elimination system permit fund created in section 455B.196 to the department of natural resources 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 purposes designated:

For purposes of expediting the department's processing of national pollutant discharge elimination system applications and the issuance of permits, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	600,000
.....	FTEs	6.00

Sec. 27. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FUND — APPROPRIATION TO THE DEPARTMENT OF ECONOMIC DEVELOPMENT. There is appropriated from the national pollutant discharge elimination system permit fund created in section 455B.196 to the department of economic development 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 purposes designated:

For purposes of expediting the department of natural resources processing of national pollutant discharge elimination system applications and the issuance of permits, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	100,000
.....	FTEs	2.00

1. The department of economic development shall provide one full-time equivalent position to support an environmental advocate to provide technical assistance to persons engaged in livestock operations who may require a national pollutant discharge elimination system permit as provided in section 455B.197.

2. The department of economic development shall provide one full-time equivalent position to support an environmental advocate to provide technical assistance to persons who are not engaged in livestock operations who may require a national pollutant discharge elimination system permit as provided in section 455B.197.

Sec. 28. Section 455E.11, subsection 2, paragraph a, subparagraph (2), subparagraph subdivision (d), Code Supplement 2005, is amended to read as follows:

(d) 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~~ Beginning July 1, 2008, 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. 29. TRAVEL POLICY.*

1. For the fiscal year beginning July 1, 2006, each department or independent agency receiving an appropriation in this Act shall review the employee policy for daily or short-term travel including but not limited to the usage of motor pool vehicles under the department of administrative services, employee mileage reimbursement for the use of a personal vehicle, and the usage of private automobile rental companies. Following the review, the department or agency shall implement revisions in the employee policy for daily or short-term travel as necessary to maximize cost savings.

*2. Each department or independent agency subject to subsection 1 shall report to the general assembly's standing committees on government oversight regarding the policy revisions implemented and the savings realized from the changes. An initial report shall be submitted on or before December 1, 2006, and a follow-up report shall be submitted on or before December 1, 2007.**

Sec. 30. EFFECTIVE DATE. Section 10 of this Act, providing for the allocation of moneys to the Iowa shorthorn association, and section 16 of this Act, relating to a stormwater discharge permit fees appropriation, being deemed of immediate importance, take effect upon enactment.

Approved May 31, 2006, with exception noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2540, an Act relating to and making appropriations involving state government, including provisions affecting agriculture and natural resources, providing fees, and providing an effective date.

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* Item veto; see message at end of the Act

House File 2540 is approved on this date with the following exception, which I hereby disapprove:

I am unable to approve the item designated as Section 29 in its entirety. Not only does this language create an unnecessary bureaucratic step in the efficient operation of state government, but it also calls into question the cost-savings produced by the state motor pool while disregarding the benefits that the state of Iowa derives from maintaining a state motor pool.

The cost-savings of maintaining a state motor pool are clear. In meetings with legislators and the private sector this legislative session and prior legislative sessions, the Department of Administrative Services (DAS) has continually shown that it provides a cost-effective service and the private sector has not shown that they can provide a similar service for the same or a lesser amount. It should also be noted that the state motor pool is a marketplace service that currently competes with the private sector for its state customer business.

In addition, this language only addresses the fiscal impact of the state motor pool and does not recognize other benefits of maintaining a state motor pool. The State of Iowa benefits greatly from having accessibility to a full service, on-site motor pool team with the sole responsibility of maintaining the state motor pool, which ensures convenience to the motor pool's customers, state agencies. In signing Executive Order 41, I requested that DAS take the initiative to move its fleet towards flexible fuel vehicles (vehicles that can either use E-85 or soy biodiesel). By December of 2007, 90% of eligible motor pool vehicles will be flexible fuel vehicles, which will encourage and contribute to the use of renewable fuels.

The state motor pool consistently provides cost-effective services to state agencies that enhance the ability of state government to operate efficiently and promotes Iowa's image as a leader in renewable energy.

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 2540 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1179

APPROPRIATIONS — INFRASTRUCTURE AND CAPITAL PROJECTS

H.F. 2782

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, the endowment for Iowa's health restricted capitals fund, the technology reinvestment fund, the endowment for Iowa's health account, the public transit infrastructure grant fund, the Iowa great places program fund, and related matters and providing immediate, retroactive, and future effective dates.

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

DIVISION I
REBUILD IOWA INFRASTRUCTURE FUND

Section 1. 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 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":

. . . . . $ 1,824,500

Of the funds appropriated in this paragraph, $210,600 is allocated to the department of corrections and board of parole for assessed maintenance charges by the department of administrative services, $122,000 is allocated for rent payments for the community-based corrections facility located in Davenport, and $185,768 is allocated to the department of cultural affairs for costs associated with leasing space for the state records center.

b. For routine maintenance of state buildings and facilities, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 2,536,500

c. For maintenance of the Terrace Hill complex:

. . . . . $ 75,000

2. DEPARTMENT OF CORRECTIONS

a. For the lease payment under the lease-purchase agreement to connect the electrical system supporting the special needs unit at Fort Madison:

. . . . . $ 333,168

b. For systemic study and planning of the state prison system to maximize the efficient use of the current infrastructure, capacity, and treatment needs, versus projected needs of the prison system based on the Iowa prison population forecast:

. . . . . $ 500,000

3. DEPARTMENT OF CULTURAL AFFAIRS

a. 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

b. For historical site preservation grants to be used for the restoration, preservation, and development of historic sites:

. . . . . $ 800,000

In making grants pursuant to this lettered paragraph, 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 lettered paragraph shall not exceed $100,000 per project. Not more than two grants may be awarded in the same county.

c. For providing a grant to the Grout museum district for costs associated with the construction and site development at the Sullivan brothers veterans museum in order to honor Iowa veterans and their many contributions:

. . . . . $ 1,000,000

d. For the American gothic visitors education center in Eldon, Iowa, for infrastructure purposes:

. . . . . $ 250,000

4. DEPARTMENT OF ECONOMIC DEVELOPMENT

For costs associated with the construction, renovation, major repair, and site development of Iowa port authorities pursuant to chapter 28J:

. . . . . $ 80,000

The amount appropriated in this subsection shall be administered by the department as a grant program. The purpose of the grant program is to provide support for programs that enhance, foster, aid, provide, or promote transportation, economic development, recreation, governmental operations, culture, or research within the jurisdiction of a port authority pursuant to chapter 28J. Grants shall be awarded in the manner provided by the department pursuant to rule.

5. DEPARTMENT OF EDUCATION

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":

. . . . . $ 1,200,000

Of the amount appropriated in this subsection, $200,000 shall be allocated to the state library and $50,000 shall be allocated equally to each library service area.

6. DEPARTMENT OF HUMAN SERVICES

To provide a matching grant for the planning, design, renovation, and construction of a residential treatment facility for youth with emotional and behavioral disorders in a city with a population of between 10,000 and 15,000 residents located in a central Iowa county with a population of approximately 375,000 residents:

. . . . . $ 300,000

It is the intent of the general assembly that the matching grant awarded from the funds appropriated under this subsection shall be awarded only to the extent that the state moneys are matched from sources other than the state on a dollar-for-dollar basis.

7. IOWA FINANCE AUTHORITY

For deposit into the transitional housing revolving loan program fund created in section 16.184:

. . . . . $ 1,400,000

8. DEPARTMENT OF NATURAL RESOURCES

a. To be used to assist in the purchase, through public-private partnerships, of certain unique and treasured land in Iowa:

. . . . . $ 1,500,000

b. For repair and maintenance of the four season bathhouse shelter at Lake Darling:

. . . . . $ 250,000

9. DEPARTMENT OF PUBLIC DEFENSE

a. For construction costs associated with the Camp Dodge armed forces readiness center:

. . . . . $ 100,000

b. For allocation to the homeland security and emergency management division for the STARCOMM project:

. . . . . $ 1,000,000

10. DEPARTMENT OF PUBLIC HEALTH

To an established regional environmental public health and emergency management program for costs associated with the planning, design, and construction of a building to house environmental public health and emergency and facility management:

. . . . . $ 100,000

11. DEPARTMENT OF PUBLIC SAFETY

a. For the planning, design, and construction of a law enforcement driving safety training facility in the same location as the automobile racetrack facility as defined in section 423.4, subsection 5:

. . . . . $ 800,000

b. For allocation to the division of fire protection for the planning, design, and construction of regional emergency response training centers in the state:

. . . . . $ 2,300,000

Of the amount appropriated in this lettered paragraph, $400,000 shall be allocated to the Sioux City fire department.

Of the amount appropriated in this lettered paragraph, $500,000 shall be allocated to the Council Bluffs fire department.

Of the amount appropriated in this lettered paragraph, $150,000 shall be allocated to the Dubuque county firemen's association.

Of the amount appropriated in this lettered paragraph, $150,000 shall be allocated to the Waterloo regional hazardous materials training center.

Of the amount appropriated in this lettered paragraph, $400,000 shall be allocated to eastern Iowa community college.

Of the amount appropriated in this lettered paragraph, $400,000 shall be allocated to Iowa lakes community college.

Of the amount appropriated in this lettered paragraph, an additional $300,000 shall be available to a lead public agency of any of the regional emergency response training centers upon application to the fire service training bureau. The state fire marshal shall adopt rules that establish an application procedure for a lead public agency of any of the regional emergency response training centers identified in section 100B.16. The highest priority use for the moneys appropriated under this paragraph shall be for regional emergency response training centers comprised of two merged areas. Such moneys shall be used for the same purposes for which the previously identified allocations may be spent and shall not be used for facilities related to providing advanced training as specified in section 100B.16.

12. STATE BOARD OF REGENTS

a. 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 tuition, student fees and charges, and institutional income to finance the cost of providing academic and administrative buildings and facilities and utility services at the institutions, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 10,329,981

b. For implementation of the recommendations provided in separate consultant reports on bioscience, advanced manufacturing, and information technology submitted to the department of economic development in the calendar years 2004 and 2005, including projects submitted for review to the technology and commercialization resources organization created in this Act, if enacted,[1] notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 8,200,000

c. For vertical infrastructure-related improvements associated with the implementation of the recommendations provided in separate consultant reports on bioscience, advanced manufacturing, and information technology submitted to the department of economic development in the calendar years 2004 and 2005, including projects submitted for review to the technology and commercialization resources organization created in this Act, if enacted:[2]

. . . . . $ 1,800,000

d. For the design and construction of a new university hygienic laboratory at the state university of Iowa:

. . . . . $ 8,350,000

---

[1] See §49 herein

[2] See §49 herein

e. For the construction, major renovation, and maintenance of a veterinary laboratory at Iowa state university of science and technology:
. . . . . $ 2,000,000
f. 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:
. . . . . $ 6,200,000
It is the intent of the general assembly that the moneys appropriated in this subsection supplant state university operating funds used for the purposes stated.
g. For endowments and salaries, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 5,000,000
h. To provide a grant for the construction of, and purchasing equipment for, a facility to be used exclusively for processing novel proteins from agricultural products for pharmaceutical, nutraceutical, or chemical applications:
. . . . . $ 1,000,000
13. 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 (A.S.T.M.) F1292 standard.
The national program for playground safety shall submit a report by January 15, 2007, to the 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.
14. DEPARTMENT OF TRANSPORTATION
a. For deposit into the railroad revolving loan and grant fund created in section 327H.20A:
. . . . . $ 235,000
b. 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":
. . . . . $ 564,000
15. TREASURER OF STATE
a. For repayment of prison infrastructure revenue bonds under section 16.177, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 5,416,604
b. 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. 2. There is appropriated from the rebuild Iowa infrastructure fund to the following departments for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:
1. DEPARTMENT OF ADMINISTRATIVE SERVICES
For construction of a new school and infirmary building at the Iowa juvenile home at Toledo and for the renovation of existing school buildings and the demolition of other buildings:
. . . . . $ 3,100,000

2. DEPARTMENT OF CULTURAL AFFAIRS

For deposit into the Iowa great places program fund created in section 303.3D as enacted in this Act:[3]

. . . . . $ 3,000,000

3. DEPARTMENT OF PUBLIC DEFENSE

For allocation to the homeland security and emergency management division for the STARCOMM project:

. . . . . $ 2,000,000

4. DEPARTMENT OF TRANSPORTATION

For deposit into the public transit infrastructure grant fund created in section 324A.6A, if enacted in this Act:[4]

. . . . . $ 2,200,000

Sec. 3. There is appropriated from the rebuild Iowa infrastructure fund to the department of public defense for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For allocation to the homeland security and emergency management division for the STARCOMM project:

. . . . . $ 1,600,000

Sec. 4. REVERSION.

1. Notwithstanding section 8.33, moneys appropriated for the fiscal year beginning July 1, 2006, in this division of this Act that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2009, or until the project for which the appropriation was made is completed, whichever is earlier.

2. Notwithstanding section 8.33, moneys appropriated for the fiscal year beginning July 1, 2007, in this division of this Act that remain unencumbered or unobligated at the close of the fiscal year shall not revert 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.

3. Notwithstanding section 8.33, moneys appropriated for the fiscal year beginning July 1, 2008, in this division of this Act that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2011, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 5. DEPARTMENT OF ADMINISTRATIVE SERVICES. There is appropriated from the rebuild Iowa infrastructure fund to the department of administrative services for the designated fiscal years, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For planning, design, and construction costs associated with the construction of a new approximately 350,000-gross-square-foot state office building, including costs associated with furnishings, employee relocation, and the demolition of the Wallace Building:

FY 2007-2008 . . . . . $ 16,100,000
FY 2008-2009 . . . . . $ 16,800,000
FY 2009-2010 . . . . . $ 6,657,100

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, 2011, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 6. STATE BOARD OF REGENTS. There is appropriated from the rebuild Iowa infra-

[3] See §54 herein
[4] See §55 herein

structure fund to the state board of regents for the following fiscal years the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For the design and construction of a new university hygienic laboratory at the state university of Iowa:

FY 2007-2008 ..... $ 15,650,000
FY 2008-2009 ..... $ 12,000,000

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, 2011, or until the project for which the appropriation was made is completed, whichever is earlier.

DIVISION II
ENVIRONMENT FIRST FUND

Sec. 7. There is appropriated from the environment first 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 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

Of the amount appropriated in this lettered paragraph, $150,000 is allocated to the department for the purpose of funding a detailed project report by the United States army corps of engineers to study flood prevention improvements to a levee located in the largest city in a county in this state with a population between 190,000 and 200,000. To receive funds pursuant to this paragraph, the city shall provide local matching moneys on a dollar-for-dollar basis and shall work to obtain any available federal funding.

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 agricultural drainage well water quality 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.

(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 to 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 10 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:

. . . . . $ 2,500,000

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 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

h. For the dredging of lakes, including necessary preparation for dredging, in accordance with the department's classification of Iowa lakes restoration report:
. . . . . $ 975,000

Of the amount appropriated for the dredging of lakes, $225,000 shall be allocated for a lake with public access that has the support of a benefitted lake district located in a county with a population between 18,350 and 18,450.

The department shall monitor private lake recipients with a department presence of the funds appropriated in this lettered paragraph and such recipients shall provide local matching moneys on a dollar-for-dollar basis.

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.

i. For completion of the tire reclamation project near Rhodes:
. . . . . $ 50,000

Sec. 8. There is appropriated from the environment first fund to the department of agriculture and land stewardship 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 the purpose of funding a detailed project report by the United States army corps of engineers to study flood prevention improvements to a levee located in the largest city in a county in this state with a population between 190,000 and 200,000:
. . . . . $ 150,000

To receive funds pursuant to this section, the city shall provide local matching moneys on a dollar-for-dollar basis and shall work to obtain any available federal funding.

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 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.

RESOURCES ENHANCEMENT AND PROTECTION FUND

Sec. 9. 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, 2006, and ending June 30, 2007, the following amount, to be allocated as provided in section 455A.19:
. . . . . $ 11,000,000

Sec. 10. REVERSION.

1. Except as provided in subsection 2, and notwithstanding section 8.33, moneys appropriated for the fiscal year beginning July 1, 2006, in this division of this Act that remain unencum-

bered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purposes designated until the close of the fiscal year beginning July 1, 2007, 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, 2009.

Sec. 11. CONTINGENT EFFECTIVE DATE. The lettered paragraph in the section of this division of this Act making an appropriation from the environment first fund to the department of natural resources for purposes related to use attainability analyses is contingent upon the enactment of section 455B.176A[5] by the Eighty-first General Assembly, 2006 Session, making it necessary for the department to contract with qualified persons outside the department to conduct use attainability analyses.

DIVISION III
TOBACCO SETTLEMENT TRUST FUND

Sec. 12.

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 upgrades to the electrical distribution system serving the capitol complex:
..... $ 3,468,800

(2) For costs associated with the remodeling of the records and property center:
..... $ 2,200,000

(3) For costs associated with the restoration of the west capitol terrace:
..... $ 2,300,000

(4) For costs to repair parking lots on the capitol complex:
..... $ 1,545,000

b. DEPARTMENT OF CORRECTIONS

(1) For construction of a community-based correctional facility, including district offices, in Fort Dodge:
..... $ 1,400,000

(2) For the remodeling and renovation of the kitchen facilities at the Anamosa correctional facility:
..... $ 1,840,000

(3) For the Oakdale expansion one-time equipment purchases and expenses:
..... $ 3,376,519

c. DEPARTMENT OF NATURAL RESOURCES

For state park infrastructure renovations:
..... $ 1,000,000

Of the amount appropriated in this lettered paragraph, $25,000 shall be used for improvements to the stone wall at Backbone state park.

d. DEPARTMENT OF PUBLIC DEFENSE

(1) For major maintenance projects at national guard armories and facilities:
..... $ 1,500,000

(2) For upgrades to the Camp Dodge water distribution system:
..... $ 750,000

(3) For construction of a national guard aviation armory in Waterloo:
..... $ 399,000

[5] See chapter 1145, §3 herein

e. DEPARTMENT OF PUBLIC SAFETY

For construction of an Iowa state patrol post in district 8:

. . . . . $ 2,400,000

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 that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2006.

Sec. 13. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV
VERTICAL INFRASTRUCTURE FUND

Sec. 14. There is appropriated from the vertical infrastructure fund to the state board of regents 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 purposes designated:

STATE BOARD OF REGENTS

For vertical infrastructure-related improvements associated with the implementation of the recommendations provided in separate consultant reports on bioscience, advanced manufacturing, and information technology submitted to the department of economic development in the calendar years 2004 and 2005, including projects submitted for review to the technology and commercialization resources organization created in this Act, if enacted:[6]

. . . . . $ 5,000,000

Sec. 15. REVERSION. Notwithstanding section 8.33, moneys appropriated in this division of this Act that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2009, or until the project for which the appropriation was made is completed, whichever is earlier.

DIVISION V
ENDOWMENT FOR IOWA'S HEALTH RESTRICTED CAPITALS FUND

Sec. 16. There is appropriated from the endowment for Iowa's health restricted capitals 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 capitol interior and exterior restoration and 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:

. . . . . $ 6,830,000

Of the amount appropriated in this paragraph, up to $500,000 shall be used to establish areas of rescue assistance in emergency evacuation situations.

Of the amount appropriated in this lettered paragraph, funds shall be used for the maintenance of the exterior windows on the east side of the capitol building.

b. For planning, design, and construction costs associated with the construction of a new approximately 350,000-gross-square-foot state office building:

. . . . . $ 37,585,000

[6] See §49 herein

c. For upgrades to the Woodward state resource center wastewater treatment system:
. . . . . $ 2,443,000
d. For costs associated with the replacement of the powerhouse facilities at the Iowa juvenile home at Toledo:
. . . . . $ 1,521,045
e. For construction of a new school and infirmary building at the Iowa juvenile home at Toledo and for the renovation of existing school buildings and the demolition of other buildings:
. . . . . $ 5,030,668
f. For discretion by the director of the department of administrative services to be used to purchase property or enter into agreements to purchase property which would be appropriate or beneficial to the state:
. . . . . $ 500,000
2. DEPARTMENT FOR THE BLIND
For costs associated with department for the blind building renovations:
. . . . . $ 4,000,000
3. DEPARTMENT OF CORRECTIONS
a. For construction of a community-based correctional facility, including district offices, in Davenport:
. . . . . $ 3,750,000
b. For construction of a community-based correctional facility, including district offices, in Fort Dodge:
. . . . . $ 1,000,000
c. To the sixth judicial district department of correctional services for the design and construction of a 20-bed residential facility for offenders under the supervision of the district department who have mental health or dual diagnosis needs:
. . . . . $ 1,000,000
4. DEPARTMENT OF CULTURAL AFFAIRS
For deposit into the Iowa great places program fund created in section 303.3D, if enacted in this Act:[7]
. . . . . $ 3,000,000
Of the amount deposited into the Iowa great places program fund pursuant to this subsection, $1,000,000 is appropriated for and shall be allocated to each Iowa great place identified through the Iowa great places program in fiscal year 2005-2006. Notwithstanding section 8.33, the amounts appropriated and allocated pursuant to this paragraph that remain unencumbered at the close of the fiscal year shall not revert but shall remain available for expenditure by the department for the purposes designated in this paragraph until the close of the succeeding fiscal year.
5. 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:
. . . . . $ 5,500,000
The moneys appropriated in this subsection shall be allocated equally among the community colleges in the state. If any portion of the equal allocation to a community college is not obligated or encumbered by April 1, 2007, the unobligated and unencumbered portions shall be available for use by other community colleges.
6. DEPARTMENT OF EDUCATION
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 community colleges:
. . . . . $ 2,000,000
The moneys appropriated in this subsection shall be allocated to the community colleges based upon the state aid distribution formula established in section 260C.18C.

[7] See §54 herein

7. IOWA STATE FAIR AUTHORITY

For capital projects on the Iowa state fairgrounds:

. . . . . $ 1,000,000

8. DEPARTMENT OF PUBLIC DEFENSE

a. For construction of a national guard readiness center in Iowa City:

. . . . . $ 1,444,288

b. For construction of a national guard aviation armory in Waterloo:

. . . . . $ 1,236,000

c. For construction of a national guard armory in Spencer:

. . . . . $ 689,000

d. For allocation to the homeland security and emergency management division for the STARCOMM project:

. . . . . $ 600,000

9. DEPARTMENT OF PUBLIC SAFETY

For allocation to the division of fire protection for the planning, design, and construction of regional emergency response training centers in the state:

. . . . . $ 2,000,000

Of the amount appropriated in this subsection, $400,000 shall be allocated to north Iowa area community college.

Of the amount appropriated in this subsection, $400,000 shall be allocated to southeastern Iowa community college.

Of the amount appropriated in this subsection, $400,000 shall be allocated to Des Moines area community college to be used at the Ankeny campus site.

Of the amount appropriated in this subsection, $400,000 shall be allocated to the city of Coralville fire department.

Of the amount appropriated in this subsection, $400,000 shall be allocated to Iowa central community college.

10. STATE BOARD OF REGENTS

For major renovation and major repair needs, including health, life, and fire safety needs, and for compliance with the federal American[8] With Disabilities Act, for state buildings and facilities under the purview of state board of regents institutions:

. . . . . $ 10,000,000

Of the funds appropriated in this paragraph, $5,000,000 is allocated for costs associated with the planning, design, and construction of the chemistry building at Iowa state university of science and technology, $3,000,000 is allocated for costs associated with completing upgrades to the electrical distribution system at the university of northern Iowa, and $2,000,000 is allocated for costs associated with the planning, design, and construction of a new building to house the college of public health at the state university of Iowa.

11. DEPARTMENT OF TRANSPORTATION

a. For infrastructure improvements at general aviation airports within the state:

. . . . . $ 750,000

b. 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 upon 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.

[8] The word "Americans" probably intended

c. For acquiring, constructing, and improving recreational trails within the state:
. . . . . $ 2,000,000
Of the amount appropriated in this lettered paragraph, $200,000 shall be allocated for trail projects in Wapello county.
d. For deposit into the public transit infrastructure grant fund created in section 324A.6A:
. . . . . $ 2,200,000
12. DEPARTMENT OF VETERANS AFFAIRS
For capital improvement projects at the Iowa veterans home:
. . . . . $ 6,200,000

Sec. 17. 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.

Sec. 18. REVERSION.
1. Except as provided in subsections 2 and 3, notwithstanding section 8.33, moneys appropriated from the endowment for Iowa's health restricted capitals fund for the fiscal years that begin July 1, 2005, and July 1, 2006, in this division of this Act that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2009, or until the project for which the appropriation was made is completed, whichever is earlier.
2. Notwithstanding section 8.33, moneys appropriated from the endowment for Iowa's health restricted capitals fund for the fiscal year that begins July 1, 2006, and ends June 30, 2007, in this division of this Act to the department of veterans affairs for capital improvement projects at the Iowa veterans home 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, 2010.
3. Notwithstanding section 8.33, moneys appropriated from the endowment for Iowa's health restricted capitals fund for the fiscal year beginning July 1, 2006, and ending June 30, 2007, in this division of this Act to the department of education for major renovation and major repair needs at the community colleges 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 beginning July 1, 2010, or until the project for which appropriated is completed, whichever is earlier.

Sec. 19. REPORT. Annually, on or before January 1 of each year, a state agency that received an appropriation from the endowment for Iowa's health restricted capitals fund for the preceding fiscal year shall report to the joint transportation, infrastructure, and capitals appropriation subcommittee, the legislative services agency, the department of management, and the legislative capital projects committee of the legislative council the status of all ongoing projects for which an appropriation from the fund has been made. The report shall include a description of the project, the progress of work completed, the total estimated cost of the project, a list of all revenue sources being used to fund the project, the amount of funds expended, the amount of funds obligated, and an estimated completion date of the project.

Sec. 20. EFFECTIVE DATE. The section of this division of this Act appropriating moneys to the department of administrative services for the fiscal year beginning July 1, 2005, for restoration of the west capitol terrace,[9] being deemed of immediate importance, takes effect upon enactment.

DIVISION VI
TECHNOLOGY REINVESTMENT FUND

Sec. 21. There is appropriated from the technology reinvestment fund created in section

[9] See §12 and 13 herein

8.57C 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

For technology improvement projects:

..... $ 3,358,334

2. DEPARTMENT OF CORRECTIONS

For costs associated with the Iowa corrections offender network data system:

..... $ 500,000

3. DEPARTMENT OF EDUCATION

a. For implementation of the provisions of chapter 280A:

..... $ 500,000

b. For maintenance and lease costs associated with connections for Part III of the Iowa communications network:

..... $ 2,727,000

c. For allocation to the public broadcasting division for installation costs for the conversion to high definition broadcasting at the Iowa public television facilities:

..... $ 2,300,000

d. To the public broadcasting division for replacing transmitters:

..... $ 1,425,000

e. To the public broadcasting division for the purchase of equipment intended to provide an uninterruptible power supply:

..... $ 315,000

4. DEPARTMENT OF HUMAN RIGHTS

For the cost of equipment and computer software for the implementation of Iowa's criminal justice information system:

..... $ 2,645,066

5. IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

For technological improvements to the board's electronic filing system:

..... $ 39,100

6. IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION

For replacement of equipment for the Iowa communications network:

..... $ 1,997,500

7. IOWA LAW ENFORCEMENT ACADEMY

For information technology upgrades and renovations at the Iowa law enforcement academy:

..... $ 50,000

8. BOARD OF PAROLE

For information technology upgrades for the board of parole:

..... $ 75,000

9. DEPARTMENT OF PUBLIC DEFENSE

For information technology upgrades for the Iowa national guard:

..... $ 75,000

10. DEPARTMENT OF PUBLIC SAFETY

a. For continuation of payments on the lease of the automated fingerprint identification system:

..... $ 550,000

b. For information technology hardware and software upgrades for the department of public safety:

..... $ 943,000

Sec. 22. REVERSION. Notwithstanding section 8.33, moneys appropriated in this division of this Act that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purposes designated until the close of the fiscal year

beginning July 1, 2007, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 23. NEW SECTION. 8.57C TECHNOLOGY REINVESTMENT FUND.

1. A technology reinvestment fund is created under the authority of the department of management. The fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law. The fund shall be separate from the general fund of the state and the balance in the fund shall not be considered part of the balance of the general fund of the state. However, the fund shall be considered a special account for the purposes of section 8.53, relating to generally accepted accounting principles.

2. Moneys in the fund in a fiscal year shall be used as appropriated by the general assembly for the acquisition of computer hardware and software, software development, telecommunications equipment, and maintenance and lease agreements associated with technology components and for the purchase of equipment intended to provide an uninterruptible power supply.

3. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 2006, and for each subsequent fiscal year, the sum of seventeen million five hundred thousand dollars to the technology reinvestment fund.

4. Annually, on or before January 1 of each year, a state agency that received an appropriation from this fund for the preceding fiscal year shall report to the joint transportation, infrastructure, and capitals appropriation subcommittee, the legislative services agency, the department of management, and the legislative capital projects committee of the legislative council the status of all ongoing projects for which an appropriation from this fund has been made. The report shall include a description of the project, the progress of work completed, the total estimated cost of the project, a list of all revenue sources being used to fund the project, the amount of funds expended, the amount of funds obligated, and an estimated completion date of the project.

DIVISION VII
ENDOWMENT FOR IOWA'S HEALTH ACCOUNT

Sec. 24. Notwithstanding section 12.65, subsection 2, and section 12E.12, subsection 1, paragraph "b", subparagraph (2), there is appropriated from the endowment for Iowa's health account of the tobacco settlement trust fund established in section 12E.12 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 NATURAL RESOURCES

For implementation of lake projects that have established watershed improvement initiatives and community support in accordance with the department's annual lake restoration plan and report:

..... $ 8,600,000

It is the intent of the general assembly that all lake restoration projects that satisfy the criteria required in section 456A.33B and whose project designers worked with the department to develop an action plan prior to January 1, 2006, shall be funded in the amounts and according to the timeline for fiscal year 2006-2007 provided in the department's Iowa lakes restoration report submitted to the Eighty-first General Assembly.

Of the amounts appropriated in this subsection, at least the following amounts shall be allocated as follows:

a. For clear lake in Cerro Gordo county:

..... $ 4,000,000

b. For storm lake in Buena Vista county:

..... $ 500,000

c. For crystal lake in Hancock county:

..... $ 1,400,000

d. For the purposes of contracting with qualified persons outside the department to conduct use attainability analyses in conformance with section 455B.176A, as enacted in 2006 Iowa Acts, Senate File 2363,[10] if enacted, or in any other Act of the Eighty-first General Assembly, 2006 Session:

. . . . . $ 750,000

2. TREASURER OF STATE

For deposit in the watershed improvement fund created in section 466A.2:

. . . . . $ 5,000,000

Sec. 25. Notwithstanding section 12.65, subsection 2, and section 12E.12, subsection 1, paragraph "b", subparagraph (2), there is appropriated from the endowment for Iowa's health account of the tobacco settlement trust fund established in section 12E.12 to the treasurer of state 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 purposes designated:

For deposit in the watershed improvement fund created in section 466A.2:

. . . . . $ 5,000,000

Sec. 26. NEW SECTION. 456A.33B LAKE RESTORATION PLAN AND REPORT.

1. It is the intent of the general assembly that the department of natural resources shall develop annually a lake restoration plan and report that shall be submitted to the joint appropriations subcommittee on transportation, infrastructure, and capitals and the legislative services agency by no later than January 1 of each year. The plan and report shall include the department's plans and recommendations for lake restoration projects to receive funding consistent with the process and criteria provided in this section, and shall include the department's assessment of the progress and results of projects funded with moneys appropriated under this section.

The department shall recommend funding for lake restoration projects that are designed to achieve the following goals:

a. Ensure a cost-effective, positive return on investment for the citizens of Iowa.

b. Ensure local community commitment to lake and watershed protection.

c. Ensure significant improvement in water clarity, safety, and quality of Iowa lakes.

d. Provide for a sustainable, healthy, functioning lake system.

e. Result in the removal of the lake from the impaired waters list.

2. The process and criteria the department shall utilize to recommend funding for lake restoration projects shall be as follows:

a. The department shall develop an initial list of not more than thirty-five significant public lakes to be considered for funding based on the feasibility of each lake for restoration and the use or potential use of the lake, if restored. The list shall include lake projects under active development that the department shall recommend be given priority for funding so long as progress toward completion of the projects remains consistent with the goals of this section.

b. The department shall meet with representatives of communities where lakes on the initial list are located to provide an initial lake restoration assessment and to explain the process and criteria for receiving lake restoration funding. Communities with lakes not included on the initial list may petition the director of the department for a preliminary lake restoration assessment and explanation of the funding process and criteria. The department shall work with representatives of each community to develop a joint lake restoration action plan. At a minimum, each joint action plan shall document the causes, sources, and magnitude of lake impairment, evaluate the feasibility of the lake and watershed restoration options, establish water quality goals and a schedule for attainment, assess the economic benefits of the project, identify the sources and amounts of any leveraged funds, and describe the community's commitment to the project, including local funding. The community's commitment to the project may include moneys to fund a lake diagnostic study and watershed assessment, including development of a TMDL (total maximum daily load).

[10] Chapter 1145, §3 herein

c. Each joint lake restoration plan shall comply with the following guidelines:

(1) Biologic controls will be utilized to the maximum extent, wherever possible.

(2) If proposed, dredging of the lake will be conducted to a mean depth of at least ten feet to gain water quality benefits unless a combination of biologic and structural controls is sufficient to assure water quality targets will be achieved at a shallower average water depth.

(3) The costs of lake restoration will include the maintenance costs of improvements to the lake.

(4) Delivery of phosphorous and sediment from the watershed will be controlled and in place before lake restoration begins. Loads of phosphorous and sediment, in conjunction with in-lake management, will meet or exceed the following water quality targets:

(a) Clarity. A four-and-one-half-foot secchi depth will be achieved fifty percent of the time from April 1 through September 30.

(b) Safety. Beaches will meet water quality standards for recreational use.

(c) Biota. A diverse, balanced, and sustainable aquatic community will be maintained.

(d) Sustainability. The water quality benefits of the restoration efforts will be sustained for at least fifty years.

d. The department shall evaluate the joint action plans and prioritize the plans based on the criteria required in this section. The department's annual lake restoration plan and report shall include the prioritized list and the amounts of state and other funding the department recommends for each lake restoration project. The department may seek public comment on its recommendations prior to submitting the plan and report to the general assembly.

DIVISION VIII
CHANGES TO PRIOR APPROPRIATIONS

Sec. 27. 2001 Iowa Acts, chapter 185, section 30, as amended by 2005 Iowa Acts, chapter 178, section 22, is amended to read as follows:

SEC. 30. REVERSION.

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~~ 2006, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 28. 2002 Iowa Acts, chapter 1173, section 1, subsection 3, paragraph b, is amended to read as follows:

b. To provide a grant for construction of, and purchasing of equipment for, a facility to be used exclusively for processing novel proteins from agricultural products for pharmaceutical, nutraceutical, or chemical applications:

FY 2002-2003	$	~~3,268,696~~ 0
FY 2003-2004	$	0
FY 2004-2005	$	0
FY 2005-2006	$	0

The moneys appropriated in this paragraph "b" shall comprise no more than 15 percent of the total costs of construction of, and purchasing equipment for, the facility.

Sec. 29. 2004 Iowa Acts, chapter 1175, section 288, subsection 4, paragraph b, is amended to read as follows:

b. For construction of a community-based correctional facility, including district offices, in Davenport:

FY 2004-2005	$	3,000,000
FY 2005-2006	$	3,750,000
FY 2006-2007	$	~~3,750,000~~ 0

~~It is the intent of the general assembly that the department of management allocate the entire appropriation for the fiscal year beginning July 1, 2006, to the department of corrections by July 31, 2006.~~

Sec. 30. 2004 Iowa Acts, chapter 1175, section 288, subsection 7, paragraph d, is amended to read as follows:

d. For allocation to the public broadcasting division for costs of installation of digital and analog television for Iowa public television facilities, notwithstanding section 8.57, subsection 5, paragraph "c":

FY 2004-2005	$	8,000,000
FY 2005-2006	$	8,000,000
FY 2006-2007	$	~~2,300,000~~ 0

Sec. 31. 2005 Iowa Acts, chapter 178, section 4, is amended to read as follows:

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~~ 0

b. For costs associated with the replacement of the powerhouse facilities at the Iowa juvenile home at Toledo:

	$	~~1,521,045~~ 0

2. DEPARTMENT OF CORRECTIONS

a. For construction of a community-based correctional facility, including district offices, in Fort Dodge:

	$	~~1,400,000~~ 0

b. For the remodeling and renovation of the kitchen facilities at the Anamosa correctional facility:

	$	~~1,840,000~~ 0

Sec. 32. 2005 Iowa Acts, chapter 179, section 13, unnumbered paragraph 2, is amended to read as follows:

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~~ 0
FY 2007-2008	$	2,000,000
FY 2008-2009	$	2,000,000

DIVISION IX
MISCELLANEOUS CODE CHANGES

Sec. 33. Section 8.57, subsection 6, Code 2005,[11] is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Annually, on or before January 1 of each year, a state agency that received an appropriation from the rebuild Iowa infrastructure fund for the preceding fiscal year shall report to the joint transportation, infrastructure, and capitals appropriation subcommittee, the legislative services agency, the department of management, and the legislative capital projects committee of the legislative council the status of all ongoing projects for which an appropriation from the fund has been made. The report shall include a description of the project, the progress of work completed, the total estimated cost of the project, a list of all revenue sources being used to fund the project, the amount of funds expended, the amount of funds obligated, and an estimated completion date of the project.

Sec. 34. Section 8.57A, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Annually, on or before January 1 of each year, a state agency that received an appropriation from the environment first fund for the preceding fiscal year shall report to the joint transportation, infrastructure, and capitals appropriation subcommittee, the legislative services agency, the department of management, and the legislative capital projects committee of the legislative council the status of all ongoing projects for which an appropriation from the fund has been made. The report shall include a description of the project, the progress of work completed, the total estimated cost of the project, a list of all revenue sources being used to fund the project, the amount of funds expended, the amount of funds obligated, and an estimated completion date of the project.

Sec. 35. Section 8.57B, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Annually, on or before January 1 of each year, a state agency that received an appropriation from the vertical infrastructure fund for the preceding fiscal year shall report to the joint transportation, infrastructure, and capitals appropriation subcommittee, the legislative services agency, the department of management, and the legislative capital projects committee of the legislative council the status of all ongoing projects for which an appropriation from the fund has been made. The report shall include a description of the project, the progress of work completed, the total estimated cost of the project, a list of all revenue sources being used to fund the project, the amount of funds expended, the amount of funds obligated, and an estimated completion date of the project.

Sec. 36. Section 8A.321, subsection 10, Code Supplement 2005, is amended to read as follows:

10. Prepare annual status reports for all ongoing capital projects of ~~all state agencies, as defined in section 8.3A~~ the department, and submit the status reports to the ~~legislative capital projects committee~~ joint transportation, infrastructure, and capitals appropriation subcommittee.

Sec. 37. NEW SECTION. 8A.330 NEW CONSTRUCTION — RETURN ON INVESTMENT.

The department shall not expend or obligate more than $1,000,000 in total of the funds appropriated for a project unless authorized by a constitutional majority of each house of the general assembly, or upon approval by a constitutional majority of the members of each house of the general assembly appointed to the legislative fiscal committee if the general assembly is not in session. If the return on investment is less than five percent, the expenditure or obligation of the funds must be approved by the general assembly and the governor. Additionally, prior to expending or obligating more than $1,000,000 in total, the department shall submit

[11] "Code Supplement 2005" probably intended

a business plan related to the construction of a new state office building that includes all of the following:

1. A list of the identified agencies that will occupy the building and an estimate of the number of employees of each agency.

2. The rental or lease costs currently paid by the identified state agencies, and the estimated rental or lease costs to be incurred by the identified state agencies if a new state office building is not constructed.

3. A return on investment analysis associated with the construction of a new state office building compared with the following:

a. Continuing to lease or rent space for existing state agencies in addition to renovating the Wallace state office building.

b. Entering into an agreement for the construction of a new building for use by the state through a long-term lease or long-term lease-purchase agreement.

Sec. 38. Section 12E.12, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Annually, on or before January 1 of each year, a state agency that received an appropriation from the tobacco settlement trust fund for the preceding fiscal year shall report to the joint transportation, infrastructure, and capitals appropriation subcommittee, the legislative services agency, the department of management, and the legislative capital projects committee of the legislative council the status of all ongoing projects for which an appropriation from the fund has been made. The report shall include a description of the project, the progress of work completed, the total estimated cost of the project, a list of all revenue sources being used to fund the project, the amount of funds expended, the amount of funds obligated, and an estimated completion date of the project.

Sec. 39. Section 15I.1, subsection 2, paragraph a, Code Supplement 2005, is amended to read as follows:

a. Medical and dental insurance plans. If an employer offers medical insurance under both single and family coverage plans, the employer shall be given credit for providing medical insurance under family coverage plans to all new employees.

Sec. 40. Section 100B.3, Code 2005, is amended to read as follows:

100B.3 TRAINING AGREEMENTS.

The state fire marshal~~, subject to the approval of the state fire service and emergency response council, may~~ shall enter into written agreements with other ~~educational institutions~~ public agencies that have established regional emergency response training centers under section 100B.16 to provide training in conjunction with training provided by the fire service training bureau ~~or~~. Moneys appropriated shall not be distributed by the department of public safety to a regional training center until such an agreement has been entered into with the regional training center.

The state fire marshal may enter into written agreements with other educational institutions to assist in research conducted by the bureau.

Sec. 41. Section 100B.4, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

Fees assessed pursuant to this chapter shall be retained by the division of state fire marshal and such repayments received shall be used exclusively to offset the cost of fire service training. Fees charged by regional emergency response training centers for fire service training programs as described in section 100B.6 shall not be greater than the fee schedule established by rule by the state fire marshal.

Sec. 42. Section 100B.7, subsection 2, paragraphs k and l, Code 2005, are amended to read as follows:

k. Plan and coordinate fire schools and other short courses of instruction on a statewide,

regional, and local level, utilizing existing educational institutions, programs, and facilities as ~~feasible~~ provided in sections 100B.16 and 100B.18.

l. Prepare for the state fire marshal and the state fire service and emergency response council an annual report of activities that include a summary of classes taught, budget, and staff activities. The annual report shall include a report of the activities of each regional emergency response training center established under section 100B.16.

Sec. 43. NEW SECTION. 100B.15 DEFINITIONS.

As used in this part:

1. "Bureau" means the fire service training bureau.
2. "Council" means the state fire service and emergency response council.
3. "Emergency responders" means firefighters, law enforcement officers, emergency medical service personnel, and other personnel having emergency response duties.
4. "Emergency response service" means fire protection service, law enforcement, emergency medical service, hazardous materials containment and disposal, search and rescue operations, evacuation operations, and other related services.
5. "Municipality" means a city, county, township, benefited fire district, or agency authorized by law to provide emergency response services.
6. "Public agency" means a municipality, a community college, or an association representing fire fighters.
7. "Training center" means a regional emergency response training center established under section 100B.16.

Sec. 44. NEW SECTION. 100B.16 REGIONAL EMERGENCY RESPONSE TRAINING CENTERS.

1. Regional emergency response training centers shall be established to provide training to fire fighters and other emergency responders. The lead public agency for the training centers shall be the following community colleges for the following merged areas:

a. Northeast Iowa community college for merged area I in partnership with the Dubuque county firemen's association and to provide advanced training in agricultural emergency response as such advanced training is funded by the homeland security and emergency management division of the department of public defense.

b. North Iowa area community college for merged area II in partnership with the Mason City fire department.

c. Iowa lakes community college for merged area III.

d. Iowa central community college for merged area V and to provide advanced training in homeland security as such advanced training is funded by the homeland security and emergency management division of the department of public defense.

e. Hawkeye community college for merged area VII in partnership with the Waterloo regional hazardous materials training center and to provide advanced training in hazardous materials emergency response as such advanced training is funded by the homeland security and emergency management division of the department of public defense.

f. Eastern Iowa community college for merged area IX in partnership with the city of Davenport fire department.

g. Kirkwood community college for merged area X in partnership with the city of Coralville fire department and the Iowa City fire department and to provide advanced training in agricultural terrorism response and mass casualty and fatality response as such advanced training is funded by the homeland security and emergency management division of the department of public defense.

h. Des Moines area community college for merged area XI and to provide advanced training in operations integration in compliance with the national incident management system as such advanced training is funded by the homeland security and emergency management division of the department of public defense.

i. Western Iowa technical community college for merged area XII in partnership with the Sioux City fire department and to provide advanced training in emergency responder commu-

nications as such advanced training is funded by the homeland security and emergency management division of the department of public defense.

j. Iowa western community college for merged areas XIII and XIV in partnership with southwestern community college and the Council Bluffs fire department.

k. Southeastern Iowa community college for merged areas XV and XVI in partnership with Indian hills community college and the city of Fort Madison fire department.

The public agencies named in paragraphs "a" through "j" shall, in conjunction with the bureau, coordinate fire service training programs as described in section 100B.6 at each training center.

2. a. A lead public agency listed in subsection 1, paragraphs "a" through "k", shall submit an application to the bureau in order to be eligible to receive a state appropriation for the agency's training center. The bureau shall prescribe the form of the application and, on or before August 15, 2006, shall provide such application to each lead public agency.

b. An applicant lead public agency shall indicate on the application the location of the proposed training center. An applicant shall also include on the application the location of any existing facilities required in section 100B.17 and located in the training region. The application shall be accompanied by letters from public agencies and private businesses in the merged area stating an intent to participate in, and provide for financial support for, establishment and activities of the training center.

c. By January 10 of each year, the bureau shall submit to the general assembly a list of applications received and the action taken by the bureau on each application. The bureau shall, upon request, provide the applications and supporting documentation submitted by each applicant.

3. In selecting a location for a proposed training center, an applicant lead public agency shall consider, and address in the application, all of the following:

a. The availability and proximity of quality classroom space with adequate audio-visual support.

b. The availability and adequate supply from area emergency response service entities of equipment which supports training.

c. A site where limited, safe open burning would not be challenged or prohibited due to environmental issues or community concerns.

d. Proximity to a medical facility.

e. The availability of water mains, roadway, drainage, electrical service, and reasonably flat terrain.

f. Accessibility to area fire departments.

The application shall include letters of support for the recommended site from emergency response entities in the region.

4. Applications must be submitted to the bureau by September 15, 2006, in order for a training center to be eligible to receive state funds in the fiscal year beginning July 1, 2006, if funds are appropriated to that training center for that fiscal year. The bureau shall review and approve an application and, if approved, distribute funds appropriated for that training center within thirty days of receiving the application from the applicant. State funds that have been appropriated for use by a specified training center shall be distributed to that training center as soon as possible after the bureau approves such training center's application.

5. The application shall list the training facilities to be required in order for a training center to provide training to fire fighters and other emergency responders. If a lead agency or a partner of a lead agency already owns or utilizes a required training facility, that facility shall not be duplicated when constructing the required training facilities listed on the application.

6. The state fire marshal may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to administer this section.

Sec. 45. NEW SECTION. 100B.17 TRAINING CENTER FACILITIES — ADVANCED TRAINING — INSPECTIONS.

1. Each training center is required to have the facilities listed on the application in section

100B.16. In addition, each training center assigned an area of advanced training as specified in section 100B.16 is required to have facilities to support instruction in its area of advanced training. These facilities shall include facilities and structures to support full-scale training exercises in such area of advanced training as recommended or required by any applicable state or national training facility standards.

2. The bureau shall inspect the facilities of each training center to ensure compliance with the requirements of this section.

Sec. 46. NEW SECTION. 100B.18 TRAINING PROVIDED.

1. Training centers shall provide fire service training in accordance with curriculum approved by the bureau. The bureau, in cooperation with the public agencies operating the training centers, shall provide the necessary training materials, curriculum, training aids, and training schedule.

2. Training centers may provide emergency response service training in addition to fire service training. A training center shall offer joint training exercises to emergency responders. The bureau shall work in conjunction with those state agencies charged with developing training standards for emergency response service training to develop a curriculum and standards for emergency response service training provided by a training center.

3. A training center shall offer training to any emergency responder who applies for training at the training center regardless of the emergency responder's place of residence or employment.

Sec. 47. NEW SECTION. 100B.19 AGREEMENTS FOR TRAINING AND FINANCIAL ASSISTANCE — AUTHORITY.

A public agency operating a training center may enter into agreements under chapter 28E to provide emergency response service training to emergency responders. The agreements may provide for financial contributions from participating public agencies, private fire departments, and emergency response service entities and may provide for in-kind contributions of land, equipment, and personnel from such public agencies, private fire departments, and other entities providing emergency response services.

Sec. 48. NEW SECTION. 262B.21 RESEARCH AND DEVELOPMENT PLATFORMS.

1. For purposes of this section, and sections 262B.22 and 262B.23, "core platform areas" means the areas of advanced manufacturing, biosciences, information solutions, and financial services.

2. The state board of regents shall do all of the following:

a. Recruit employees, build capacity, and invest moneys to ensure rapid scientific progress in the core platform areas.

b. Create endowed chair positions and employ persons with entrepreneurial expertise.

c. Invest in technology development infrastructure to strengthen and accelerate the scientific and commercialization work in the core platform areas.

d. Provide financial assistance in the form of grants for purposes of accelerating the transformation of new and ongoing research and development initiatives in the core platform areas into commercial opportunities.

e. Actively participate in advisory groups dedicated to the areas of bioscience advanced manufacturing, and information solutions.

Sec. 49. NEW SECTION. 262B.22 TECHNOLOGY AND COMMERCIALIZATION RESOURCE ORGANIZATION.

1. The general assembly finds and declares that the public good requires that Iowa successfully participate and compete in the emerging world economy. A technology and commercialization resource organization is established to formulate and implement plans and programs for the core platform areas and to facilitate their commercial application within the state.

2. The technology and commercialization resource organization shall receive recommendations for research projects which have commercialization potential from institutions of higher learning under the control of the state board of regents. In cooperation with commercialization experts in the private sector, the organization shall analyze research project submissions and make recommendations regarding which projects should receive funding and how much funding such projects should receive. The recommendations of the organization shall be forwarded to the state board of regents. The state board of regents shall review the recommendations and may approve, deny, or modify the recommendations, but the state board of regents shall not change the primary focus of the proposal. The state board of regents may award financial assistance to approved research projects.

3. A technology and commercialization resource organization shall be incorporated under chapter 504. The organization shall not be regarded as a state agency, except for purposes of chapter 17A. A member of the board of directors is not considered a state employee, except for purposes of chapter 669. A natural person employed by the organization is a state employee for purposes of the Iowa public employees' retirement system, state health and dental plans, and other state employee benefit plans and chapter 669. Chapters 8, 8A, and 20, and other provisions of law that relate to requirements or restrictions dealing with state personnel or state funds, do not apply to the organization or any employees of the board of directors or the organization except to the extent provided in this chapter.

4. The board of directors of the organization shall consist of eight voting members as follows:

a. The president of the state board of regents.

b. The three members of the economic development subcommittee of the state board of regents.

c. The chief technology officer of the state.

d. One member selected by a biosciences development organization designated by the department of economic development pursuant to section 15G.111, subsection 2.

e. The chairperson of the advanced manufacturing steering group of the department of economic development.

f. The chairperson of the information solutions steering group of the department of economic development.

5. The members of the board of directors shall annually elect a president of the board from the board membership. A vacancy shall be filled by the appointing authority. Members are eligible for actual expense reimbursement while fulfilling duties of the board.

Sec. 50. NEW SECTION. 262B.23 ENDOWED CHAIRS AND SALARIES.

The state board of regents may use for salaries and may create endowed chair positions at each of the regents universities using, in part, moneys appropriated to the state board of regents for purposes of implementing recommendations provided in separate consultant reports on bioscience, advanced manufacturing, and information technology submitted to the department of economic development in the calendar years 2004 and 2005. Such moneys may only be used to partially fund an endowed chair position if significant private contributions and contributions from governmental entities other than the state and political subdivisions of the state are used to fund the position. Not more than fifty percent of the cost of funding an endowed chair position shall be paid with such moneys. The endowed chair positions shall be used to attract scholars recruited nationally and internationally who can bring with them related start-up business ventures or a concept for near-term commercialization.

Sec. 51. Section 303.3C, subsection 1, paragraph c, Code Supplement 2005, is amended to read as follows:

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~~ The board may identify up to six additional Iowa great places for participation under the program.

Sec. 52. Section 303.3C, subsection 1, Code Supplement 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. The department of cultural affairs shall work in cooperation with the vision Iowa and community attraction and tourism programs for purposes of maximizing and leveraging moneys appropriated to identified Iowa great places.

NEW PARAGRAPH. e. As a condition of receiving state funds, an identified Iowa great place shall present information to the board concerning the proposed activities and total financial needs of the project.

NEW PARAGRAPH. f. The department of cultural affairs shall account for any funds appropriated from the endowment for Iowa[12] health restricted capitals fund for an identified Iowa great place.

Sec. 53. Section 303.3C, subsection 3, paragraph b, Code Supplement 2005, is amended to read as follows:

b. Identify ~~three~~ Iowa great places for purposes of receiving a package of resources under the program.

Sec. 54. NEW SECTION. 303.3D IOWA GREAT PLACES PROGRAM FUND.

1. An Iowa great places program fund is created under the authority of the department of cultural affairs. The fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the Iowa great places program fund shall be credited to the Iowa great places program fund.

2. Moneys appropriated for a fiscal year to the fund shall be used by the general assembly to fund capital infrastructure projects for identified Iowa great places through the Iowa great places program established in section 303.3C.

3. In awarding moneys the department of cultural affairs shall give consideration to the particular needs of each identified Iowa great place.

4. Notwithstanding section 8.33, moneys credited to the great places program fund shall not revert to the fund from which appropriated.

Sec. 55. NEW SECTION. 324A.6A PUBLIC TRANSIT INFRASTRUCTURE GRANT FUND.

A public transit infrastructure grant fund is established within the department. Moneys in the fund shall be awarded to public transit systems within the state for construction and infrastructure projects that meet the definition of "vertical infrastructure" in section 8.57, subsection 6, paragraph "c". The fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law. In awarding grant assistance, the office of public transit within the department shall, by rule, specify certain criteria that must be included in a grant application, which shall include but not be limited to information on the feasibility of completion of an individual infrastructure project. Notwithstanding section 8.33, moneys in the public transit infrastructure grant fund shall not revert to the fund from which they are appropriated but shall remain available indefinitely for expenditure under this section.

Sec. 56. Section 328.36, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

328.36 DEPOSIT AND USE OF REVENUES.

1. All moneys received by the department pursuant to section 328.21 shall be deposited into the state aviation fund in section 328.56.

2. Notwithstanding subsection 1, for the fiscal year beginning July 1, 2007, and ending June 30, 2008, fifty percent of the moneys collected under section 328.21 shall be deposited in the state aviation fund in section 328.56 and fifty percent shall be deposited in the general fund of the state.

[12] The word "Iowa's" probably intended

Sec. 57. NEW SECTION. 328.56 STATE AVIATION FUND.

1. A state aviation fund is created under the authority of the department. The fund shall consist of moneys deposited in the fund pursuant to sections 328.21 and 452A.82 and other moneys appropriated to the fund.

2. Moneys in the fund in a fiscal year shall be used as appropriated by the general assembly for airport engineering studies, construction or improvements, and the windsock program for public airports. In awarding moneys, the department shall give preference to projects that demonstrate a collaborative effort between airports.

Sec. 58. Section 422.34A, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Utilizing a distribution facility within this state, owning or leasing property at a distribution facility within this state that is used at or distributed from the distribution facility, or selling property shipped or distributed from a distribution facility. For purposes of this subsection, "distribution facility" means an establishment where shipments of tangible personal property are processed for delivery to customers. "Distribution facility" does not include an establishment where retail sales of tangible personal property or returns of such property are undertaken with respect to retail customers on more than twelve days a year except for a distribution facility which processes customer sales orders by mail, telephone, or electronic means, if the distribution facility also processes shipments of tangible personal property to customers provided that not more than ten percent of the dollar amount of goods are delivered and shipped so as to be included in the gross sales of the corporation within this state as provided in section 422.33, subsection 2, paragraph "b", subparagraph (6).

Sec. 59. Section 452A.79, Code Supplement 2005, is amended by striking the section and inserting in lieu thereof the following:

452A.79 USE OF REVENUE.

Except as provided in sections 452A.79A, 452A.82, and 452A.84, the net proceeds of the excise tax on the diesel special fuel and the excise tax on motor fuel and other special fuel, and penalties collected under the provision of this chapter, shall be credited to the road use tax fund.

Sec. 60. NEW SECTION. 452A.79A MARINE FUEL TAX FUND.

1. A marine fuel tax fund is created under the authority of the department of natural resources. The fund shall consist of all revenues derived from the excise tax on the sale of motor fuel used in watercraft as provided in section 452A.84 and other moneys appropriated to the fund.

2. Moneys in the fund in a fiscal year shall be used as appropriated by the general assembly for use by the department of natural resources in its recreational boating program, which may include but is not limited to:

a. Dredging and renovation of lakes of this state.

b. Acquisition, development, and maintenance of access to public boating waters.

c. Development and maintenance of boating facilities and navigation aids.

d. Administration, operation, and maintenance of recreational boating activities of the department of natural resources.

e. Acquisition, development, and maintenance of recreation facilities associated with recreational boating.

Sec. 61. Section 452A.82, Code 2005, is amended to read as follows:

452A.82 AVIATION FUEL TAX FUND.

The portion of the moneys collected under this chapter received on account of aviation gasoline and special fuel used in aircraft shall be deposited in a separate fund to be maintained by the treasurer. All moneys remaining in the separate fund after the cost of administering the fund has been paid shall be credited to the ~~general fund of the~~ state aviation fund created in section 328.56.

Sec. 62. Section 452A.84, Code 2005, is amended to read as follows:

452A.84 TRANSFER TO ~~STATE GENERAL~~ MARINE FUEL TAX FUND.

The treasurer of state shall transfer from the motor fuel tax fund to the ~~general~~ marine fuel tax fund ~~of the state~~ that portion of moneys collected under this chapter attributable to motor fuel used in watercraft computed as follows:

1. Determine monthly the total amount of motor fuel tax collected under this chapter and multiply the amount by nine-tenths of one percent.

2. Subtract from the figure computed pursuant to subsection 1 of this section three percent of the figure for administrative costs and further subtract from the figure the amounts refunded to commercial fishers pursuant to section 452A.17, subsection 1, paragraph "a", subparagraph (7). All moneys remaining after claims for refund and the cost of administration have been made shall be transferred to the ~~general~~ marine fuel tax fund ~~of the state~~.

Sec. 63. 2006 Iowa Acts, Senate File 2363,[13] section 5, if enacted, is amended by striking the section and inserting in lieu thereof the following:

SEC. 5. NEW SECTION. 16.134 WASTEWATER TREATMENT FINANCIAL ASSISTANCE PROGRAM.

1. The Iowa finance authority shall establish and administer a wastewater treatment financial assistance program. The purpose of the program shall be to provide grants to enhance water quality and to assist communities to comply with water quality standards adopted by the department of natural resources. The program shall be administered in accordance with rules adopted by the authority pursuant to chapter 17A.

2. A wastewater treatment financial assistance fund is created under the authority of the Iowa finance authority. The fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

3. Financial assistance under the program shall be used to install or upgrade wastewater treatment facilities and systems, and for engineering or technical assistance for facility planning and design.

4. The authority shall distribute financial assistance in the fund in accordance with the following:

a. Communities shall be eligible for financial assistance by qualifying as a disadvantaged community and seeking financial assistance for the installation or upgrade of wastewater treatment facilities due to regulatory activity in response to water quality standards adopted by the department of natural resources in calendar year 2006. For purposes of this section, the term "disadvantaged community" means the same as defined by the department of natural resources for the drinking water facilities revolving loan fund established in section 455B.295. Communities with a population of three thousand or more do not qualify for financial assistance under the program.

b. Priority shall be given to projects in which the financial assistance is used to obtain financing under the Iowa water pollution control works and drinking water facilities financing program pursuant to section 16.131 or other federal or state financing.

c. Priority shall also be given to projects whose completion will provide significant improvement to water quality in the relevant watershed.

d. A community meeting the criteria of paragraph "a" shall be required to provide matching moneys in accordance with the following:

(1) Unsewered incorporated communities with a population of less than five hundred and communities with a population of less than five hundred shall be required to provide a five percent match.

(2) Communities with a population of five hundred or more but less than one thousand shall be required to provide a ten percent match.

(3) Communities with a population of one thousand or more but less than one thousand five hundred shall be required to provide a twenty percent match.

[13] Chapter 1145 herein

(4) Communities with a population of one thousand five hundred or more but less than two thousand shall be required to provide a thirty percent match.

(5) Communities with a population of two thousand or more but less than three thousand shall be required to provide a forty percent match.

e. Financial assistance in the form of grants shall be issued on a quarterly basis.

5. The authority in cooperation with the department of natural resources shall share information and resources when determining the qualifications of a community for financial assistance from the fund.

6. The authority may use an amount of not more than four percent of any moneys appropriated for deposit in the fund for administration purposes.

7. It is the intent of the general assembly that for the fiscal period beginning July 1, 2007, and ending June 30, 2016, a minimum of four million dollars shall be appropriated each fiscal year to the authority for deposit in the wastewater treatment financial assistance fund.

Sec. 64. STUDY OF EMERGENCY SERVICES IN THE STATE. The legislative council is requested to establish a committee to study emergency services in the state during the 2006 legislative interim.

The interim committee is directed to receive input from the department of public defense, division of homeland security and emergency management, departments of human services, public health, and public safety, including the state fire marshal, and representatives of emergency services providers, including but not limited to the Iowa firemen's association, Iowa fire chiefs association, Iowa association of professional fire chiefs, and Iowa professional fire fighters, Iowa emergency medical services association, and emergency room physicians.

The interim committee is directed to expeditiously complete its study and issue findings and make recommendations regarding the governance, structure, and funding of the state's emergency services and the training available in the state for emergency services providers for consideration during the 2007 legislative session.

Sec. 65. AVIATION FUEL TAX FUND — GENERAL FUND CREDIT. Notwithstanding section 452A.82, for the fiscal year beginning July 1, 2007, 50 percent of the moneys remaining after the cost of administering the aviation fuel tax fund shall be credited to the general fund.

Sec. 66. EFFECTIVE DATES AND RETROACTIVE APPLICABILITY.

1. The section of this division of this Act enacting section 422.34A, subsection 8, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2006, for tax years beginning on or after that date.

2. The sections of this division of this Act amending sections 328.36, 452A.79, 452A.82, and 452A.84 and enacting sections 328.56 and 452A.79A, relating to a state aviation fund and a marine fuel tax fund, take effect July 1, 2007.

Sec. 67. EFFECTIVE DATE. The sections of this division of this Act amending sections 100B.3, 100B.4, and 100B.7, and enacting sections 100B.15 through 100B.19, being deemed of immediate importance, take effect upon enactment.

DIVISION X
MISCELLANEOUS APPROPRIATIONS

Sec. 68. WASTEWATER TREATMENT FINANCIAL ASSISTANCE FUND — IOWA FINANCE AUTHORITY. There is appropriated from any interest or earnings on moneys in the federal economic stimulus and jobs holding account to the Iowa finance authority for deposit in the wastewater treatment financial assistance fund created in section 16.134, the following amount:

. . . . . $ 4,000,000

Sec. 69. RESOURCE CONSERVATION AND DEVELOPMENT PROJECTS — DEPARTMENT OF NATURAL RESOURCES. There is appropriated from any interest or earnings on moneys in the federal economic stimulus and jobs holding account to the department of natural resources for the development of projects relating to natural resource-based business opportunities, the following amount:

. . . . . $ 300,000

Local resource conservation and development groups sponsored by county governments or sponsored by soil and water conservation districts shall be eligible to receive funding on the condition that such groups receive dollar-for-dollar funding.

DIVISION XI
UTILITIES BOARD AND CONSUMER ADVOCATE BUILDING PROJECT

Sec. 70. NEW SECTION. 12.91 UTILITIES BOARD AND CONSUMER ADVOCATE BUILDING PROJECT.

1. For purposes of this section:

a. "Bonds" means bonds, notes, or other evidences of indebtedness issued under this section.

b. "Chargeable expenses" means expenses charged by the utilities board and the consumer advocate division of the department of justice under section 476.10.

c. "Chargeable expenses fund" means the fund created in the state treasury under this section.

d. "Project" means a building and related improvements and furnishings authorized under section 476.10B.

2. The treasurer of state may issue bonds and do all things necessary in order to finance the costs of the project. The treasurer of state shall have all of the powers which are necessary to issue and secure bonds to provide the financing for the project. The treasurer of state may issue bonds in principal amounts which, in the opinion of the treasurer, are necessary to provide sufficient funds for the costs of the project, 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, and all other expenditures of the utilities board and the department of administrative services in connection with the construction of the project. The bonds are investment securities and negotiable instruments within the meaning of and for purposes of the Iowa uniform commercial code, chapter 554.

3. Bonds issued under this section are payable solely and only out of the moneys, assets, or revenues of the chargeable expenses fund and any bond reserve funds established pursuant to this section, all of which may be held by the treasurer of state or deposited with trustees or depositories in accordance with bond or security documents and pledged by the treasurer of state to the payment thereof. Bonds issued under this section shall contain a statement that the bonds do not constitute an indebtedness of the state. The treasurer of state shall not pledge the credit or taxing power of this state or any political subdivision of this state or make bonds issued pursuant to this section payable out of any moneys except those in the chargeable expenses fund and any bond reserve funds established pursuant to this section.

4. The proceeds of bonds issued by the treasurer of state and not required for immediate disbursement may be deposited with a trustee or depository as provided in the bond documents and invested or reinvested in any investment as directed by the treasurer of state and specified in the trust indenture, resolution, or other instrument pursuant to which the bonds are issued without regard to any limitation otherwise provided by law.

5. The bonds shall be:

a. In a form, issued in denominations, executed in a manner, and payable over terms and with rights of redemption, and be 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 the state and may be sold at prices, at public or private sale, and in a manner, as prescribed by the treasurer of state. 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.

6. 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.

7. Bonds must be authorized by a trust indenture, resolution, or other instrument of the treasurer of state.

8. 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.

9. Bonds issued under the provisions of this section are declared to be issued for a general public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance and estate tax.

10. Subject to the terms of any bond documents, moneys in the chargeable expenses fund may be expended for administration expenses of the treasurer of state in connection with the bonds.

11. The treasurer of state may issue bonds for the purpose of refunding any bonds 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. Until the proceeds of bonds issued for the purpose of refunding outstanding bonds are applied to the purchase or retirement of outstanding bonds or the redemption of outstanding bonds, 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 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 treasurer of state for deposit in the chargeable expenses fund unless all bonds issued under the provisions of this section have been retired in which case the proceeds shall be deposited in the general fund of the state. 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.

12. A chargeable expenses fund is created and established as a separate and distinct fund in the state treasury. The moneys in the fund are appropriated for payment of the principal of, premium, and interest on any bonds issued under this section. Moneys 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 of the chargeable expenses fund. The treasurer of state shall act as custodian of the fund and disburse moneys contained in the fund for payment of the principal of, premium, and interest on any bonds issued under this section. Notwithstanding section 476.10, there shall in each fiscal year be deposited in the chargeable expenses fund from amounts collected by the utilities board as chargeable expenses an amount equal to the principal of, premium, if any, and interest on any bonds issued under this section to become due, whether at maturity, by call for optional redemption or by sinking fund redemption, in such fiscal year. The treasurer of state is authorized to pledge any amounts in the chargeable expenses fund as security for the payment of the principal of, premium, and interest on any bonds issued under this section. The treasurer of state may provide in the trust indenture, resolution,

or other instrument authorizing the issuance of bonds for the transfer to the general fund of the state of any amounts on deposit in the chargeable expenses fund that are not necessary for the payment of the principal of, premium, and interest on any bonds issued under this section.

13. Moneys in the chargeable expenses fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

14. a. The treasurer of state may create and establish one or more special funds, to be known as "bond reserve funds", to secure one or more issues of bonds issued pursuant to this section. The treasurer of state shall pay into each bond reserve fund any moneys appropriated and made available by the state or the treasurer of state for the purpose of the fund, any proceeds of sale of bonds to the extent provided in the resolutions authorizing their issuance, and any other moneys which may be available to the treasurer of state for the purpose of the fund from any other sources. All moneys held in a bond reserve fund, except as otherwise provided in this chapter, shall be used as required solely for the payment of the principal of bonds secured in whole or in part by the 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.

b. Moneys in a bond reserve fund shall not be withdrawn from it at any time in an amount that will reduce the amount of the fund to less than the bond reserve fund requirement established for the fund, as provided in this subsection, except for the purpose of making, with respect to bonds secured in whole or in part by the 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 of the treasurer of state are not available. Any income or interest earned by, or incremental to, a bond reserve fund due to the investment of it may be transferred by the treasurer of state to other funds or accounts to the extent the transfer does not reduce the amount of that bond reserve fund below the bond reserve fund requirement for that bond reserve fund. For the purposes of this subsection, the term "bond reserve fund requirement" means, as of any particular date of computation, an amount of money, as provided in the resolutions authorizing the bonds with respect to which the fund is established.

c. The treasurer of state shall comply with the provisions of section 476.10B in order to assure the maintenance of any bond reserve funds established under this section.

15. It is the intent of the general assembly that a pledge made in respect of bonds issued under this section 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.

16. Bonds issued pursuant to this section are not debts of the state, or of any political subdivision of the state, and do not constitute a pledge of the faith and credit of the state or a charge against the general credit or general fund of the state. The issuance of any bonds pursuant to this section by the treasurer of state does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to apply moneys from, or to levy or pledge any form of taxation whatever, to the payment of the bonds. Bonds issued under this section are payable solely and only from the sources and special fund provided in this section.

17. This section, being necessary for the welfare of this state and its inhabitants, shall be liberally construed to effect its purposes.

Sec. 71. Section 422.7, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 45. Subtract, to the extent included, income from interest and earnings received from the bonds issued under section 12.91.

Sec. 72. FISCAL YEAR 2005-2006 EXPENDITURE AUTHORITY — BUILDING PROJECT. Notwithstanding sections 8.33 and 476.10 or any other provision to the contrary, any balance of the operational appropriation for the utilities board for the fiscal year beginning July 1, 2005, that remains unused, unencumbered, or unobligated at the close of the fiscal year shall not revert but shall remain available to be used for purposes of the energy-efficient building project authorized under section 476.10B, as enacted by this division of this Act, or for relocation costs in succeeding fiscal years.

Sec. 73. NEW SECTION. 476.10B ENERGY-EFFICIENT BUILDING.

1. For the purposes of this section, "building project expenses" means expenses that have been approved by the utilities board for the building and related improvements and furnishings developed under this section and that are considered part of the regulatory expenses charged by the utilities board and the consumer advocate division of the department of justice for carrying out duties under section 476.10.

2. The department of administrative services, in consultation with the board and the consumer advocate division of the department of justice, shall provide for the construction of a building to house the board and the division. A building developed under this subsection shall be a model energy-efficient building that may be used as a public example for similar efforts. The building shall comply with the life cycle cost provisions developed pursuant to section 72.5. The building shall be located on the capitol complex grounds or at another convenient location in the vicinity of the capitol complex grounds.

3. Building project expenses shall include but are not limited to the costs associated with construction, maintenance, and operation of the building that are approved by the board and shall also include principal of, premium, if any, and interest on indebtedness to finance the building.

4. The department of administrative services' costs associated with construction, maintenance, and operation of the building as provided under chapter 8A are building project expenses.

5. A cost-effective approach for financing construction of the building shall be utilized, which may include but is not limited to lease, lease-purchase, bonding, or installment acquisition arrangement, or a financing arrangement under section 12.28. If financing for the building is implemented under section 12.28, the limitation on principal under that section does not apply. This subsection is not a qualification of any other powers which the board and the division may possess and the authorizations and powers granted under this subsection are not subject to the terms, requirements, or limitations of any other provisions of law. The department of administrative services must comply with the provisions of section 12.28 when entering into financing agreements for the purchase of real or personal property.

6. a. If financing for the building is implemented through bonding, the provisions of section 12.91 shall apply. In order to assure maintenance of the bond reserve funds established in connection with the financing, the treasurer of state 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.

b. 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 of the general assembly 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 of state shall be deposited by the treasurer of state in the applicable bond reserve fund.

7. The department of administrative services, in consultation with the board and the division, shall secure architectural services, contract for construction, engineering, and construction oversight and management, and control the funding associated with the building construction and the building's operation and maintenance. The department of administrative services may utilize consultants or other expert assistance to address feasibility, planning, or other considerations connected with construction of the building or decision making regard-

ing the building. The department of administrative services, on behalf of the board and division, shall consult with the office of the governor, appropriate legislative bodies, and the capitol planning commission.

Sec. 74. EFFECTIVE DATE. The section of this division of this Act relating to the expenditure authority of the utilities board for the fiscal year beginning July 1, 2005, being deemed of immediate importance, takes effect upon enactment.

Approved May 31, 2006

CHAPTER 1180

APPROPRIATIONS — EDUCATION

H.F. 2527

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 including effective and retroactive applicability dates.

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

DIVISION I
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, 2006, and ending June 30, 2007, 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:

..... $ 1,954,105
..... 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, 2006, and ending June 30, 2007, 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:

..... $ 364,640
..... 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:

. . . . . $ 100,000

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:

. . . . . $ 3,725,000

5. TEACHER SHORTAGE FORGIVABLE LOAN PROGRAM

For the teacher shortage forgivable loan program established in section 261.111:

. . . . . $ 285,000

Sec. 3. WORK-STUDY APPROPRIATION FOR FY 2006-2007. Notwithstanding section 261.85, for the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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.

Sec. 4. REGISTERED NURSE RECRUITMENT PROGRAM FUNDS. From the funds appropriated for tuition grants pursuant to section 261.25, subsection 1, as amended in this Act, for the fiscal year beginning July 1, 2006, 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 as a full-time or part-time student at a not-for-profit accredited school of nursing located in this state. Moneys allocated for purposes of this section shall be allocated only to the extent that the state moneys are matched on a dollar-for-dollar basis from other sources. The college student aid commission shall submit in a report to the chairpersons and ranking members of the joint subcommittee on education appropriations by January 1, 2007, the number of students who received forgivable loans in the fiscal year beginning July 1, 2006, pursuant to this section, which institutions the students were enrolled in, and the amount paid to each of the institutions on behalf of the students who received forgivable loans pursuant to this section.

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, 2006, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

. . . . . $ 240,195
. . . . . FTEs 2.10

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.

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:

	$	3,239,269
	FTEs	57.09

4. HISTORIC SITES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	534,676
	FTEs	8.25

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:

	$	1,181,329
	FTEs	10.01

6. GREAT PLACES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	300,000
	FTEs	1.70

7. ARCHIVE IOWA GOVERNORS' RECORDS

For archiving the records of Iowa governors and for not more than the following full-time equivalent position:

	$	75,000
	FTEs	1.00

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, 2006, and ending June 30, 2007, 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:

	$	5,643,607
	FTEs	75.37

From the funds appropriated in this subsection, $225,000 shall be allocated for purposes of conducting, supporting, and managing the accreditation of school districts and for purposes of various other duties such as conducting reorganization feasibility studies.

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 dis-

tricts 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:

..... $ 530,429
..... FTEs 13.50

3. VOCATIONAL REHABILITATION SERVICES DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,034,655
..... 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, 2007, 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:

..... $ 54,421
..... 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:

..... $ 1,420,694
..... FTEs 18.00

b. For the enrich Iowa program:

..... $ 1,698,432

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:

..... $ 7,966,113
..... FTEs 88.00

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, plan-

ning 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, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,509,683
..... FTEs 17.43

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, 2006, and ending June 30, 2007, 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 7, 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, $1,000,000 shall be used for professional development for the system of early care, health, and education.

f. Of the amount appropriated in this subsection for deposit in the school ready children grants account of the Iowa empowerment fund, $100,000 shall be allocated to the public broadcasting division of the department of education for support of community empowerment as a ready-to-learn-coordinator.

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:

. . . . . $ 638,620

12. JOBS FOR AMERICA'S GRADUATES

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:

. . . . . $ 600,000

13. VOCATIONAL AGRICULTURE YOUTH ORGANIZATION

To assist a vocational agriculture youth organization sponsored by the schools to support the foundation established by that vocational agriculture youth organization and for other youth activities:

. . . . . $ 50,000

Funds appropriated in this subsection shall be allocated only to the extent that the state moneys are matched from other sources by the organization on a dollar-for-dollar basis.

14. READING INSTRUCTION PILOT PROJECT GRANT PROGRAM

For the implementation of the reading instruction pilot project grant program, if enacted by this Act:[1]

. . . . . $ 250,000

15. PARENT LIAISON PROGRAM

For the establishment of a parent liaison program:

. . . . . $ 44,000

The department of education shall develop and implement a pilot parental involvement liaison project. The department shall study successful state and national programs and use this information to develop a parental involvement liaison pilot project in which school districts and schools throughout the state may apply to participate. The department shall determine a timeline for the implementation of a parental involvement liaison pilot project and other mechanisms as identified, the necessary resources, measures to publicize the project and other mechanisms, and shall submit its findings and recommendations in a report to the chairpersons and ranking members of the senate and house of representatives standing committees on education by January 15, 2008.

16. CORE CURRICULUM REQUIREMENTS

To implement core curriculum requirements established pursuant to section 256.7, subsection 26, as amended by 2006 Iowa Acts, Senate File 2272,[2] if enacted:

. . . . . $ 270,000

17. COMMUNITY COLLEGES

For general state financial aid to merged areas as defined in section 260C.2 in accordance with chapters 258 and 260C:

. . . . . $ 159,579,244

Notwithstanding the allocation formula in section 260C.18C, the funds appropriated in this subsection shall be allocated as follows:

a. Merged Area I . . . . . $ 7,786,416
b. Merged Area II . . . . . $ 8,746,545

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[1] This chapter, §15 herein
[2] Chapter 1152, §4 herein

c. Merged Area III	$	8,076,172
d. Merged Area IV	$	3,965,756
e. Merged Area V	$	8,716,683
f. Merged Area VI	$	7,697,799
g. Merged Area VII	$	11,295,091
h. Merged Area IX	$	13,968,730
i. Merged Area X	$	23,342,242
j. Merged Area XI	$	23,626,432
k. Merged Area XII	$	9,256,058
l. Merged Area XIII	$	9,349,224
m. Merged Area XIV	$	4,015,573
n. Merged Area XV	$	12,611,064
o. Merged Area XVI	$	7,125,459

Sec. 7. COMMUNITY COLLEGE DATA COLLECTION. By October 1, 2007, the department of education shall compile and submit to the chairpersons and ranking members of the joint appropriations subcommittee on education and the legislative services agency the following information for the 2006-2007 fiscal year, which each community college shall submit to the department by a date specified by the department:

1. Total revenue received from each local school district as a result of high school students enrolled in community college courses under the postsecondary enrollment options Act.

2. Total revenue received from each local school district as a result of high school students enrolled in community college courses through shared supplementary weighting plans.

3. Unduplicated headcount of high school students enrolled in community college courses under the postsecondary enrollment options Act.

4. Unduplicated headcount of high school students enrolled in community college courses through shared supplementary weighting plans.

5. Total credits earned by high school students enrolled in community college courses under the postsecondary enrollment options Act, broken down by vocational-technical or career program and arts and sciences program.

6. Number of courses in which high school students are enrolled under shared supplementary weighting plans and the portions of those courses that are taught by an instructor who is employed by the local school district for a portion of the school day.

Sec. 8. DEPARTMENT OF EDUCATION — HIGH SCHOOL GRADUATE ACADEMIC EXPERIENCE DATA COLLECTION STUDY. The department of education, in collaboration with the institutions of higher education governed by the state board of regents and representatives of the community colleges, shall study the development and collection of summary data on the academic experiences of Iowa high school graduates that enroll in an Iowa public postsecondary institution. The study shall identify the types of data to be compiled from postsecondary institutions, including but not limited to the hours attempted or completed during a student's first semester, or the quarter or trimester equivalent, or first year of study at a postsecondary institution; a student's grade point average earned during the first semester, or the quarter or trimester equivalent, or first year of study at a postsecondary institution; the high school rank of a student, if known; indicators of whether the student was assigned to a developmental or remedial course in English, mathematics, or reading; and an indicator for whether the student returned for the second year to the institution. The study shall consider the limitations imposed by the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, 34 C.F.R. Part 99, regarding the disclosure by a school of information from a student's education record. The department shall submit its findings, and a recommendation for a timeline of implementation, in a report to the chairpersons and ranking members of the joint appropriations subcommittee on education by January 1, 2007.

Sec. 9. STATEWIDE TEACHER INTERN PROGRAM — FEDERAL GRANT APPLICA-

TION 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. The department shall submit a progress report to the chairpersons and ranking members of the joint appropriations subcommittee on education by January 1, 2007.

**Sec. 10. MINIMUM TEACHER SALARY REQUIREMENTS — FY 2006-2007.*

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, 2006, and ending June 30, 2007, 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 2005-2006 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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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.**

STATE BOARD OF REGENTS

Sec. 11. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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

The state board of regents, the department of management, and the legislative services

* Item veto; see message at end of the Act

agency shall cooperate to determine and agree upon, by November 15, 2006, the amount that needs to be appropriated for tuition replacement for the fiscal year beginning July 1, 2007.

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.

The state board of regents shall not circumvent the requirements of section 270.10 and as the board develops any plan regarding the Iowa braille and sight saving school, it shall comply with the requirements of section 270.10 and shall report monthly to the legislative standing committee on government oversight during the legislative interim.

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:

. . . . . $ 11,000,000

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 pur-

pose 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:

(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) Consider Iowa pilot program

From the moneys allocated pursuant to this lettered paragraph, an amount equal to $250,000 shall be used for the development and implementation of a consider Iowa pilot program at the state university of Iowa to retain Iowa's college graduates. The pilot program shall be developed with the intent of expanding the program in future years to the Iowa state university of science and technology and to the university of northern Iowa. The pilot program shall be developed in cooperation with representatives from the state's community colleges and businesses, shall focus on transitional students, current students, and alumni, and shall provide for the following:

(a) An interactive internet web presence tying in all aspects of the program.

(b) Career development opportunities for target markets.

(c) A consulting service for alumni of Iowa's community colleges and the institutions of higher education governed by the state board of regents.

(d) Virtual career fairs for Iowa's businesses.

(e) Organization and sponsorship of Iowa employer immersion programs, which may include but are not limited to opportunities for students to tour Iowa businesses and visit with employers and employees in the workplace.

(f) Employer strategy forums that encourage recruitment in Iowa, assist community college students with career development issues, and emphasize the benefits of working within the state.

(g) Funding for research on why graduates leave Iowa and which defines and implements methods to retain Iowa's graduates and encourage those who have migrated to return.

(h) Work with the leadership Iowa program to expand the program at the collegiate level.

The university shall submit a progress report to the general assembly by January 15, 2007, and shall submit its findings and recommendations in a report to the general assembly by January 14, 2008.

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:

..... $ 226,306,403

..... FTEs 5,058.55

b. Psychiatric hospital

For salaries, support, maintenance, equipment, miscellaneous purposes, for the care, treat-

ment, 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

c. 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.

d. 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

e. 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

f. 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

g. 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

h. Statewide cancer registry

For the statewide cancer registry, and for not more than the following full-time equivalent positions:

	$	178,739
	FTEs	2.10

i. 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

j. Center for biocatalysis

For the center for biocatalysis, and for not more than the following full-time equivalent positions:

	$	881,384
	FTEs	6.28

k. 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.

l. 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:

..... $ 177,328,346
..... FTEs 3,647.42

b. Agricultural experiment station

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 32,117,925
..... FTEs 546.98

c. Cooperative extension service in agriculture and home economics

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 20,569,125
..... 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:

..... $ 80,638,563
..... FTEs 1,514.11

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:

..... $ 9,162,890
..... 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:

..... $ 5,127,507
..... 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. 12. For the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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. 13. 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, 2006, 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. 14. *TRAVEL POLICY.*

1. For the fiscal year beginning July 1, 2006, each department or independent agency receiving an appropriation in this Act shall review the employee policy for daily or short-term travel including but not limited to the usage of motor pool vehicles under the department of administrative services, employee mileage reimbursement for the use of a personal vehicle, and the usage of private automobile rental companies. Following the review, the department or agency shall implement revisions in the employee policy for daily or short-term travel as necessary to maximize cost savings.

*2. Each department or independent agency subject to subsection 1 shall report to the general assembly's standing committees on government oversight regarding the policy revisions implemented and the savings realized from the changes. An initial report shall be submitted on or before December 1, 2006, and a follow-up report shall be submitted on or before December 1, 2007.**

Sec. 15. NEW SECTION. 256.25 READING INSTRUCTION PILOT PROJECT GRANT PROGRAM.

1. Subject to an appropriation of sufficient funds by the general assembly, the department shall establish a reading instruction pilot project grant program that provides for conducting at least two direct reading instruction pilot projects and at least two comprehensive reading instruction pilot projects to demonstrate the ability of both approaches to positively affect student learning for any or all grades from kindergarten through grade three in selected school district attendance centers.

2. Each pilot project shall be conducted for a minimum of one year, subject to an appropriation by the general assembly to the department for that purpose. The department, in consultation with experts in the delivery of direct reading and comprehensive reading instruction, shall establish a pilot project grant application process that specifies the design and implementation expectations of each grantee, criteria for the selection of pilot project participant school districts, and a system of assessments which all grantees will use to assist teachers and the department in measuring student growth in reading accuracy, fluency, phonemic awareness, oral reading ability, and comprehension skills, including but not limited to the dynamic indicator of basic early literacy. Grantees shall be evenly distributed between urban and rural school districts.

3. The department and the experts consulted in accordance with subsection 2 shall jointly develop and agree upon the evaluation criteria and the system of assessments used to evaluate effectiveness of the instruction methods to achieve reading success. The evaluation criteria

* Item veto; see message at end of the Act

and the system of assessments shall employ specifically designed evaluation models employing objective, valid, and reliable assessments.

4. Grant moneys shall be distributed to qualifying school districts by the department no later than September 1, 2006. Grantees shall use moneys received pursuant to this section to provide for ongoing support and training of the teachers implementing the pilot projects. Grant amounts shall be distributed as determined by the department.

5. The department shall retain one hundred thousand dollars annually from the amount appropriated for the pilot project grant program for the administration of the program and one hundred thousand dollars annually for the development and implementation of an independent, external program and results evaluation.

6. The department, in collaboration with an independent, external evaluator, shall submit a final report summarizing the results of the pilot projects, including student achievement results, to the chairpersons and ranking members of the senate and house of representatives standing committees on education by January 15, 2008.

7. Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30 of the fiscal year for which the funds were appropriated for the pilot project grant program shall not revert but shall be available for expenditure for the following fiscal year for purposes of this section.

8. This section is repealed effective June 30, 2008.

Sec. 16. NEW SECTION. 256.57 ENRICH IOWA PROGRAM.

1. An enrich Iowa program is established in the division to provide direct state assistance to public libraries, to support the open access and access plus programs, to provide public libraries with an incentive to improve library services, and that are in compliance with performance measures, and to reduce inequities among communities in the delivery of library services based on performance measures adopted by rule by the commission. The commission shall adopt rules governing the allocation of funds appropriated by the general assembly for purposes of this section to provide direct state assistance to eligible public libraries. A public library is eligible for funds under this chapter if it is in compliance with the commission's performance measures.

2. The amount of direct state assistance distributed to each eligible public library shall be based on the following:

a. The level of compliance by the eligible public library with the performance measures adopted by the commission as provided in this paragraph.[3]

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.

3. Moneys received by a public library pursuant to this section shall supplement, not supplant, any other funding received by the library.

4. 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:

(1) The report provided for under section 256.51, subsection 1, paragraph "h".

(2) 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".

(3) 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.

5. Each eligible public library shall maintain a separate listing within its budget for pay-

[3] The word "section" probably intended

ments received and expenditures made pursuant to this subsection,[4] and shall annually submit this listing to the division.

6. By January 15, annually, 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 section.

7. A public library that receives funds in accordance with this section 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.

8. A public library that receives funds in accordance with this section shall provide open access, the reciprocal borrowing program, as a service to its patrons, at a reimbursement rate determined by the state library.

9. Funds appropriated for purposes of this section shall not be used by the division for administrative purposes.

Sec. 17. Section 260C.14, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 21. Annually, by October 1, submit to the department of education through the management information system, at a minimum, in the manner prescribed by the department the following information for the previous fiscal year:

a. Total revenue received from each local school district as a result of high school students enrolled in community college courses under the postsecondary enrollment options Act.

b. Total revenue received from each local school district as a result of high school students enrolled in community college courses through shared supplementary weighting plans.

c. Unduplicated headcount of high school students enrolled in community college courses under the postsecondary enrollment options Act.

d. Unduplicated headcount of high school students enrolled in community college courses through shared supplementary weighting plans.

e. Total credits earned by high school students enrolled in community college courses under the postsecondary enrollment options Act, broken down by vocational-technical or career program and arts and sciences program.

f. Number of courses in which high school students are enrolled under shared supplementary weighting plans and the portions of those courses that are taught by an instructor who is employed by the local school district for a portion of the school day.

The department of education shall define the annual supplemental financial reporting required of all community colleges regarding revenues received through the delivery of college credit courses to high school students. The board of directors of each community college shall incorporate into their student management information systems the unique student identifier used by school districts as provided by the department of education to school districts.

Sec. 18. Section 261.25, subsection 1, Code Supplement 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-nine~~ forty-six million ~~six~~ five hundred ~~seventy-three~~ six thousand ~~five~~ two hundred ~~seventy-five~~ eighteen dollars for tuition grants. ~~From the funds appropriated in this subsection, 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.~~

[4] The word "section" probably intended

Sec. 19. Section 261.25, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of five million one hundred sixty-seven thousand three hundred fifty-eight dollars for proprietary tuition grants.[5]

Sec. 20. Section 261.35, subsection 2, Code 2005, is amended to read as follows:

2. "Eligible borrower" means a person, or the parent of a person, who is ~~a resident of this state and is~~ enrolled or will be enrolled at an eligible institution ~~within or without the state or who is a nonresident of this state and is enrolled or will be enrolled at an eligible institution within the state, or who is a resident of another state and is borrowing from an Iowa-based eligible lender and is enrolled or will be enrolled at an eligible institution within or without the state, or who has previously received a loan guaranteed by the commission~~. All eligible borrowers must meet the eligibility requirements established by the commission. ~~The commission shall establish the qualifications for being a resident of this state; however, the qualifications shall not be more stringent than those established by the state board of regents.~~

Sec. 21. Section 261.111, subsection 5, Code 2005, is amended to read as follows:

5. The annual amount of a teacher shortage forgivable loan shall not exceed ~~three thousand dollars annually~~ the resident tuition rate established for institutions of higher education governed by the state board of regents, or the amount of the student's established financial need, whichever is less.

Sec. 22. Section 261.111, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 9. The commission shall submit in a report to the chairpersons and ranking members of the joint appropriations subcommittee on education by January 1, annually, the number of students who received forgivable loans pursuant to this section, which institutions the students were enrolled in, and the amount paid to each of the institutions on behalf of the students who received forgivable loans pursuant to this section.

NEW SUBSECTION. 10. Moneys appropriated by the general assembly for purposes of this section shall be allocated only to the extent that the state moneys are matched from other sources by the commission on a dollar-for-dollar basis.

Sec. 23. Section 272.10, Code Supplement 2005, is amended to read as follows:

272.10 FEES.

1. It is the intent of the general assembly that licensing fees established by the board of educational examiners be sufficient to finance the activities of the board under this chapter.

2. Licensing fees are payable to the treasurer of state and shall be deposited with the executive director of the board. The executive director shall deposit twenty-five percent of the fees collected annually with the treasurer of state and the fees shall be credited to the general fund of the state. The remaining licensing fees collected during the fiscal year shall be retained by and 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 shall not revert but shall remain available for expenditure for the activities of the board as provided in this chapter until the close of the succeeding fiscal year.

3. The executive director shall keep an accurate and detailed account of fees received ~~and~~, including fees paid to the treasurer of state and fees retained by the board.

4. The board shall submit a detailed annual financial report by January 1 to the chairpersons and ranking members of the joint appropriations subcommittee on education and the legislative services agency.

Sec. 24. FUTURE EFFECTIVE DATE. The section of this Act, that amends section 260C.14, takes effect July 1, 2008.

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[5] See chapter 1182, §43 herein

DIVISION II
2005-2006 TECHNICAL CORRECTION
STATE PROGRAM ALLOCATION FORMULA

Sec. 25. ALLOCATION TRANSFER. Notwithstanding section 284.13, subsection 1, paragraphs "a" and "b", Code Supplement 2005, the director of the department of education may transfer, for the fiscal year beginning July 1, 2005, and ending June 30, 2006, without the prior written consent and approval of the governor and the director of the department of management, up to $200,000 allocated under section 284.13, subsection 1, paragraph "a", for purposes of the issuance of national board certification awards, to supplement moneys allocated pursuant to section 284.13, subsection 1, paragraph "b", for purposes of the beginning teacher mentoring and induction programs.

Sec. 26. Section 284.13, subsection 1, paragraph d, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

For each fiscal year in which funds are appropriated for purposes of this chapter, the moneys remaining after distribution as provided in paragraphs "a" through "c", "f", and ~~"e"~~ "g" shall be allocated to school districts for salaries and career development in accordance with the following formula:

Sec. 27. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This division of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2005, for the fiscal year beginning July 1, 2005, and ending June 30, 2006.

Approved June 1, 2006, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2527, 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 including effective and retroactive applicability dates.

The best legislative efforts occur when people work together. Thanks to the leadership and collaboration of the executive branch and legislators, the 2006 Legislative Session delivered results for all sectors of education.

House File 2527 is approved on this date, with the following exceptions, which I hereby disapprove:

I am unable to approve the item designated as Section 10 in its entirety. This section should have been removed from the bill when the Teacher Quality language was moved to HF 2792.[6] Vetoing this section is a corrective action to remove the conflict with language in HF 2792.[7]

I am unable to approve the item designated as Section 14 in its entirety. Not only does this language create an unnecessary bureaucratic step in the efficient operation of state government, but it also calls into question the cost-savings produced by the state motor pool while disregarding the benefits that the state of Iowa derives from maintaining a state motor pool.

The cost-savings of maintaining a state motor pool are clear. In meetings with legislators and

[6] Chapter 1182 herein
[7] Chapter 1182 herein

the private sector this legislative session and prior legislative sessions, the Department of Administrative Services (DAS) has continually shown that it provides a cost-effective service and the private sector has not shown that they can provide a similar service for the same or a lesser amount. It should also be noted that the state motor pool is a marketplace service that currently competes with the private sector for its state customer business.

In addition, this language only addresses the fiscal impact of the state motor pool and does not recognize other benefits of maintaining a state motor pool. The State of Iowa benefits greatly from having accessibility to a full service, on-site motor pool team with the sole responsibility of maintaining the state motor pool, which ensures convenience to the motor pool's customers, state agencies. In signing Executive Order 41, I requested that DAS take the initiative to move its fleet towards flexible fuel vehicles (vehicles that can either use E-85 or soy biodiesel). By December of 2007, 90% of eligible motor pool vehicles will be flexible fuel vehicles, which will encourage and contribute to the use of renewable fuels.

The state motor pool consistently provides cost-effective services to state agencies that enhance the ability of state government to operate efficiently and promotes Iowa's image as a leader in renewable energy.

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 2527 are hereby approved this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1181

HEALTHY IOWANS TOBACCO TRUST
AND TOBACCO SETTLEMENT TRUST FUND — APPROPRIATIONS

H.F. 2743

AN ACT relating to and making appropriations from the healthy Iowans tobacco trust and the tobacco settlement trust fund, and providing an effective date.

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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, pursuant to 2006 Iowa Acts, House File 2734,[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, 2006, and ending June 30, 2007, pursuant to 2006 Iowa Acts, House File 2734,[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, $250,000 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:

. . . . . $ 5,928,465
. . . . . 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 equivalent positions shall be utilized to provide for enforcement of tobacco laws, regulations, and ordinances under a chapter 28D agreement entered into between the Iowa department of public health and the alcoholic beverages division of the department of commerce.

(3) Of the funds appropriated in this paragraph "a", not more than $525,759 shall be expended on administration and management of the program.

(4) Of the funds appropriated in this paragraph "a", not less than 80 percent of the amount expended in the fiscal year beginning July 1, 2001, for community partnerships shall be expended in the fiscal year beginning July 1, 2006, 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:

. . . . . $ 13,800,000

(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.

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[1] Chapter 1184 herein

[2] Chapter 1184 herein

(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".

(7) The department shall use the additional $2,000,000 in funds appropriated in this paragraph "c" to fund the maintenance and enhancement of substance abuse treatment programs currently funded by the department.

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:

..... $ 350,000

f. For the center for congenital and inherited disorders established pursuant to section 136A.3:

..... $ 26,000

g. For a grant program to provide substance abuse prevention programming for children:

..... $ 1,050,000

(1) Of the funds appropriated in this paragraph "g", $500,000 shall be utilized to provide funding for organizations that provide programming for children by utilizing mentors. Of the amount specified in this subparagraph (1), $25,000 shall be utilized to provide grants to small community-based organizations that meet the requirements of this subparagraph (1). Programs approved for grants under this subparagraph (1) shall be certified or will be certified within six months of receiving the grant award by the Iowa commission on volunteer services as utilizing the standards for effective practice for mentoring programs.

(2) Of the funds appropriated in this paragraph "g", $500,000 shall be utilized to provide funding for organizations that provide programming that includes out-of-school youth development and opportunities for character development, youth development, and leadership. Of the amount specified in this subparagraph (2), $25,000 shall be utilized to provide grants to small community-based organizations that meet the requirements of this subparagraph (2).

The programs shall also be recognized as being programs that are scientifically-based with evidence of their effectiveness in reducing substance abuse in children.

(3) The Iowa department of public health shall utilize a request for proposals process to implement the program under this paragraph "g".

(4) All grant recipients under this paragraph "g" shall participate in a program evaluation as a requirement for receiving grant funds.

(5) Of the funds appropriated in this paragraph "g", $50,000 shall be used to administer substance abuse prevention grants and for program evaluations.

h. For providing grants to individual patients who have phenylketonuria (PKU) to assist with the costs of necessary special foods:

. . . . . $ 100,000

i. 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

3. To the department of corrections:

. . . . . $ 4,046,474

a. Of the funds appropriated in this subsection, $228,216 is allocated to the first judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, and $128,216 shall be used to replace expired federal funding for dual diagnosis offenders.

b. Of the funds appropriated in this subsection, $406,217 is allocated to the second judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections and $306,217 shall be used to replace expired federal funding for day programming and to replace expired federal funding for the drug court program with $50,000 of this amount being used for substance abuse treatment.

c. Of the funds appropriated in this subsection, $200,359 is allocated to the third judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, and $100,359 shall be used to replace expired federal funding for the drug court program.

d. Of the funds appropriated in this subsection, $291,731 is allocated to the fourth judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, and $191,731 shall be used for the drug court program.

e. Of the funds appropriated in this subsection, $355,693 is allocated to the fifth judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, and $255,693 shall be used to replace expired federal funding for the drug court program.

f. Of the funds appropriated in this subsection, $164,741 is allocated to the sixth judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, and $64,741 shall be used to replace expired federal funding for dual diagnosis offenders.

g. Of the funds appropriated in this subsection, $232,232 is allocated to the seventh judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, and $132,232 shall be used to replace expired federal funding for the drug court program.

h. Of the funds appropriated in this subsection, $300,000 is allocated to the eighth judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, and $200,000 shall be used to implement an adult drug court program.

i. Of the funds appropriated in this subsection, $1,497,285 is allocated to the Fort Madison correctional facility for the clinical care unit.

j. Of the funds appropriated in this subsection, $310,000 is allocated to the Newton correctional facility for a value-based treatment program.

*k. *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.**

* Item veto; see message at end of the Act

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.

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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, for deposit in the school ready children grants account:

. . . . . $ 2,153,250

Sec. 4. IOWA COMMISSION ON VOLUNTEER SERVICES. There is appropriated from the healthy Iowans tobacco trust created in section 12.65 to the department of economic development 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 allocation to the Iowa commission on volunteer services for the Iowa's promise and mentoring partnership program and for not more than the following full-time equivalent position:

. . . . . $ 125,000
. . . . . FTEs 1.00

Sec. 5. DEPARTMENT OF EDUCATION. There is appropriated from the healthy Iowans tobacco trust created in section 12.65, to the department of education 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:

To establish a competitive grants program to expand the availability of before and after school programs:

. . . . . $ 150,000

School districts and other public and private organizations shall be eligible to apply for a grant from the program. Grant applications shall be assessed by the department based on the targeted student population and whether the application demonstrates partnerships and collaboration with not-for-profit community organizations, if appropriate; indicates that the school district or organization has access to training for the program; provides for a safe and engaging environment; combines academic, enrichment, cultural, and recreational activities; provides for no less than a 20 percent match; and demonstrates that the school district or organization is able to sustain the program after the grant is exhausted. The types of activities supported by an applicant may include but are not limited to tutoring and supplementing instruction in basic skills, such as reading, math, and science; drug and violence prevention curricula and counseling; youth leadership activities; volunteer and service learning opportunities; career and vocational awareness preparation; courses and enrichment in arts and culture; computer instruction; character development and civic participation; language instruction, including English as a second language; mentoring; positive interaction with law enforcement; su-

pervised recreation programs; or health and nutrition programs. The department shall make every attempt to leverage additional funding from other public and private sources to support the program provided under this section.

Sec. 6. FARMERS WITH DISABILITIES — FEDERAL REPLACEMENT FUNDS. There is appropriated from the general fund of the state to the division of vocational rehabilitation services of the department of education 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 a grant to a national nonprofit organization with over 80 years of experience in assisting children and adults with disabilities and special needs and their families through services that include medical rehabilitation, job training and employment services, child care, adult day services, and camping and recreation, in order to replace expired federal funding for a nationally recognized program that has been replicated in 30 other states but which is not available through any other entity in this state that provides assistance to farmers with disabilities in all 99 counties to allow the farmers to remain in their own homes and be gainfully engaged in farming through provision of agricultural worksite and home modification consultations, peer support services, services to families, information and referral, and equipment loan services: ..... $ 130,000

Sec. 7. Section 135.26, Code Supplement 2005, is amended to read as follows:

135.26 AUTOMATED EXTERNAL DEFIBRILLATOR GRANT PROGRAM.

The department shall establish and implement an automated external defibrillator grant program which provides matching funds to local boards of health, community organizations, or cities for the program after standards and requirements for the utilization of automated external defibrillator equipment, and training on the use of such equipment, are developed at the local level. The objective of the program shall be to enhance the emergency response system in rural areas of the state where access to health care providers is often limited by providing increased access to automated external defibrillator equipment by rural emergency and community personnel. A local board of health, community organization, or city may submit an application to the department for review. The department shall establish criteria for the review and approval of grant applications by rule, and may accept gifts, grants, bequests, and other private contributions, as well as state or federal funds, for purposes of the program. The amount of a grant shall not exceed fifty percent of the cost of the automated external defibrillator equipment to be distributed to the applicant and the training program to be administered by the applicant at the local level. Each application shall include information demonstrating that the applicant will provide matching funds of fifty percent of the cost of the program. Grant recipients shall submit an annual report to the department indicating automated external defibrillator equipment usage levels, patient outcomes, and number of individuals trained. For the purposes of this section, "rural" means a geographic area outside an urban or suburban setting with a population of less than fifty thousand persons.

Sec. 8. 2005 Iowa Acts, chapter 176, section 1, subsection 1, paragraph a, unnumbered paragraph 2, is amended to read as follows:

Of the amount appropriated in this paragraph, ~~$50,000~~ $150,000 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.

Sec. 9. 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), $10,925,000 is transferred from the endowment for Iowa's health account of the tobacco settlement trust fund created in section 12E.12 to the healthy Iowans tobacco trust created in section 12.65 for the fiscal year beginning July 1, 2006, and ending June 30, 2007.

Sec. 10. EFFECTIVE DATE. The section of this Act amending 2005 Iowa Acts, chapter 176, section 1, being deemed of immediate importance, takes effect upon enactment.

Approved June 1, 2006, with exception noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2743, an Act relating to and making appropriations from the Healthy Iowans Tobacco Trust and the Tobacco Settlement Trust Fund, and providing an effective date.

House File 2743 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 k. 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 2743 are hereby approved this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1182

GOVERNMENT OPERATIONS, EDUCATION PROGRAMS, FINANCE AND TAXATION, AND PARENTAL RIGHTS

H.F. 2792

AN ACT relating to government operations and finances, including the funding of, operation of, and appropriation of moneys to the department of education, the department of management, the department of veterans affairs, and the state board of regents, providing for participation in an instructional support program by school districts, relating to education standards and services by providing for a statewide core curriculum and standards study, providing for adjusted additional property tax levy aid for school districts, allocating and restricting utilization of local option sales and services tax moneys under specified circumstances, providing for an equity in property taxation interim study, making an appropriation, providing for an increase in the number of years for which supplementary weighting for limited English proficient students may be obtained, and providing effective and applicability dates.

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

DIVISION I
STUDENT ACHIEVEMENT AND TEACHER QUALITY PROGRAM

Section 1. DEPARTMENT OF EDUCATION. There is appropriated from the general fund of the state to the department of education for the designated fiscal years of the fiscal period beginning July 1, 2006, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For purposes, as provided in law, of the student achievement and teacher quality program established pursuant to chapter 284:

FY 2006-2007	$	104,343,894
FY 2007-2008	$	139,343,894
FY 2008-2009	$	174,343,894

Sec. 2. Section 256.11, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Beginning July 1, 2006, each school district shall have a qualified teacher librarian who shall be licensed by the board of educational examiners under chapter 272. The state board shall establish in rule a definition of and standards for an articulated sequential kindergarten through grade twelve media program. A school district that entered into a contract with an individual for employment as a media specialist or librarian prior to June 1, 2006, shall be considered to be in compliance with this subsection until June 30, 2011, if the individual is making annual progress toward meeting the requirements for a teacher librarian endorsement issued by the board of educational examiners under chapter 272. A school district that entered into a contract with an individual for employment as a media specialist or librarian who holds at least a master's degree in library and information studies shall be considered to be in compliance with this subsection until the individual leaves the employ of the school district.

Sec. 3. Section 256.11A, Code 2005, is amended to read as follows:

256.11A ~~GUIDANCE PROGRAM~~ TEACHER LIBRARIAN — ~~MEDIA SERVICES PROGRAM —~~ WAIVER.

1. ~~Schools and school districts unable to meet the standard adopted by the state board requiring each school or school district operating a kindergarten through grade twelve program~~

~~to provide an articulated sequential elementary-secondary guidance program~~ The board of directors of a school district may, not later than August 1, ~~1995~~ 2006, for the school year beginning July 1, ~~1995~~ 2006, file a written request to the department of education that the department waive the requirement ~~for~~ adopted by the state board pursuant to section 256.11, subsection 9, that ~~school or~~ the school district have a qualified teacher librarian. The procedures specified in subsection 3[1] apply to the request. Not later than August 1, ~~1996~~ 2007, for the school year beginning July 1, ~~1996~~ 2007, the board of directors of a school district ~~or the authorities in charge of a nonpublic school~~ may request a one-year extension of the waiver.

~~2. Not later than August 1, 1995, for the school year beginning July 1, 1995, the board of directors of a school district, or authorities in charge of a nonpublic school, may file a written request with the department of education that the department waive the rule adopted by the state board to establish and operate a media services program to support the total curriculum for that district or school. The procedures specified in subsection 3 apply to the request. Not later than August 1, 1996, for the school year beginning July 1, 1996, the board of directors of a school district or the authorities in charge of a nonpublic school may request an additional one-year extension of the waiver.~~

~~3.~~ 2. A request for a waiver filed by the board of directors of a school district ~~or authorities in charge of a nonpublic school~~ shall describe actions being taken by the district ~~or school~~ to meet the requirement for which the district ~~or school~~ has requested a waiver.

Sec. 4. Section 256.44, subsection 1, paragraph a, Code Supplement 2005, is amended to read as follows:

a. If a teacher registers for national board for professional teaching standards certification prior to June 30, ~~2006~~ 2007, 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. 5. Section 284.1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A student achievement and teacher quality program is established to promote high student achievement. The program shall consist of the following ~~four~~ five major elements:

Sec. 6. Section 284.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Evaluation of teachers against the Iowa teaching standards.

Sec. 7. Section 284.2, subsection 1, Code 2005, is amended to read as follows:

1. "Beginning teacher" means an individual serving under an initial or intern license, issued by the board of educational examiners under chapter 272, who is assuming a position as a ~~classroom~~ teacher. For purposes of the beginning teacher mentoring and induction program created pursuant to section 284.5, "beginning teacher" also includes preschool teachers who are licensed by the board of educational examiners under chapter 272 and are employed by a school district or area education agency.

Sec. 8. Section 284.2, subsection 2, Code 2005, is amended by striking the subsection.

Sec. 9. Section 284.2, subsection 8, Code 2005, is amended to read as follows:

8. "Mentor" means an individual employed by a school district or area education agency as a ~~classroom~~ teacher or a retired teacher who holds a valid license issued under chapter 272. The individual must have a record of four years of successful teaching practice, must be em-

[1] The phrase "subsection ~~2~~ 3" probably intended

ployed on a nonprobationary basis, and must demonstrate professional commitment to both the improvement of teaching and learning and the development of beginning teachers.

Sec. 10. Section 284.2, subsection 12, Code 2005, is amended to read as follows:

12. "Teacher" means an individual holding a practitioner's license issued under chapter 272, who is employed in a nonadministrative position as a teacher, teacher librarian, ~~media specialist,~~ preschool teacher, or counselor by a school district or area education agency pursuant to a contract issued by a board of directors under section 279.13. *However, an individual who is employed by an area education agency shall only be considered a teacher for purposes of this chapter if the individual directly delivers instruction to school or school district students for fifty percent or more of the individual's contracted time.* A teacher may be employed in both an administrative and a nonadministrative position by a board of directors and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position. "Teacher" includes a licensed individual employed on a less than full-time basis by a school district through a contract between the school district and an institution of higher education with a practitioner preparation program in which the licensed teacher is enrolled.

Sec. 11. Section 284.4, subsection 1, paragraph e, Code Supplement 2005, is amended to read as follows:

e. Adopt a teacher evaluation plan that, at minimum, requires a performance review of teachers in the ~~participating~~ district at least once every three years based upon the Iowa teaching standards and individual career development plans, and requires administrators to complete evaluator training in accordance with section 284.10.

Sec. 12. Section 284.5, subsections 1, 3, 4, and 7, Code Supplement 2005, are amended to read as follows:

1. A beginning teacher mentoring and induction program is created to promote excellence in teaching, enhance student achievement, build a supportive environment within school districts and area education agencies, increase the retention of promising beginning teachers, and promote the personal and professional well-being of ~~classroom~~ teachers.

3. Each school district and area education agency shall provide a beginning teacher mentoring and induction program for all ~~classroom~~ teachers who are beginning teachers, and notwithstanding section 284.4, subsection 1, a school district and an area education agency shall be eligible to receive moneys under section 284.13, subsection 1, paragraph "b", for purposes of implementing a beginning teacher mentoring and induction program in accordance with this section.

4. Each ~~participating~~ school district and area education agency shall develop an initial beginning teacher mentoring and induction plan. A school district shall include its plan in the school district's comprehensive school improvement plan submitted pursuant to section 256.7, subsection 21. The beginning teacher mentoring and induction plan shall, at a minimum, provide for a two-year sequence of induction program content and activities to support the Iowa teaching standards and beginning teacher professional and personal needs; mentor training that includes, at a minimum, skills of classroom demonstration and coaching, and district expectations for beginning teacher competence on Iowa teaching standards; placement of mentors and beginning teachers; the process for dissolving mentor and beginning teacher partnerships; district organizational support for release time for mentors and beginning teachers to plan, provide demonstration of classroom practices, observe teaching, and provide feedback; structure for mentor selection and assignment of mentors to beginning teachers; a district facilitator; and program evaluation.

7. If a beginning teacher who is participating in a mentoring and induction program leaves the employ of a ~~participating~~ school district or area education agency prior to completion of the program, the ~~participating~~ school district or area education agency subsequently hiring the

* Item veto; see message at end of the Act

beginning teacher shall credit the beginning teacher with the time earned in the program prior to the subsequent hiring.

Sec. 13. Section 284.6, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The department shall coordinate a statewide network of career development for Iowa teachers. A ~~participating~~ school district or career development provider that offers a career development program in accordance with section 256.9, subsection 50, shall demonstrate that the program contains the following:

Sec. 14. Section 284.6, subsections 3 and 4, Code 2005, are amended to read as follows:

3. A ~~participating~~ school district shall incorporate a district career development plan into the district's comprehensive school improvement plan submitted to the department in accordance with section 256.7, subsection 21. The district career development plan shall include a description of the means by which the school district will provide access to all teachers in the district to career development programs or offerings that meet the requirements of subsection 1. The plan shall align all career development with the school district's long-range student learning goals and the Iowa teaching standards. The plan shall indicate the school district's approved career development provider or providers.

4. In cooperation with the teacher's evaluator, the career teacher employed by a ~~participating~~ school district shall develop an individual teacher career development plan. The evaluator shall consult with the teacher's supervisor on the development of the individual teacher career development plan. The purpose of the plan is to promote individual and group career development. The individual plan shall be based, at minimum, on the needs of the teacher, the Iowa teaching standards, and the student achievement goals of the attendance center and the school district as outlined in the comprehensive school improvement plan.

Sec. 15. Section 284.7, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

To promote continuous improvement in Iowa's quality teaching workforce and to give Iowa teachers the opportunity for career recognition that reflects the various roles teachers play as educational leaders, an Iowa teacher career path is established for teachers employed by ~~participating~~ school districts. A ~~participating~~ school district shall use funding allocated under section 284.13, subsection 1, paragraph ~~"d"~~ "h", to raise teacher salaries to meet the requirements of this section. The Iowa teacher career path and salary minimums are as follows:

Sec. 16. Section 284.7, subsection 1, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

~~Effective July 1, 2001, the~~ The following career path levels are established and shall be implemented in accordance with this chapter:

Sec. 17. Section 284.7, subsection 1, paragraph a, subparagraph (1), subparagraph subdivisions (a) and (b), Code 2005,[2] are amended to read as follows:

(a) Has successfully completed an approved practitioner preparation program as defined in section 272.1 or holds an intern teacher license issued by the board of educational examiners under chapter 272.

(b) Holds an initial or intern teacher license issued by the board of educational examiners.

Sec. 18. Section 284.7, subsection 1, paragraph a, subparagraph (2), Code Supplement 2005, is amended by striking the subparagraph and inserting in lieu thereof the following:

(2) Beginning July 1, 2006, the minimum salary for a beginning teacher shall be twenty-five thousand five hundred dollars.

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[2] "Code Supplement 2005" probably intended

Sec. 19. Section 284.7, subsection 1, paragraph b, subparagraph (2), Code Supplement 2005, is amended by striking the subparagraph and inserting in lieu thereof the following:

(2) Beginning July 1, 2006, the minimum salary for a first-year career teacher shall be twenty-six thousand five hundred dollars and the minimum salary for all other career teachers shall be twenty-seven thousand five hundred dollars.

Sec. 20. Section 284.7, subsection 5, Code Supplement 2005, is amended to read as follows:

5. A teacher employed in a ~~participating~~ district shall not receive less compensation in that ~~participating~~ district than the teacher received in the school year preceding participation, as set forth in section 284.4 due to implementation of this chapter. A teacher who achieves national board for professional teaching standards certification and meets the requirements of section 256.44 shall continue to receive the award as specified in section 256.44 in addition to the compensation set forth in this section.

Sec. 21. Section 284.7, subsection 6, paragraphs a and b, Code Supplement 2005, are amended to read as follows:

a. If the licensed employees of a school district or area education agency receiving funds pursuant to section 284.13, subsection 1, paragraph ~~"d"~~ "h" or ~~"e"~~ "i", for purposes of this section, are organized under chapter 20 for collective bargaining purposes, the board of directors and the certified bargaining representative for the licensed employees shall mutually agree upon a formula for distributing the funds among the teachers employed by the school district or area education agency. However, the school district must comply with the salary minimums provided for in this section. The parties shall follow the negotiation and bargaining procedures specified in chapter 20 except that if the parties reach an impasse, neither impasse procedures agreed to by the parties nor sections 20.20 through 20.22 shall apply and the funds shall be paid as provided in paragraph "b". Negotiations under this section are subject to the scope of negotiations specified in section 20.9. If a board of directors and the certified bargaining representative for licensed employees have not reached mutual agreement for the distribution of funds received pursuant to section 284.13, subsection 1, paragraph ~~"d"~~ "h" or ~~"e"~~ "i", by July 15 of the fiscal year for which the funds are distributed, paragraph "b" of this subsection shall apply.

b. If, once the minimum salary requirements of this section have been met by the school district or area education agency, and the school district or area education agency receiving funds pursuant to section 284.13, subsection 1, paragraph ~~"d"~~ "h" or ~~"e"~~ "i", for purposes of this section, and the certified bargaining representative for the licensed employees have not reached an agreement for distribution of the funds remaining, in accordance with paragraph "a", the board of directors shall divide the funds remaining among full-time teachers employed by the district or area education agency whose regular compensation is equal to or greater than the minimum career teacher salary specified in this section. The payment amount for teachers employed on less than a full-time basis shall be prorated.

Sec. 22. Section 284.8, subsection 1, Code 2005, is amended to read as follows:

1. A ~~participating~~ school district shall review a teacher's performance at least once every three years for purposes of assisting teachers in making continuous improvement, documenting continued competence in the Iowa teaching standards, identifying teachers in need of improvement, or to determine whether the teacher's practice meets school district expectations for career advancement in accordance with section 284.7. The review shall include, at minimum, classroom observation of the teacher, the teacher's progress, and implementation of the teacher's individual career development plan; shall include supporting documentation from other evaluators, teachers, parents, and students; and may include video portfolios as evidence of teaching practices.

Sec. 23. Section 284.10, subsection 5, Code 2005, is amended to read as follows:

5. By July 1, ~~2005~~ 2007, the director shall develop and implement an evaluator training certi-

fication renewal program for administrators and other practitioners who need to renew a certificate issued pursuant to this section.

Sec. 24. Section 284.11, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

284.11 MARKET FACTOR TEACHER SALARIES.

1. The general assembly finds that Iowa school districts need to be more competitive in recruiting and retaining talented professionals into the teaching profession. To ensure that school districts in all areas of the state have the ability to attract highly qualified teachers, it is the intent of the general assembly to encourage school districts to establish teacher compensation opportunities that recognize the need for geographic or other locally determined wage differentials and provide incentives for traditionally hard-to-staff schools and subject-area shortages. This section provides for state assistance to allow school districts to add a market factor to teacher salaries paid by the school districts.

2. A school district shall be paid annually, from moneys allocated for market factor salaries pursuant to section 284.13, subsection 1, paragraph "f", an amount of state assistance to create market factor incentives for classroom teachers in the school district. Market factor incentives may include but are not limited to improving salaries due to geographic differences, recruitment and retention needs of the school district in such areas as hard-to-staff schools, subject-area shortages, or improving the racial or ethnic diversity on local teaching staffs. The school district shall have the sole discretion to award funds received by the school district in accordance with section 284.13, subsection 1, paragraph "f", to classroom teachers on an annual basis. The funds shall supplement, but not supplant, wages and salaries paid as a result of a collective bargaining agreement reached pursuant to chapter 20 or as a result of funds appropriated elsewhere in this chapter, in chapter 256D, or in chapter 294A.

3. The allocations to each school district shall be made in one payment on or about October 15 of the fiscal year for which the appropriation is made, taking into consideration the relative budget and cash position of the state resources. Moneys received under this section shall not be commingled with state aid payments made under section 257.16 to a school district and shall be accounted for by the local school district separately from state aid payments. Payments made to school districts under this section are miscellaneous income for purposes of chapter 257. A school district shall maintain a separate listing within its budget for payments received and expenditures made pursuant to this section. A school district shall certify to the department of education how the school district allocated the funds and that moneys received under this section were used to supplement, not supplant, the salary the school district would otherwise pay the teacher.

4. The department shall include market factor salaries when reporting teacher salaries in the annual condition of education report.

Sec. 25. Section 284.13, subsection 1, Code Supplement 2005, is amended to read as follows:

1. For each fiscal year in which moneys are appropriated by the general assembly for purposes of the student achievement and teacher quality program, the moneys shall be allocated as follows in the following priority order:

a. For each fiscal year of the fiscal ~~year~~ period beginning July 1, ~~2005~~ 2006, and ending June 30, ~~2006~~ 2009, to the department of education, the amount of two million two hundred fifty thousand dollars for the issuance of national board certification awards in accordance with section 256.44. Of the amount allocated under this paragraph, up to two hundred fifty thousand dollars may be used to support the implementation of a national board certification support program, and not less than eighty-five thousand dollars shall be used to administer the ambassador to education position in accordance with section 256.45.

b. For the fiscal year beginning July 1, ~~2005~~ 2006, and succeeding fiscal years, an amount up to four million ~~two~~ six hundred fifty thousand dollars for first-year and second-year beginning teachers, to the department of education for distribution to school districts and area edu-

cation agencies for purposes of the beginning teacher mentoring and induction programs. A school district or area education agency 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, and area education agencies as provided in this paragraph, the department shall prorate the amount distributed to school districts and area education agencies based upon the amount appropriated. Moneys received by a school district or area education agency pursuant to this paragraph shall be expended to provide each mentor with an award of five hundred dollars per semester, at a minimum, for participation in the school district's or area education agency'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 or area education agency.

c. For each fiscal year of the fiscal ~~year~~ period beginning July 1, ~~2005~~ 2006, and ending June 30, ~~2006~~ 2009, up to ~~four~~ six hundred ~~eighty-five~~ ninety-five thousand dollars to the department of education for purposes of implementing the career development program requirements of section 284.6, 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 ten thousand dollars shall be 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.~~

~~d. For each fiscal year in which funds are appropriated for purposes of this chapter, the moneys remaining after distribution as provided in paragraphs "a" through "c" and "e" shall be allocated to school districts for salaries and career development in accordance with the following formula:~~

~~(1) Fifty percent of the allocation shall be in the proportion that the basic enrollment of a school district bears to the sum of the basic enrollments of all school districts in the state for the budget year.~~

~~(2) Fifty percent of the allocation shall be based upon the proportion that the number of full-time equivalent teachers employed by a school district bears to the sum of the number of full-time equivalent teachers who are employed by all school districts in the state for the base year.~~

~~e. From moneys available under paragraph "d", the department shall allocate to area education agencies an amount per classroom teacher employed by an area education agency that is approximately equivalent to the average per teacher amount allocated to the districts. The average per teacher amount shall be calculated by dividing the total number of classroom teachers employed by school districts and the classroom teachers employed by area education agencies into the total amount of moneys available under paragraph "d".~~

~~f.~~ d. For the fiscal year beginning July 1, ~~2005~~ 2006, and ending June 30, ~~2006~~ 2007, 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~~ 2005, 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~~ 2006. The contract salary amount shall be the amount paid for their regular responsibilities but shall not include pay for extracurricular activities. School districts shall distribute funds to teachers based on individual

teacher per diem amounts. These funds shall not supplant existing funding for professional development activities. Notwithstanding any provision to the contrary, moneys received by a school district under this paragraph shall not revert but shall remain available for the same purpose in the succeeding fiscal year. 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~~ 2007.

~~g.~~ e. For the fiscal year beginning July 1, ~~2005~~ 2006, and ending June 30, ~~2006~~ 2007, 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 ~~"d"~~ "h" 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~~ annually.

f. For purposes of market factor teacher salaries pursuant to section 284.11, the following amounts are allocated to the department for the following fiscal years:

(1) For the fiscal year beginning July 1, 2006, and ending June 30, 2007, the sum of three million three hundred ninety thousand dollars.

(2) For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the sum of seven million five hundred thousand dollars.

(3) For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of ten million dollars.

The department shall use the formula set forth in paragraph "h" to distribute moneys allocated under this paragraph.

g. For purposes of the pay-for-performance program established pursuant to section 284.14, the following amounts are allocated to the department of management for the following fiscal years:

(1) For the fiscal year beginning July 1, 2006, and ending June 30, 2007, the sum of one million dollars. Of the amount allocated under this subparagraph, an amount equal to one hundred fifty thousand dollars shall be distributed to the institute for tomorrow's workforce created pursuant to section 7K.1 for the activities of the institute.

(2) For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the sum of two million five hundred thousand dollars.

(3) For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of five million dollars.

h. For each fiscal year in which funds are appropriated for purposes of this chapter, the moneys remaining after distribution as provided in paragraphs "a" through "g" shall be allocated to school districts for salaries and career development in accordance with the following formula:

(1) Fifty percent of the allocation shall be in the proportion that the basic enrollment of a school district bears to the sum of the basic enrollments of all school districts in the state for the budget year.

(2) Fifty percent of the allocation shall be based upon the proportion that the number of full-time equivalent teachers employed by a school district bears to the sum of the number of full-time equivalent teachers who are employed by all school districts in the state for the base year.

i. From moneys available under paragraph "h", the department shall allocate to area education agencies an amount per classroom teacher employed by an area education agency that is approximately equivalent to the average per teacher amount allocated to the districts. The

average per teacher amount shall be calculated by dividing the total number of classroom teachers employed by school districts and the classroom teachers employed by area education agencies into the total amount of moneys available under paragraph "h".

~~h.~~ j. Notwithstanding section 8.33, any moneys remaining unencumbered or unobligated from the moneys allocated for purposes of paragraph "a", ~~or~~ "b", or "c" shall not revert but shall remain available in the succeeding fiscal year for expenditure for the purposes designated. The provisions of section 8.39 shall not apply to the funds appropriated pursuant to this subsection.

Sec. 26. Section 284.13, subsection 2, Code Supplement 2005, is amended to read as follows:

2. A school district that is unable to meet the provisions of section 284.7, subsection 1, with funds allocated pursuant to subsection 1, paragraph ~~"d"~~ "h", may request a waiver from the department to use funds appropriated under chapter 256D to meet the provisions of section 284.7, subsection 1, if the difference between the funds allocated to the school district pursuant to subsection 1, paragraph ~~"d"~~ "h", and the amount required to comply with section 284.7, subsection 1, is not less than ten thousand dollars. The department shall consider the average class size of the school district, the school district's actual unspent balance from the preceding year, and the school district's current financial position.

Sec. 27. NEW SECTION. 284.14 PAY-FOR-PERFORMANCE PROGRAM.

1. COMMISSION.

a. A pay-for-performance commission is established to design and implement a pay-for-performance program and provide a study relating to teacher and staff compensation containing a pay-for-performance component. The study shall measure the cost and effectiveness in raising student achievement of a compensation system that provides financial incentives based on student performance. The commission is part of the executive branch of government. **The legislative services agency shall, upon request, provide technical and administrative support to the commission.*

The commission shall select its own chairperson and establish its own rules of procedure. A majority of the voting members of the commission shall constitute a quorum.

b. Any vacancy on the commission shall be filled by the appropriate appointing authority. Members shall receive a per diem. Membership of the commission shall be as follows:

(1) One classroom teacher selected jointly by the Iowa state educational association and the professional educators of Iowa.

(2) One principal selected by the school administrators of Iowa.

(3) One private sector representative selected by the Iowa business council. This representative should have all of the following qualifications:

(a) Possess a degree in education and have teaching experience.

(b) Be employed in a business employing at least two hundred persons that has an employee performance pay program.

(c) Have served as a school board member.

(4) One industrial engineer appointed by the American society of engineers. This individual should have technical knowledge and experience in the design and implementation of individual and group pay-for-performance incentive programs.

(5) One small business private sector employer, who employs at least fifty people in a targeted industry, selected by the governor, who has general management experience and top line and bottom line responsibilities.

(6) One professional economist with a doctoral degree with experience and knowledge in student achievement using test scores to measure student progress, selected by the voting members of the commission, after they convene.

(7) One representative from the department of education who shall serve as a nonvoting member.

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* Item veto; see message at end of the Act

(8) Two members of the senate and two members of the house of representatives who shall serve as nonvoting members for two-year terms coinciding with the legislative biennium.

c. Voting members shall serve three-year terms except for the terms of the initial members, which shall be staggered so that two members' terms expire each calendar year. A vacancy in the membership of the board shall be filled by appointment by the initial appointing authority.

*d. The pay-for-performance commission is not subject to the provisions of section 69.16 or 69.16A.**

2. DEVELOPMENT OF PROGRAM. Beginning July 1, 2006, the commission shall gather sufficient information to identify a pay-for-performance program based upon student achievement gains and global content standards where student achievement gains cannot be easily measured. The commission shall review pay-for-performance programs in both the public and private sector. Based on this information, the commission shall design a program utilizing both individual and group incentive components. At least half of any available funding identified by the commission shall be designated for individual incentives.

a. Commencing with the school year beginning July 1, 2007, the commission shall initiate demonstration projects, in selected kindergarten through grade twelve schools, to test the effectiveness of the pay-for-performance program. The purpose of the demonstration projects is to identify the strengths and weaknesses of the pay-for-performance program design, evaluate cost effectiveness, analyze student achievement gains, test assessments, allow thorough review of data, and make necessary adjustments before implementing the pay-for-performance program statewide.

b. The commission shall select ten school districts as demonstration projects. To the extent practicable, participants shall represent geographically distinct rural, urban, and suburban areas of the state. Participants shall provide reports or other information as required by the commission.

c. Commencing with the school year beginning July 1, 2008, the commission shall select twenty additional school districts as demonstration projects.

3. REPORTS AND FINAL STUDY. Based on the information generated by the demonstration projects, the commission shall prepare an interim report by January 15, 2007, followed by interim progress reports annually, followed by a final study report analyzing the effectiveness of pay-for-performance in raising student achievement levels. The final study report shall be completed no later than six months after the completion of the demonstration projects. The commission shall provide copies of the final study report to the department of education and to the chairpersons and ranking members of the senate and house standing committees on education.

4. STATEWIDE IMPLEMENTATION — REMEDIATION. The general assembly shall consider implementing the pay-for-performance program statewide for the 2009-2010 school year, notwithstanding the provisions of chapters 20 and 279 to the contrary.

a. The commission, in consultation with the department of education, shall develop a system which will provide for valid, reliable tracking and measuring of enhanced student achievement under the pay-for-performance program. **Where possible, student performance shall be based solely on student achievement, objectively measured by academic gains made by individual students using valid, reliable, and nonsubjective assessment tools such as the dynamic indicators of basic early literacy skills (DIBELS), the Iowa test of basic skills, or the Iowa test of educational development.**

b. The commission shall develop a pay-for-performance pay plan for teacher compensation. The plan shall establish salary adjustments which vary directly with the enhancement of student achievement. The plan shall include teacher performance standards which identify the following five levels of teacher performance with standards to measure each level:

(1) Superior performance.
(2) Exceeds expectations.
(3) Satisfactory.
(4) Emerging.

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(5) In need of remediation.

*No individual salary adjustments under an individual incentive component of a pay-for-performance program shall be provided to teachers whose students do not demonstrate at least a satisfactory level of performance.

c. The department of education, in conjunction with the commission, shall create a teacher remediation program to provide counseling and assistance for teachers whose students do not demonstrate adequate increases in achievement.

*5. STAFFING. The legislative services agency may annually use up to fifty thousand dollars of the moneys appropriated for the pay-for-performance program to provide technical and administrative assistance to the commission and monitoring of the program. The commission may annually use up to two hundred thousand dollars of the moneys appropriated for consultation services in coordination with the legislative services agency.**

6. IOWA EXCELLENCE FUND. An Iowa excellence fund is created within the office of the treasurer of state, to be administered by the commission. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain in the fund.

The commission may provide grants from this fund, according to criteria developed by the commission, for implementation of the pay-for-performance program.

Sec. 28. NEW SECTION. 284A.1 DEFINITIONS.

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

1. "Administrator" means an individual holding a professional administrator license issued under chapter 272, who is employed in a school district administrative position by a school district or area education agency pursuant to a contract issued by a board of directors under section 279.23. An administrator may be employed in both an administrative and a nonadministrative position by a board of directors and shall be considered a part-time administrator for the portion of time that the individual is employed in an administrative position.

2. "Beginning administrator" means an individual serving under an initial administrator license, issued by the board of educational examiners under chapter 272, who is assuming a position as a school district administrator for the first time.

3. "Department" means the department of education.

4. "Mentor" means an individual employed by a school district or area education agency as a school district administrator or a retired administrator who holds a valid license issued under chapter 272. The individual must have a record of four years of successful administrative experience and must demonstrate professional commitment to both the improvement of teaching and learning and the development of beginning administrators.

5. "School board" means the board of directors of a school district or a collaboration of boards of directors of school districts.

6. "State board" means the state board of education.

Sec. 29. NEW SECTION. 284A.2 BEGINNING ADMINISTRATOR MENTORING AND INDUCTION PROGRAM.

1. A beginning administrator mentoring and induction program is created to promote excellence in school leadership, improve classroom instruction, enhance student achievement, build a supportive environment within school districts, increase the retention of promising school leaders, and promote the personal and professional well-being of administrators.

2. The department, in collaboration with other educational partners, shall develop a model beginning administrator mentoring and induction program for all beginning administrators.

3. Each school board shall establish an administrator mentoring program for all beginning administrators. The school board may adopt the model program developed by the department pursuant to subsection 2. Each school board's beginning administrator mentoring and induction program shall, at a minimum, provide for one year of programming. Each school board shall develop an initial beginning administrator mentoring and induction plan. The plan shall describe the mentor selection process, describe supports for beginning administrators, de-

* Item veto; see message at end of the Act

scribe program organizational and collaborative structures, provide a budget, provide for sustainability of the program, and provide for program evaluation. The school board employing an administrator shall determine the conditions and requirements of an administrator participating in a program established pursuant to this section. A school board shall include its plan in the school district's comprehensive school improvement plan submitted pursuant to section 256.7, subsection 21.

4. By the end of a beginning administrator's second year of employment, the beginning administrator may be comprehensively evaluated at the discretion of the school board.

Sec. 30. NEW SECTION. 284A.3 PROGRAM APPROPRIATION.

1. For the fiscal year beginning July 1, 2006, and each succeeding fiscal year, there is appropriated from the general fund of the state to the department of education the sum of two hundred fifty thousand dollars for purposes of administering the beginning administrator mentoring and induction program established pursuant to this chapter.

2. A school district shall receive one thousand five hundred dollars per beginning administrator participating in the program. If the funds appropriated for the program are insufficient to pay mentors and school districts as provided in this subsection, the department shall prorate the amount distributed to school districts based upon the amount appropriated. Moneys received by a school district pursuant to this subsection shall be expended to provide each mentor with an award of five hundred dollars per semester, at a minimum, for participation in the school district's beginning administrator 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.

3. Notwithstanding section 8.33, any moneys remaining unobligated or unexpended from the moneys appropriated under subsection 1 shall not revert, but shall remain available in the succeeding fiscal year for expenditure for the purposes designated. The provisions of section 8.39 shall not apply to the funds appropriated pursuant to this section.

Sec. 31. INSTITUTE FOR TOMORROW'S WORKFORCE — IOWA EDUCATION EFFICIENCY AND IMPROVEMENT PLAN. The institute for tomorrow's workforce shall develop an Iowa education efficiency and improvement plan, the goal of which is to establish a new educational delivery system. In developing the plan, the institute shall address issues concerning the alignment of school districts, area education agencies, public postsecondary institutions, and the department of education, focusing on specific quantitative and qualitative indicators, management, governance, services, boundaries, infrastructure and efficiencies, and administrative efficiencies. The institute shall submit the plan and any recommendations for changes to state law and administrative rules to the general assembly, the governor, and the department of education by January 15, 2007.

Sec. 32. STATE MANDATE FUNDING SPECIFIED. In accordance with section 25B.2, subsection 3, the state cost of requiring compliance with any state mandate included in this Act shall be paid by a school district from state school foundation aid received by the school district under section 257.16. This specification of the payment of the state cost shall be deemed to meet all the state funding-related requirements of section 25B.2, subsection 3, and no additional state funding shall be necessary for the full implementation of this Act by and enforcement of this Act against all affected school districts.

DIVISION II
EDUCATION POLICY
DEPARTMENT OF EDUCATION

Sec. 33. There is appropriated from the general fund of the state to the department of education 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:

To assist school districts with the implementation of statewide graduation requirements as provided in division III of this Act:
. . . . . $ 130,000

DIVISION III
MISCELLANEOUS EDUCATION PROVISIONS

Sec. 34. STATE EDUCATIONAL ASSISTANCE — CHILDREN OF DECEASED VETERANS. There is appropriated from the general fund of the state to the department of veterans affairs for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, for the purpose designated:

For educational assistance pursuant to section 35.9:
. . . . . $ 27,000

Notwithstanding section 8.33, moneys appropriated under this section that remain unexpended at the close of the fiscal year shall not revert to any fund but shall remain available for the purpose designated until the close of the succeeding fiscal year.

Sec. 35. Section 35.8, Code Supplement 2005, is amended to read as follows:

35.8 WAR ORPHANS EDUCATIONAL ~~AID~~ ASSISTANCE FUND.

A war orphans educational ~~aid~~ assistance fund is created as a separate fund in the state treasury under the control of the department of veterans affairs. Any money appropriated for the purpose of ~~aiding~~ assisting in the education of orphaned children of veterans, as defined in section 35.1, or the education of a child as provided in section 35.9, subsection 2, shall be deposited in the war orphans educational ~~aid~~ assistance fund.

Sec. 36. Section 35.9, Code Supplement 2005, is amended to read as follows:

35.9 EXPENDITURE BY COMMISSION.

1. a. The 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~~ state educational assistance, and who is the child of a person who died prior to September 11, 2001, 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 department of veterans affairs.

b. A child eligible to receive funds under this section shall not receive more than three thousand dollars under this ~~section~~ subsection during the child's lifetime.

2. Upon application by a child who has lived in the state of Iowa for two years preceding application for state educational assistance, and who is the child of a person who died on or after September 11, 2001, 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, the department shall provide state educational assistance in the amount of five thousand five hundred dollars per year or the amount of the child's established financial need, whichever is less, 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 a community college established under chapter 260C or at an institution of higher education governed by the state board of regents. A child eligible to receive state educational assistance under this subsection shall not receive more than twenty-seven thousand five hundred dollars under this subsection during the child's lifetime. The college student aid commission may, if requested, assist the department in administering this subsection.

Sec. 37. Section 35.10, Code Supplement 2005, is amended to read as follows:

35.10 ELIGIBILITY AND PAYMENT OF ~~AID~~ ASSISTANCE.

Eligibility for ~~aid~~ assistance shall be determined upon application to the department of veterans affairs, whose decision is final. The eligibility of eligible applicants shall be certified by the 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 department of veterans affairs may pay over the annual sum ~~of four hundred dollars~~ set forth in section 35.9 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 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. 38. Section 257.4, subsection 1, Code 2005, is amended to read as follows:

1. COMPUTATION OF TAX.

a. A school district shall cause an additional property tax to be levied each year. The rate of the additional property tax levy in a school district shall be determined by the department of management and shall be calculated to raise the difference between the combined district cost for the budget year and the sum of the products of the regular program foundation base per pupil times the weighted enrollment in the district and the special education support services foundation base per pupil times the special education support services weighted enrollment in the district.

b. For the budget year beginning July 1, 2006, and succeeding budget years, the department of management shall determine an adjusted additional property tax levy and a statewide maximum adjusted additional property tax levy rate. For purposes of this paragraph, the adjusted additional property tax levy shall be that portion of the additional property tax levy corresponding to the state cost per pupil multiplied by a school district's weighted enrollment, and then multiplied by one hundred percent less the regular program foundation base per pupil percentage pursuant to section 257.1. The district shall receive adjusted additional property tax levy aid in an amount equal to the difference between the adjusted additional property tax levy rate and the statewide maximum adjusted additional property tax levy rate, as applied per thousand dollars of assessed valuation on all taxable property in the district. The statewide maximum adjusted additional property tax levy rate shall be annually determined by the department taking into account amounts allocated pursuant to section 257.15, subsection 4.

Sec. 39. Section 257.15, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The department of management shall allocate from amounts appropriated pursuant to section 257.16, subsection 1, for the purpose of calculating the statewide maximum adjusted additional property tax levy rate and providing adjusted additional property tax levy aid as provided in section 257.4, subsection 1, paragraph "b", an amount not to exceed the following:

a. For the budget year beginning July 1, 2006, six million dollars.

b. For the budget year beginning July 1, 2007, twelve million dollars.

c. For the budget year beginning July 1, 2008, eighteen million dollars.

d. For the budget year beginning July 1, 2009, and succeeding budget years, twenty-four million dollars.

Sec. 40. Section 257.16, subsection 1, Code 2005, is amended to read as follows:

1. There is appropriated each year from the general fund of the state an amount necessary

to pay the foundation aid, ~~and~~ supplementary aid under section 257.4, subsection 2, and adjusted additional property tax levy aid under section 257.15, subsection 4.

Sec. 41. Section 257.31, subsection 5, paragraph j, Code 2005, is amended to read as follows:

j. Unusual need to continue providing a program or other special assistance to non-English speaking pupils after the expiration of the ~~three-year~~ four-year period specified in section 280.4.

*Sec. 42. *Section 261.1, subsection 5, Code 2005, is amended to read as follows:*

*5. ~~Eight~~ Nine additional members to be appointed by the governor. One of the members shall be selected to represent private colleges, private universities and private junior colleges located in the state of Iowa. When appointing this member, the governor shall give careful consideration to any person or persons nominated or recommended by any organization or association of some or all private colleges, private universities and private junior colleges located in the state of Iowa. One of the members shall be selected to represent institutions located in the state of Iowa whose income is not exempt from taxation under section 501(c) of the Internal Revenue Code. One of the members shall be selected to represent community colleges located in the state of Iowa. When appointing this member, the governor shall give careful consideration to any person or persons nominated or recommended by any organization or association of Iowa community colleges. One member shall be enrolled as a student at a board of regents institution, community college, or accredited private institution. One member shall be a representative of a lending institution located in this state. One member shall be a representative of the Iowa student loan liquidity corporation. The other three members, none of whom shall be official board members or trustees of an institution of higher learning or of an association of institutions of higher learning, shall be selected to represent the general public.**

Sec. 43. Section 261.25, subsection 1A, as enacted by 2006 Iowa Acts, House File 2527,[3] if enacted, is amended to read as follows:

1A. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of five million one hundred sixty-seven thousand three hundred fifty-eight dollars for ~~proprietary~~ tuition grants for students attending for-profit accredited private institutions located in Iowa. 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 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. For purposes of the tuition grant program, "for-profit accredited private institution" means an accredited private institution which is not exempt from taxation under section 501(c)(3) but which otherwise meets the requirements of section 261.9, subsection 1, paragraph "b", and whose students were eligible to receive tuition grants in the fiscal year beginning July 1, 2003.

Sec. 44. Section 280.4, subsection 3, Code 2005, is amended to read as follows:

3. In order to provide funds for the excess costs of instruction of limited English proficient students above the costs of instruction of pupils in a regular curriculum, students identified as limited English proficient shall be assigned an additional weighting of twenty-two hundredths, and that weighting shall be included in the weighted enrollment of the school district of residence for a period not exceeding ~~three~~ four years. However, the school budget review committee may grant supplemental aid or modified allowable growth to a school district to

* Item veto; see message at end of the Act

[3] Chapter 1180, §19 herein

continue funding a program for students after the expiration of the ~~three-year~~ four-year period.

Sec. 45. Section 423B.7, subsection 6, Code 2005, is amended to read as follows:

6. Local sales and services tax moneys received by a city or county may be expended for any lawful purpose of the city or county.

a. Notwithstanding the provisions of this subsection, sales and services tax moneys received from a tax imposed by a county pursuant to this chapter shall not be expended by or for the benefit of a school district located in whole or in part in the county unless the county is imposing a local option sales and services tax for school infrastructure purposes pursuant to chapter 423E.

b. Paragraph "a" of this subsection is repealed December 31, 2022.

Sec. 46. Section 423E.4, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Notwithstanding subsection 2 of this section or any other provision to the contrary, a school district that is located in whole or in part in a county that has not previously imposed the local sales and services tax for school infrastructure, and which votes on and approves the tax at a rate of one percent on or before July 1, 2008, shall receive an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 423E.3, subsection 5, paragraph "d", for a period corresponding to one-half the duration of the tax authorized by the voters. For the second half of the duration of the tax authorized by the voters, local sales and services tax receipts shall be distributed as otherwise applicable pursuant to subsection 2 of this section.

Sec. 47. LIMITED ENGLISH PROFICIENT WEIGHTING ADJUSTMENT. For the fiscal year beginning July 1, 2006, and ending June 30, 2007, there shall be allocated to the department of education from the amount appropriated pursuant to section 257.16, subsection 1, based upon the increase from three to four years in the availability of supplementary weighting for instruction of limited English proficient students pursuant to section 280.4, an amount not to exceed three million, three hundred thousand dollars. The funds shall be used to adjust the weighted enrollment of a school district with students identified as limited English proficient on a prorated basis.

Sec. 48. EQUITY IN PROPERTY TAXATION INTERIM STUDY COMMITTEE.

1. The legislative council is requested to establish an equity in property taxation interim study committee to review the provisions of chapter 257 and develop one or more proposals that will equalize property tax rates applicable pursuant to the basic school foundation aid formula. The review shall include but not be limited to finance formulas that specifically address equalizing property tax rates, and shall be authorized for and conducted over a two-year period during the 2006 and 2007 legislative interims.

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

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

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

c. Two members of the senate standing committee on ways and means.

d. Two members of the house standing committee on ways and means.

e. Persons representing education associations and stakeholders, urban and rural property tax interests, and other associations, groups, or interested parties as may be identified by the council, or added by the chairperson or co-chairpersons of the study committee designated by the council.

3. Staffing assistance shall be provided by the department of education, with the assistance of the department of management and the department of revenue. The committee shall report its findings and recommendations, including proposed legislation, to the general assembly no later than January 1, 2008.

Sec. 49. BOARD OF EDUCATIONAL EXAMINERS — TEACHER LIBRARIAN REVIEW. The board of educational examiners shall review the impact the enactment of section 256.11, subsection 9, if enacted,[4] on school districts, media specialists, and librarians and shall submit its findings and recommendations in a report to the chairpersons and ranking members of the senate and house of representatives standing committees on education by January 1, 2007.

Sec. 50. STATEWIDE GRADUATION REQUIREMENTS.

The department of education shall use funds appropriated for graduation requirements under division II of this Act to assist school districts with the implementation of graduation requirements established pursuant to section 256.7, subsection 26, as amended by 2006 Iowa Acts, Senate File 2272,[5] if enacted. The department shall survey school districts as to their readiness for implementation of the requirements. The department shall review Iowa law and administrative rules and policies to determine if changes are necessary or beneficial to implement the graduation requirements. The department shall submit its findings and recommendations in a report to the chairpersons and ranking members of the senate and house of representatives standing education committees and to the chairpersons and ranking members of the joint appropriations subcommittee on education by January 1, 2007.

Sec. 51. PARTICIPATION IN AN INSTRUCTIONAL SUPPORT PROGRAM BY SCHOOL DISTRICTS — SUSPENSION OF REQUIREMENTS. Notwithstanding any contrary provision in chapter 257, including sections 257.18 through 257.21, a school district that has participated in a board-approved instructional support program during the fiscal year beginning July 1, 2005, and ending June 30, 2006, may continue to participate in the board-approved instructional support program for the fiscal year beginning July 1, 2006, and ending June 30, 2007, to the extent established by the board's resolution, as if it had complied with those sections, if all of the following apply:

1. The board of directors of the school district has adopted or adopts a resolution not later than May 15, 2006, to participate in the board-approved instructional support program as otherwise provided in section 257.18. If the board of directors has adopted a budget which did not account for the board-approved instructional support program, the board of directors may adjust its budget to account for the board-approved instructional support program as approved by the department of management.

2. The secretary of the board of directors does not receive a petition as authorized in section 257.18, subsection 2, within twenty-eight days following the adoption of the resolution by the board of directors of the school district to participate in the board-approved instructional support program as provided in subsection 1, which asks that an election be called to approve or disapprove the action of the board of directors in adopting the resolution.

Sec. 52. EFFECTIVE DATE. Section 51 of this division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 53. EFFECTIVE DATE. The sections of this Act amending section 257.4, subsection 1, relating to the calculation of an adjusted additional property tax levy and a statewide maximum adjusted additional property tax levy rate, enacting section 257.15, subsection 4, relating to allocating funds for calculation of the statewide maximum adjusted additional property tax levy rate and providing adjusted additional property tax levy aid, amending section 257.16, subsection 1, relating to conforming changes, amending section 423B.7, relating to prohibiting expenditure of sales and services tax moneys under specified circumstances, allocating funds for a limited English proficient weighting adjustment for the fiscal year beginning July 1, 2006, and ending June 30, 2007, and enacting section 423E.4, subsection 7, relating to the distribution of local option sales and services tax revenue under specified circumstances, take effect upon enactment.

Sec. 54. EFFECTIVE AND APPLICABILITY DATES. The sections of this Act amending

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[4] This chapter, §2 herein

[5] Chapter 1152, §4 herein

sections 257.31 and 280.4, being deemed of immediate importance, take effect upon enactment and are applicable for the school budget year beginning July 1, 2006, and succeeding budget years.

DIVISION IV
STATE AND LOCAL GOVERNMENT OPERATIONS

Sec. 55. Section 8A.108, Code 2005, is amended to read as follows:

8A.108 ACCEPTANCE OF FUNDS.

1. The department may receive and accept donations, grants, gifts, and contributions in the form of moneys, services, materials, or otherwise, from the United States or any of its agencies, from this state or any of its agencies, or from any other person, and may use or expend such moneys, services, materials, or other contributions, or issue grants, in carrying out the operations of the department. All federal grants to and the federal receipts of the department are hereby appropriated for the purpose set forth in such federal grants or receipts. The department shall report annually to the general assembly on or before September 1 the donations, grants, gifts, and contributions with a monetary value of one thousand dollars or more that were received during the most recently concluded fiscal year.

2. a. The department may solicit donations, grants, gifts, and contributions in the form of moneys, services, materials, real property, or otherwise from any person for specific projects and improvements on or near the capitol complex. However, no less than twenty days prior to commencing any such solicitation, the department shall notify the executive council, the department of management, and the legislative council of the project for which the solicitation is proposed. The department is only required to provide one notification for each project for which a solicitation is proposed.

b. The department shall not accept any donation, grant, gift, or contribution in any form that includes any condition other than a condition to use the donation, grant, gift, or contribution for the project for which it was solicited. The department shall not confer any benefit upon or establish any permanent acknowledgement of the donor of the donation, grant, gift, or contribution unless specifically authorized by a constitutional majority of each house of the general assembly and approved by the governor or unless otherwise specifically authorized by law.

Sec. 56. Section 8A.321, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. With the approval of the executive council pursuant to section 7D.29 or pursuant to other authority granted by law, acquire real property to be held by the department in the name of the state as follows:

a. By purchase, lease, option, gift, grant, bequest, devise, or otherwise.

b. By exchange of real property belonging to the state for property belonging to another person.

Sec. 57. Section 68B.7, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section, a person who has served as the workers' compensation commissioner, or any deputy thereof, may represent a claimant in a contested case before the division of workers' compensation at any point subsequent to termination of such service, regardless of whether the person charges a contingent fee for such representation, provided such case was not pending before the division during the person's tenure as commissioner or deputy.

Sec. 58. Section 100B.13, Code Supplement 2005, is amended to read as follows:

100B.13 VOLUNTEER FIRE FIGHTER PREPAREDNESS FUND.

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 marshal of the department of public safety.

2. Revenue for the volunteer fire fighter preparedness fund shall include, but is not limited to, the following:

a. Moneys credited to the fund pursuant to section 422.12F.

b. Moneys credited to the fund pursuant to section 422.12G.

~~b.~~ c. Moneys in the form of a devise, gift, bequest, donation, or federal or other grant intended to be used for the purposes of the fund.

3. Moneys in the volunteer fire fighter preparedness fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

4. Moneys in the volunteer fire fighter preparedness fund are appropriated to the division of state fire 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. 59. Section 232.116, subsection 1, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. o. The parent has been convicted of a felony offense that is a criminal offense against a minor as defined in section 692A.1, the parent is divorced from or was never married to the minor's other parent, and the parent is serving a minimum sentence of confinement of at least five years for that offense.

Sec. 60. Section 314.28, Code 2005, is amended to read as follows:

314.28 KEEP IOWA BEAUTIFUL FUND.

A keep Iowa beautiful fund is created in the office of the treasurer of state. The fund is composed of moneys appropriated or available to and obtained or accepted by the treasurer of state for deposit in the fund. The fund shall include moneys transferred to the fund as provided in section 422.12A. The fund shall also include moneys transferred to the fund as provided in section 422.12G. All interest earned on moneys in the fund shall be credited to and remain in the fund. Section 8.33 does not apply to moneys in the fund.

Moneys in the fund that are authorized by the department for expenditure are appropriated, and shall be used, to educate and encourage Iowans to take greater responsibility for improving their community environment and enhancing the beauty of the state through litter prevention, improving waste management and recycling efforts, and beautification projects.

The department may authorize payment of moneys from the fund upon approval of an application from a private or public organization. The applicant shall submit a plan for litter prevention, improving waste management and recycling efforts, or a beautification project along with its application. The department shall establish standards relating to the type of projects available for assistance.

Sec. 61. NEW SECTION. 422.12G JOINT INCOME TAX REFUND CHECKOFF FOR KEEP IOWA BEAUTIFUL FUND AND VOLUNTEER FIRE FIGHTER PREPAREDNESS FUND.

1. A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate one dollar or more to be paid jointly to the keep Iowa beautiful fund created in section 314.28 and to the volunteer fire fighter preparedness fund created in section 100B.13. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer, the amount designated shall be reduced to the remaining amount of refund or the remaining amount remitted with the return. The designation of a contribution under this section is irrevocable.

2. The director of revenue shall draft the income tax form to allow the designation of contributions to the keep Iowa beautiful fund and to the volunteer fire fighter preparedness fund as

one checkoff on the tax return. The department of revenue, on or before January 31, shall transfer one-half of the total amount designated on the tax return forms due in the preceding calendar year to the keep Iowa beautiful fund and the remaining one-half to the volunteer fire fighter preparedness fund. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of administrative services and accounts identified as owing under section 8A.504 and the political contribution allowed under section 68A.601 shall be satisfied.

3. The department of revenue shall adopt rules to administer this section.

4. This section is subject to repeal under section 422.12E.

Sec. 62. Section 427.1, subsection 21A, Code Supplement 2005, as amended by 2006 Iowa Acts, House File 2797,[6] section 84, if enacted, is amended to read as follows:

21A. DWELLING UNIT PROPERTY OWNED BY COMMUNITY HOUSING DEVELOPMENT ORGANIZATION. Dwelling unit property owned and managed by a community housing development organization, as recognized by the state of Iowa and the federal government pursuant to criteria for community housing development organization designation contained in the HOME program of the federal National Affordable Housing Act of 1990, if the organization is also a nonprofit organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code and owns and manages more than one hundred and fifty dwelling units that are located in a city with a population of more than one hundred ten thousand. For the 2005 and 2006 assessment years, an application is not required to be filed to receive the exemption. For the 2007 and subsequent assessment years, an application for exemption must be filed with the assessing authority not later than February 1 of the assessment year for which the exemption is sought. Upon the filing and allowance of the claim, the claim shall be allowed on the property for successive years without further filing as long as the property continues to qualify for the exemption.

Sec. 63. Section 600A.8, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The parent has been convicted of a felony offense that is a criminal offense against a minor as defined in section 692A.1, the parent is divorced from or was never married to the minor's other parent, and the parent is serving a minimum sentence of confinement of at least five years for that offense.

Sec. 64. Section 602.8108, subsection 8B, if enacted by 2006 Iowa Acts, House File 2789,[7] section 8, is amended to read as follows:

8B. The state court administrator shall allocate to the office of attorney general for the fiscal year beginning July 1, 2006, and for each fiscal year thereafter, ~~three~~ four hundred fifty thousand dollars of the moneys received annually under subsection 2, to be used for legal services for persons in poverty grants as provided in section 13.34.

Sec. 65. 2006 Iowa Acts, House File 2797,[8] section 43, subsection 1, paragraph a, if enacted, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (11) Sierra club — Iowa chapter.

NEW SUBPARAGRAPH. (12) Izaak Walton league of Iowa.

NEW SUBPARAGRAPH. (13) State conservation districts.

Sec. 66. 2006 Iowa Acts, House File 2794,[9] section 58, if enacted, is repealed.

Sec. 67. RETROACTIVE APPLICABILITY. The section of this Act enacting section 422.12G applies retroactively to tax years beginning on or after January 1, 2006.

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[6] Chapter 1185 herein

[7] Chapter 1166 herein

[8] Chapter 1185 herein

[9] Chapter 1158 herein

DIVISION V
MISCELLANEOUS PROVISIONS

Sec. 68. Section 8F.2, subsection 8, paragraph b, subparagraph (3), if enacted by 2006 Iowa Acts, Senate File 2410,[10] is amended to read as follows:

(3) A contract for services provided for the operation, construction, or maintenance of a public or city utility, combined public or city utility, or a city enterprise as defined by section 384.24.

Approved June 1, 2006, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2792, an Act relating to government operations and finances, including the funding of, operation of, and appropriation of moneys to the department of education, the department of management, the department of veterans affairs, and the state board of Regents, providing for participation in an instructional support program by school districts, relating to education standards and services providing for a statewide core curriculum and standards study, providing for adjusted additional property tax levy aid for school districts, allocating and restricting utilization of local option sales and services tax moneys under specified circumstances, providing for an equity in property taxation interim study, making an appropriation, providing for an increase in the number of years for which supplementary weighting for limited English proficient students may be obtained, and providing effective and applicability dates.

In order to provide Iowa's students with the highest quality teachers, this bill makes a significant three-year commitment to increase compensation for Iowa's beginning and career teachers by $35 million in FY07, $70 million in FY08, and $105 million in FY09. The initiative also supports the continued development of teachers and administrators by providing professional development and mentoring opportunities for Iowa's educators.

In addition, we have solidified the involvement of teacher-librarians in increasing student achievement and created the possibility for teachers in shortage areas and high-need schools to receive additional compensation.

The bill strengthens Iowa's education system by expanding English Language Learning to provide an additional year of assistance to those learning English.

The bill creates equity in property tax allocation across school districts that will allow innovation and efficiencies.

House File 2792 is approved on this date, with the following exceptions, which I hereby disapprove:

I am unable to approve the designated portion of Section 10. This language was intended to further clarify the definition of a teacher with respect to AEA employees. It appears that an unintended consequence of this language is that it may result in including AEA staff members who are non-classroom teachers as eligible for the teacher compensation program. The department of education will work with the AEA system to create language for next year that will work for everyone.

[10] Chapter 1153, §2 herein

I am unable to approve the designated portions of Section 27, subsection 1, paragraphs a, b, c, and d. Section 27 creates a Pay-for-Performance Commission to design and implement a pay-for-performance program, specifies the commission members and their terms. The language was not part of an agreed upon negotiation and is too prescriptive. I am issuing an Executive Order to have the Institute for Tomorrow's Workforce take the lead on this study. The Institute for Tomorrow's Workforce was created by the General Assembly last year to provide a long-term forum for bold, innovative recommendations to improve Iowa's education system and is well suited for this challenging task.

I am unable to approve the designated portions of Section 27, subsection 4, paragraph a. The designated portion of this paragraph requires that the measure of student performance be based solely on tests of student achievement. There is a solid body of evidence showing that no one assessment can account for all of the variables that contribute to positive student achievement. If a pay-for-performance system is possible to design, it must be aligned with the existing Iowa Teacher Performance, Compensation and Career Development law. The designated portions of this section fail to do so.

I am unable to approve the designated portions of Section 27, subsection 4, paragraph b. This paragraph would prohibit pay-for-performance for teachers whose students, while improving, did not meet a predetermined and perhaps arbitrary level of performance. We should encourage, not discourage, student performance.

I am unable to approve Section 27, subsection 4, paragraph c. This paragraph would require the department of education to create a teacher remediation program for teachers. The Department of Education must not do this in isolation. Any meaningful remediation must be done by the principal and school district board in conjunction with the teacher involved.

I am unable to approve Section 27, subsection 5. This section allocates responsibility to the legislative services agency for providing technical and administrative assistance. It is inappropriate for an executive branch function. This represents an infringement on appropriate separation of powers. A more effective approach would be to ask the Department of Education to provide support.

I am unable to approve the item designated as Section 42, in its entirety. This section adds one new voting member to the Iowa College Student Aid Commission, and requires that the member be a representative of a proprietary higher education institution. As part of legislative negotiations, it was agreed to remove this section from the bill but the language was inadvertently left in the final version. An item veto has been requested by leadership of both the House and Senate. I hereby veto this change to Iowa Code section 261.1, subsection 5.

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 2792 are hereby approved this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1183

APPROPRIATIONS — JUSTICE SYSTEM

H.F. 2558

AN ACT relating to and making appropriations to the justice system, providing for a fee, and providing an effective date.

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

Section 1. DEPARTMENT OF JUSTICE.

1. There is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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, odometer fraud enforcement, and for not more than the following full-time equivalent positions:

..... $ 8,409,413

..... FTEs 217.50

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

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, 2006, and ending June 30, 2007, 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, 2006.

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, 2006, and ending June 30, 2007, 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, 2006, 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 $3,200,000 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, 2007, 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, 2005, and actual and expected reimbursements for the fiscal year commencing July 1, 2006.

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, 2007.

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, 2006, and ending June 30, 2007, 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, 2006, and ending June 30, 2007, 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:

.....	$	2,887,017
.....	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, 2006, and ending June 30, 2007, 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:

. . . . . $ 42,423,619

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 28,903,747

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:

. . . . . $ 28,972,190

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 26,144,996

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 24,929,418

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 8,599,419

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 24,251,587

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:

. . . . . $ 14,969,715

i. For the operation of the Fort Dodge correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 27,758,806

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:

. . . . . $ 799,954

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, 2006, and ending June 30, 2007, 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:

. . . . . $ 3,928,438

(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, 2006, for the privatization of services performed by the department using state employees as of July 1, 2006, 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:

. . . . . $ 1,070,358

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:

. . . . . $ 25,000

e. For viral hepatitis prevention and treatment:

. . . . . $ 188,000

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, 2006, 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, 2006, 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, 2006, 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, 2007, concerning moneys recouped from inmate earnings for the reimbursement of operational expenses of the applicable facility during the fiscal year beginning July 1, 2005, 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 subsection 1, the department shall not enter into any agreement with a private sector nongovernmental entity for the purpose of housing inmates committed to the custody of the director of the department, without express authorization of the general assembly to do so.

6. The department shall submit a report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative services agency by January 2, 2007, regarding the special needs unit located at the Iowa medical and classification center at Oakdale which is currently under construction. The report shall specify the date when the construction of the special needs unit will be completed, the date when the unit is ready to be occupied by inmates, and the amount of funding required to operate the unit in FY 2006-2007.

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, 2006, and ending June 30, 2007, 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:

. . . . . $ 11,242,260

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:

. . . . . $ 8,924,193

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:

. . . . . $ 5,285,982

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 de-

partment of corrections violator program, the following amount, or so much thereof as is necessary:

. . . . . $ 4,810,474

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:

. . . . . $ 16,345,917

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:

. . . . . $ 11,204,167

g. The sixth judicial district department of correctional services shall maintain a youth leadership model program to help at-risk youth. As a part of the program, the district department 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 and 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, athletics, visual arts, or performing arts.

h. 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:

. . . . . $ 6,348,075

i. 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:

. . . . . $ 6,401,794

j. For a transitional housing pilot project for offenders on parole who are in the early stages of recovery from substance abuse:

. . . . . $ 20,000

The department of corrections shall contract with a private nonprofit substance abuse treatment provider in a city with a population exceeding sixty-five thousand but not exceeding seventy thousand to implement the pilot project. The department shall file a report with the cochairpersons and ranking members of the appropriations subcommittee on the justice system and the legislative services agency by February 1, 2007, detailing the number of offenders served by the pilot project, the recidivism rate, a description of the type of services received by the offenders, and the number of prison bed days saved by the pilot project.

2. Each judicial district department of correctional services, within the funding available, shall continue programs and plans established within that district to provide for intensive supervision, sex offender treatment, diversion of low-risk offenders to the least restrictive sanction available, job development, and expanded use of intermediate criminal sanctions.

3. Each judicial district department of correctional services shall provide alternatives to prison consistent with chapter 901B. The alternatives to prison shall ensure public safety while providing maximum rehabilitation to the offender. A judicial district department may also establish a day program.

4. The governor's office of drug control policy shall consider federal grants made to the department of corrections for the benefit of each of the eight judicial district departments of correctional services as local government grants, as defined pursuant to federal regulations.

5. 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. DEPARTMENT OF CORRECTIONS — REALLOCATION OF APPROPRIATIONS. Notwithstanding section 8.39, within the funds appropriated in this Act to the department of corrections, the department may reallocate the funds appropriated and allocated as necessary to best fulfill the needs of the correctional institutions, administration of the department, and the judicial district departments of correctional services. However, in addition to the requirements of sections 904.116 and 905.8 and providing notice to the legislative services agency, the department of corrections shall also provide notice to the department of management, prior to the effective date of the revision or reallocation or[1] an appropriation made pursuant to this section. The department shall not reallocate an appropriation or allocation for the purpose of eliminating any program.

Sec. 8. 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, 2007. 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, 2006. 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. 9. 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, 2007. 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. 10. 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. 11. CORRECTIONAL FACILITY FOR THE SUBSTANCE ABUSE TREATMENT OF INMATES. The department of corrections shall develop a proposal that designates an existing correctional facility as a facility that is dedicated to providing substance abuse treatment to offenders committed to the custody of the department. The proposal shall contain a re-

[1] The word "of" probably intended

allocation of existing resources to convert an existing correctional facility to a substance abuse treatment facility, and outline the time period for the conversion of such a facility to a substance abuse facility. The department shall file the proposal with the legislative services agency no later than January 15, 2007.

Sec. 12. 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, 2006, and ending June 30, 2007, 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:

.....	$	19,792,963
.....	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:

.....	$	25,163,082

Sec. 13. 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, 2006, and ending June 30, 2007, 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:

.....	$	1,172,389
.....	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 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 state patrol.

Sec. 14. 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, 2006, and ending June 30, 2007, 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:

.....	$	1,156,960
.....	FTEs	17.50

Sec. 15. 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, 2006, and ending June 30, 2007, 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:

..... $ 5,724,545
..... FTEs 316.55

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

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,582,029
..... FTEs 26.75

b. For the Iowa civil air patrol:

..... $ 100,000

It is the intent of the general assembly that the homeland security and emergency management division work in conjunction with the department of public safety, to the extent possible, when gathering and analyzing information related to potential domestic or foreign security threats, and when monitoring such threats.

Sec. 16. 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, 2006, and ending June 30, 2007, 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:

..... $ 3,656,020
..... FTEs 38.00

2. For the division of criminal investigation, 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:

..... $ 18,673,875
..... FTEs 270.50

The department of public safety, with the approval of the department of management, may employ no more than two special agents and four gaming enforcement officers for each additional riverboat regulated after July 1, 2006, and one special agent for each racing facility which becomes operational during the fiscal year which begins July 1, 2006. 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.

3. For the criminalistics laboratory fund created in section 602.8108:

..... $ 342,000

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:

..... $ 5,349,198
..... FTEs 74.00

b. For the division of narcotics enforcement for undercover purchases:

..... $ 123,343

5. a. For the division of state fire marshal, 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:

..... $ 2,513,247
..... FTEs 41.00

b. For the division of state fire marshal, 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:

..... $ 675,820
..... FTEs 10.00

6. For the division of state patrol, for salaries, support, maintenance, workers' compensation costs, and miscellaneous purposes, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ 45,185,618
..... FTEs 531.00

It is the intent of the general assembly that members of the 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 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, 2006, but prior to June 30, 2007, 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:

..... $ 699,587

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.

9. For capitol building and judicial building security:

..... $ 775,000

Notwithstanding section 8.39, within the funds appropriated in this section the department of public safety may reallocate funds as necessary to best fulfill the needs provided for in the appropriation. However, the department shall not reallocate an appropriation made to the department in this section unless notice of the reallocation is given to the legislative services agency and the department of management prior to the effective date of the reallocation. The notice shall include information about the rationale for reallocating the appropriation. The department shall not reallocate an appropriation made in this section for the purpose of eliminating any program.

Sec. 17. 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, 2006, and ending June 30, 2007, 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:

. . . . . $ 1,075,753
. . . . . FTEs 27.90

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. 18. YOUTH ENRICHMENT PILOT PROJECT. There is appropriated from the general fund of the state to the judicial branch 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 purposes designated:

For a grant to be determined by the state court administrator, for the maintenance of a youth enrichment pilot project located in a county with a population greater than 300,000 that is involved in a public-private partnership pursuing life skills, education, and mentoring programs for offenders between the ages of 16 and 22 who have been charged with a felony:

. . . . . $ 50,000

Sec. 19. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION. There is appropriated from the wireless E911 emergency communications fund created in section 34A.7A to the administrator of the homeland security and emergency management division of the department of public defense for the fiscal year beginning July 1, 2006, and ending June 30, 2007, an amount not exceeding $200,000 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. 20. 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, 2007.

Sec. 21. DEPUTY ADJUTANT GENERAL. Notwithstanding section 29A.16, a deputy adjutant general who is a federally recognized officer on May 1, 2006, and who subsequently loses federal recognition due to age, shall continue to serve as a deputy adjutant general until June 30, 2007.

**Sec. 22. TRAVEL POLICY.*

1. For the fiscal year beginning July 1, 2006, each department or independent agency receiving an appropriation in this Act shall review the employee policy for daily or short-term travel including but not limited to the usage of motor pool vehicles under the department of administrative services, employee mileage reimbursement for the use of a personal vehicle, and the usage of private automobile rental companies. Following the review, the department or agency shall implement revisions in the employee policy for daily or short-term travel as necessary to maximize cost savings.

*2. Each department or independent agency subject to subsection 1 shall report to the general assembly's standing committees on government oversight regarding the policy revisions implemented and the savings realized from the changes. An initial report shall be submitted on or before December 1, 2006, and a follow-up report shall be submitted on or before December 1, 2007.**

Sec. 23. Section 903A.5, Code 2005, is amended to read as follows:

903A.5 TIME TO BE SERVED — CREDIT.

1. An inmate shall not be discharged from the custody of the director of the Iowa department

* Item veto; see message at end of the Act

of corrections until the inmate has served the full term for which the inmate was sentenced, less earned time and other credits earned and not forfeited, unless the inmate is pardoned or otherwise legally released. Earned time accrued and not forfeited shall apply to reduce a mandatory minimum sentence being served pursuant to section 124.406, 124.413, 902.7, 902.8, 902.8A, or 902.11. An inmate shall be deemed to be serving the sentence from the day on which the inmate is received into the institution. If an inmate was confined to a county jail or other correctional or mental facility at any time prior to sentencing, or after sentencing but prior to the case having been decided on appeal, because of failure to furnish bail or because of being charged with a nonbailable offense, the inmate shall be given credit for the days already served upon the term of the sentence. However, if a person commits any offense while confined in a county jail or other correctional or mental health facility, the person shall not be granted jail credit for that offense. Unless the inmate was confined in a correctional facility, the sheriff of the county in which the inmate was confined shall certify to the clerk of the district court from which the inmate was sentenced and to the department of corrections' records administrator at the Iowa medical and classification center the number of days so served. The department of corrections' records administrator, or the administrator's designee, shall apply jail credit as ordered by the court of proper jurisdiction or as authorized by this section and section 907.3, subsection 3~~, and shall forward a copy of the number of days served to the clerk of the district court from which the inmate was sentenced~~.

2. An inmate shall not receive credit upon the inmate's sentence for time spent in custody in another state resisting return to Iowa following an escape. However, an inmate may receive credit upon the inmate's sentence while incarcerated in an institution or jail of another jurisdiction during any period of time the person is receiving credit upon a sentence of that other jurisdiction.

Sec. 24. Section 904.513, subsection 2, Code 2005, is amended to read as follows:

2. Upon request by the director a county shall provide temporary confinement for offenders allegedly violating the conditions of assignment to a program under this chapter, if space is available in the county. The department shall negotiate a reimbursement rate with each county. The amount to be reimbursed shall be determined by multiplying the number of days a person is confined by the average daily cost of confining a person in the county facility as negotiated with the department. A county holding offenders in jail due to insufficient space in a community residential facility shall be reimbursed. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director. A voucher seeking payment shall be submitted within fifteen days of the end of a calendar quarter. If a voucher seeking payment is not made within fifteen days of the end of the calendar quarter, the request may be denied by the department.

Sec. 25. Section 904.702, Code 2005, is amended to read as follows:

904.702 DEDUCTIONS FROM INMATE ACCOUNTS.

1. If allowances are paid pursuant to section 904.701, the director shall establish an inmate account, for deposit of those allowances and for deposit of moneys sent to the inmate from a source other than the department of corrections. The director may deduct an amount, not to exceed ten percent of the amount of the allowance, unless the inmate requests a larger amount, to be deposited into the inmate savings fund as required under section 904.508, subsection 2. In addition to deducting a portion of the allowance, the director may also deduct from an inmate account any amount, except amounts directed to be deposited in the inmate telephone fund established in section 904.508A, sent to the inmate from a source other than the department of corrections for deposit in the inmate savings fund as required under section 904.508, subsection 2, until the amount in the fund equals the amount due the inmate upon discharge, parole, or placement on work release. The director shall deduct from the inmate account an amount the inmate is legally obligated to pay for child support. The director shall deduct from the inmate account an amount established by the inmate's restitution plan of payment. The director shall also deduct from any remaining account balance an amount sufficient

to pay all or part of any judgment against the inmate, including but not limited to judgments for taxes and child support, and court costs and fees assessed either as a result of the inmate's confinement or amounts required to be paid under section 610A.1. Written notice of the amount of the deduction shall be given to the inmate, who shall have five days after receipt of the notice to submit in writing any and all objections to the deduction to the director, who shall consider the objections prior to transmitting the deducted amount to the clerk of the district court. The director need give only one notice for each action or appeal under section 610A.1 for which periodic deductions are to be made. The director shall next deduct from any remaining account balance an amount sufficient to pay all or part of any costs assessed against the inmate for misconduct or damage to the property of others. The director may deduct from the inmate's account an amount sufficient to pay for the inmate's share of the costs of health services requested by the inmate and for the treatment of injuries inflicted by the inmate on the inmate or others. The director may deduct and disburse an amount sufficient for industries' programs to qualify under the eligibility requirements established in the Justice Assistance Act of 1984, Pub. L. No. 98-473, including an amount to pay all or part of the cost of the inmate's incarceration. The director may pay all or any part of remaining allowances paid pursuant to section 904.701 directly to a dependent of the inmate, or may deposit the allowance to the account of the inmate, or may deposit a portion and allow the inmate a portion for the inmate's personal use.

2. The director~~, the institutional division,~~ and the department shall not be liable to any person for any damages caused by the withdrawal or failure to withdraw money or the payment or failure to make any payment under this section.

Sec. 26. Section 904.908, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Any request for reimbursement under subsection 2 shall be made within fifteen days of the end of a calendar quarter. If a request for reimbursement is not made within fifteen days of the end of the calendar quarter, the request may be denied by the department.

Sec. 27. Section 905.14, subsection 1, Code 2005, is amended to read as follows:

1. A person placed on probation or parole and subject to supervision by a district department shall be required to pay an enrollment fee of ~~two hundred fifty~~ three hundred dollars to the district department to offset the costs of supervision. In addition to the enrollment fee, the district department may require a person to pay a fee to the district department to offset the costs of providing sex offender programming to that person.

Sec. 28. Section 906.17, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Any request for reimbursement under subsection 2 shall be made within fifteen days of the end of a calendar quarter. If a request for reimbursement is not made within fifteen days of the end of the calendar quarter, the request may be denied by the department of corrections.

Sec. 29. EFFECTIVE DATE. The section of this Act addressing section 29A.16,[2] being deemed of immediate importance, takes effect upon enactment.

Approved June 2, 2006, with exception noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2558, an Act relating to and making appropriations to the justice system, providing a fee, and providing an effective date.

[2] See §21 herein

House File 2558 is approved on this date with the following exception, which I hereby disapprove:

I am unable to approve the item designated as Section 22 in its entirety. Not only does this language create an unnecessary bureaucratic step in the efficient operation of state government, but it also calls into question the cost-savings produced by the state motor pool while disregarding the benefits that the state of Iowa derives from maintaining a state motor pool.

The cost-savings of maintaining a state motor pool are clear. In meetings with legislators and the private sector this legislative session and prior legislative sessions, the Department of Administrative Services (DAS) has continually shown that it provides a cost-effective service and the private sector has not shown that they can provide a similar service for the same or a lesser amount. It should also be noted that the state motor pool is a marketplace service that currently competes with the private sector for its state customer business.

In addition, this language only addresses the fiscal impact of the state motor pool and does not recognize other benefits of maintaining a state motor pool. The State of Iowa benefits greatly from having accessibility to a full service, on-site motor pool team with the sole responsibility of maintaining the state motor pool, which ensures convenience to the motor pool's customers, state agencies. In signing Executive Order 41, I requested that DAS take the initiative to move its fleet towards flexible fuel vehicles (vehicles that can either use E-85 or soy biodiesel). By December of 2007, 90% of eligible motor pool vehicles will be flexible fuel vehicles, which will encourage and contribute to the use of renewable fuels.

The state motor pool consistently provides cost-effective services to state agencies that enhance the ability of state government to operate efficiently and promotes Iowa's image as a leader in renewable energy.

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 2558 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1184

APPROPRIATIONS — HEALTH AND HUMAN SERVICES

H.F. 2734

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 department of veterans affairs and the Iowa veterans home, the department of human rights, and the department of inspections and appeals, providing for fee increases, and including other related provisions and appropriations, and including effective, applicability, and retroactive applicability date provisions.

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, 2006, and ending June 30, 2007, 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 only if the monthly cost per client for case management for the frail elderly services provided does not exceed an average of $70, 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:

.....	$	4,262,660
.....	FTEs	30.50

1. Funds appropriated in this section may be used to supplement federal funds under federal regulations. To receive funds appropriated in this section, a local area agency on aging shall match the funds with moneys from other sources according to rules adopted by the department. Funds appropriated in this section may be used for elderly services not specifically enumerated in this section only if approved by an area agency on aging for provision of the service within the area.

2. Of the funds appropriated in this section, $2,788,223 shall be used for case management for the frail elderly. Of the funds allocated in this subsection, $1,385,015 shall be transferred to the department of human services in equal amounts on a quarterly basis for reimbursement of case management services provided under the medical assistance elderly waiver. The department of human services shall adopt rules for case management services provided under the medical assistance elderly waiver in consultation with the department of elder affairs. The monthly cost per client for case management for the frail elderly services provided shall not exceed an average of $70. It is the intent of the general assembly that the additional funding provided for case management for the frail elderly for the fiscal year beginning July 1, 2006, and ending June 30, 2007, shall be used to provide case management services for up to an additional 1,650 individuals. Notwithstanding any provision to the contrary, any savings realized in case management for the frail elderly that is not provided under the medical assistance elderly waiver shall be used for services for the frail elderly which may include substitute decision-making services pursuant to chapter 231E.

3. Of the funds appropriated in this section, the department shall use $25,000 to provide

training to the members of boards of directors of area agencies on aging pursuant to section 231.23, as amended by this Act.

4. Of the funds appropriated in this section, $200,198 shall be transferred to the department of economic development for the Iowa commission on volunteer services 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, 2006, and ending June 30, 2007, 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:

..... $ 1,761,036
..... FTEs 4.35

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. HEALTHY CHILDREN AND FAMILIES

For promoting the optimum health status for children, adolescents from birth through 21 years of age, and families and for not more than the following full-time equivalent positions:

..... $ 2,361,264
..... FTEs 8.60

Of the funds appropriated in this subsection, not more than $645,917 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, 2006.

Of the funds appropriated in this subsection, $150,000 shall be used for the access to baby and child dentistry (ABCD) program to improve child dental care by reaching all Iowa counties with a demonstrated oral health program for children from birth through five years of age.

Of the funds appropriated in this subsection, $325,000 shall be used to address the healthy mental development of children from birth through five years of age through local evidence-based strategies that engage both the public and private sectors in promoting healthy development, prevention, and treatment for children.

Of the funds appropriated in this subsection, $20,000 shall be used to implement a pilot demonstration project, in cooperation with the department of human services and the department of elder affairs, that utilizes a web-based system to allow a common intake, case management, and referral system and provides linkages with existing software programs at minimal cost to the agencies involved.

3. 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:

..... $ 1,742,840
..... FTEs 3.75

Of the funds appropriated in this subsection, not more than $280,000 shall be used to leverage federal funding through the federal Ryan White Care Act, Title II, AIDS drug assistance program supplemental drug treatment grants.

Of the funds appropriated in this subsection, $120,000 shall be used to implement and administer the prescription drug donation repository program authorized pursuant to chapter 135M. The department shall issue a request for proposals to select a contractor to implement and administer the program.

4. COMMUNITY CAPACITY

For strengthening the health care delivery system at the local level, and for not more than the following full-time equivalent positions:

..... $ 1,718,662
..... FTEs 10.75

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.

Of the funds appropriated in this subsection, $159,700 is allocated for an initiative implemented at the university of Iowa and $140,300 is allocated for an initiative at the state mental health institute at Cherokee to expand and improve the workforce engaged in mental health treatment and services. The initiatives shall receive input from the university of Iowa, the department of human services, the Iowa department of public health and the mental health, mental retardation, developmental disabilities, and brain injury commission to address the focus of the initiatives. The department of human services, the Iowa department of public health, and the commission shall receive regular updates concerning the status of the initiatives.

5. ELDERLY WELLNESS

For optimizing the health of persons 60 years of age and older:

..... $ 9,233,985

6. 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:

..... $ 623,821
..... FTEs 1.75

Of the amount appropriated in this subsection, $100,000 is allocated for childhood lead poisoning prevention activities for counties not receiving federal funding for this purpose, $80,000 is allocated to implement blood lead testing pursuant to section 135.105D,[1] as enacted in this Act, $50,000 is allocated to continue the 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, and $120,000 is allocated for lead hazard remediation. The department shall select at least two local childhood lead poisoning programs to receive the amount allocated for lead hazard remediation. The selection shall be based on the number of lead-poisoned children living in the service area of the local childhood lead poisoning prevention program, the capacity of the program to work with housing agencies to administer the lead hazard remediation program, and the lack of other resources available for lead hazard remediation in the service area of the program.

7. INFECTIOUS DISEASES

For reducing the incidence and prevalence of communicable diseases, and for not more than the following full-time equivalent positions:

..... $ 1,258,230
..... FTEs 4.75

If House File 2493[2] or other legislation providing for a viral hepatitis program and study is enacted into law, of the funds appropriated in this subsection, $158,000 is allocated for a viral hepatitis program and study.

8. 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:

..... $ 7,941,473
..... FTEs 113.80

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[1] See §79 herein

[2] Chapter 1045 herein

Of the funds appropriated in this subsection, $643,500 shall be credited to the emergency medical services fund created in section 135.25.

Of the funds appropriated in this subsection, $50,000 is allocated for increased costs of the office of the state medical examiner laboratory.

9. 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:

..... $ 1,016,420
..... FTEs 3.00

10. IOWA COLLABORATIVE SAFETY NET PROVIDER NETWORK

For continuation of the formal network of safety net providers as provided in 2005 Iowa Acts, chapter 175, section 2, subsection 12. 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.[3] The amount transferred is allocated as follows:

a. To continue the contract for the program to develop an Iowa collaborative safety net provider network:

..... $ 450,000

b. For continuation of the 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 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.

Sec. 3. DEPARTMENT OF PUBLIC HEALTH — ADDITIONAL PROVISIONS.

For the fiscal year beginning July 1, 2006, and ending June 30, 2007:

1. 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.

2. 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. 4. 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, 2006, and ending June 30, 2007, 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 amount remaining in the gambling treatment fund after the appropriation made in sub-

[3] The phrase "transferred to the Iowa department of public health for the appropriations made in this subsection" probably intended

section 1 is 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 this subsection, up to $100,000 may be used for the licensing of gambling treatment programs as provided in section 135.150.

DEPARTMENT OF VETERANS AFFAIRS

Sec. 5. DEPARTMENT OF VETERANS AFFAIRS. There is appropriated from the general fund of the state to the department of veterans affairs 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 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:

..... $ 522,114
..... FTEs 6.50

Of the funds appropriated in this subsection, $50,000 is allocated for outreach efforts utilizing retired and senior volunteers in programs established pursuant to chapter 15H. If possible, for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the department shall contract with individuals currently coordinating volunteers with existing programs. The department shall be responsible for ensuring individuals responsible for claims processing receive adequate training.

The department of veterans affairs shall report to the senate state government committee and to the veterans committee of the house of representatives by October 15, 2006, regarding employment of the additional field service officers authorized under this subsection.

2. IOWA VETERANS HOME

For salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 13,569,501
..... FTEs 874.55

HUMAN SERVICES

Sec. 6. 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, 2006, and ending June 30, 2007, 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, 2005, and ending September 30, 2006, and beginning October 1, 2006, and ending September 30, 2007, 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:

..... $ 40,858,316

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:

..... $ 17,128,861

3. To be used for the family development and self-sufficiency grant program as provided under section 217.12 and this division of this Act:

..... $ 2,698,675

4. For field operations:
. . . . . $ 17,707,495
5. For general administration:
. . . . . $ 3,744,000
6. For local administrative costs:
. . . . . $ 2,189,830
7. For state child care assistance:
. . . . . $ 15,756,560

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.

8. For mental health and developmental disabilities community services:
. . . . . $ 4,894,052
9. For child and family services:
. . . . . $ 32,084,430
10. For child abuse prevention grants:
. . . . . $ 250,000
11. For pregnancy prevention grants on the condition that family planning services are funded:
. . . . . $ 1,987,530

Pregnancy prevention grants shall be awarded to programs in existence on or before July 1, 2006, 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, 2006, 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.

12. For technology needs and other resources necessary to meet federal welfare reform reporting, tracking, and case management requirements:
. . . . . $ 1,037,186
13. 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
14. 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:
. . . . . $ 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.

15. For a pilot program to be established in one or more judicial districts, selected by the department and the judicial council, to provide employment and support services to delin-

quent 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, $13,019,471 for the fiscal year beginning July 1, 2006, 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 2007 legislative session to adjust appropriations or the transfer amount or take other actions to address the reduced amount.

The department may transfer funds allocated in this section to the appropriations in this Act for general administration and field operations for resources necessary to implement and operate the services referred to in this section and those funded in the appropriation made in this division of this Act for the family investment program from the general fund.

Sec. 7. FAMILY INVESTMENT PROGRAM ACCOUNT.

1. Moneys credited to the family investment program (FIP) account for the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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 14.00

3. The department may transfer funds allocated in this section to the appropriations in this Act for general administration and field operations for resources necessary to implement and operate the services referred to in this section and those funded in the appropriation made in this division of this Act for the family investment program from the general fund of the state.

4. Moneys appropriated in this division of this Act and credited to the FIP account for the fiscal year beginning July 1, 2006, and ending June 30, 2007, are allocated as follows:

a. For the family development and self-sufficiency grant program as provided under section 217.12:

. . . . . $ 5,283,042

(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 2006-2007.

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 2006-2007. Notwithstanding 441 IAC 100.8, providing for termination of rules relating to the pilot projects the earlier of October 1, 2006, or when legislative authority is discontinued, the rules relating to the pilot projects shall remain in effect until June 30, 2007.

c. For the food stamp employment and training program:

. . . . . $ 64,278

d. For the JOBS program:

. . . . . $ 23,968,620

Of the funds allocated in this lettered paragraph, $2,000,000 shall be used to maintain the mileage reimbursement rate for the JOBS program at the same rate used for the Medicaid program during the fiscal year.

5. 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. If child support collections assigned under FIP are greater than estimated, the state share of that greater portion may be transferred to the child support payments account.

6. The department may adopt emergency rules for the family investment, JOBS, family development and self-sufficiency grant, food stamp, and medical assistance programs if necessary to comply with federal requirements.

Sec. 8. 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, 2006, and ending June 30, 2007, 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:

. . . . . $ 42,599,885

1. Of the funds appropriated in this section, $6,839,767 is allocated for the JOBS program.

2. Of the funds appropriated in this section, $2,584,367 is allocated for the family development and self-sufficiency grant program as provided under section 217.12 and this division of this Act.

3. Of the funds appropriated in this section, $200,000 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.

4. Notwithstanding section 8.39, for the fiscal year beginning July 1, 2006, if necessary to meet federal maintenance of effort requirements or to transfer federal temporary assistance for needy families block grant funding to be used for purposes of the federal social services block grant or to meet cash flow needs resulting from delays in receiving federal funding or to implement, in accordance with this division of this Act, activities currently funded with juvenile court services, county, or community moneys and state moneys used in combination with such moneys, the department of human services may transfer funds within or between any of the appropriations made in this division of this Act and appropriations in law for the federal social services block grant to the department for the following purposes, provided that the combined amount of state and federal temporary assistance for needy families block grant funding for each appropriation remains the same before and after the transfer:

a. For the family investment program.
b. For child care assistance.
c. For child and family services.
d. For field operations.
e. For general administration.
f. MH/MR/DD/BI community services (local purchase).

This subsection shall not be construed to prohibit existing state transfer authority for other purposes. The department shall report any transfers made pursuant to this subsection to the legislative services agency.

Sec. 9. 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, 2006, and ending June 30, 2007, 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:

..... $ 8,214,690
..... FTEs 450.00

1. The department shall expend up to $31,000, including federal financial participation, for the fiscal year beginning July 1, 2006, 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. 10. 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, 2006, and ending June 30, 2007, 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, 2006, 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:

..... $ 652,311,610

1. Medically necessary abortions are those performed under any of the following conditions:

a. The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman.

b. The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness.

c. The pregnancy is the result of a rape which is reported within 45 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

d. The pregnancy is the result of incest which is reported within 150 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

e. Any spontaneous abortion, commonly known as a miscarriage, if not all of the products of conception are expelled.

2. 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, 2006, shall be transferred to the department of human services for an integrated substance abuse managed care system.

4. Based upon a waiver from the federal centers for Medicare and Medicaid services, 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 eligibility to women of childbearing age with countable income at or below 200 percent

of the federal poverty level. The department may adopt emergency rules to implement this subsection.

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 appropriated 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 initiate planning to address options available under the federal Family Opportunity Act enacted as part of the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171. The options addressed shall include but are not limited to the option to allow families of children with disabilities to purchase Medicaid coverage, other health coverage options, and the option to apply to the centers for Medicare and Medicaid services of the United States department of health and human services for Iowa to participate in a demonstration project to develop home and community-based services as an alternative to psychiatric residential treatment for children with psychiatric disabilities who are enrolled in the Medicaid program. The department shall report by December 15, 2006, to the persons designated by this Act to receive reports regarding the planning activities and recommendations regarding the options.

8. The department shall apply to the centers for Medicare and Medicaid services of the United States department of health and human services to participate in the Medicaid transformation grants program as specified in section 6081 of the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171, for adoption of innovative methods to improve the effectiveness and efficiency in providing medical assistance. The innovative methods may include but are not limited to the use of electronic health records and personal health records by health care professionals and consumers to address the health needs specific to populations including but not limited to persons with brain injury, persons with dual diagnoses of mental illness and mental retardation or substance abuse and mental illness, and children with chronic conditions; the use of diagnostic techniques that promote the early diagnosis and treatment of chronic disease in adults including physical and mental health, hepatitis, behavioral health, and cancer; and review of the physical and mental health status of the medical assistance population to more effectively integrate and determine public health strategies and interventions to reduce the incidence of preventable diseases and chronic conditions in the medical assistance population including but not limited to those related to obesity and nutrition, smoking, and diabetes. The department shall submit a draft of the application to the medical assistance projections and assessment council for approval as expeditiously as possible, prior to submission to the centers for Medicare and Medicaid services of the United States department of health and human services. Any grant for which application is made under this subsection shall not require state matching funds. Any federal funding received shall be used in coordination with the purposes of the account for health care transformation pursuant to section 252J.23[4] and shall be integrated with the IowaCare program pursuant to chapter 252J.[5]

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[4] Section "249J.23" probably intended

[5] According to enrolled Act; the IowaCare program was enacted in 2005 Iowa Acts, chapter 167, and was codified in Code Supplement 2005 as chapter 249J

9. Of the amount appropriated in this section, $250,000 shall be used for a dollar-for-dollar matching grant to a nonprofit organization of medical providers established to provide direction in promoting a health care culture of continuous improvement in quality, patient safety, and value through collaborative efforts by hospitals and physicians.

10. The department may amend the Medicaid state plan to provide medical assistance reciprocity for children who receive an adoption subsidy who are not eligible for funding under Title IV-E of the federal Social Security Act.

11. The department shall submit a medical assistance state plan amendment to the centers for Medicare and Medicaid services of the United States department of health and human services that is in substantially the form of the draft submitted by letter dated March 1, 2006, and published on the department website. The department shall adopt emergency rules effective July 1, 2006, to implement the state plan amendment.

12. The department shall review the impact of the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171, on the state's medical assistance program reimbursement policy for multiple source prescription drug products and the Act's impact on participating pharmacies. The department shall submit a report, including recommendations relating to adjustments to the medical assistance program pharmacy dispensing fee, to the governor and the general assembly no later than January 1, 2007.

Sec. 11. 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, 2006, and ending June 30, 2007, 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:

.....	$	634,162
.....	FTEs	21.00

Sec. 12. 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, 2006, and ending June 30, 2007, 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:

.....	$	14,417,985

Sec. 13. 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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the state supplementary assistance program:

.....	$	18,710,335

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, 2006, 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. 14. 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, 2006, and ending June 30, 2007, 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:

. . . . . $ 19,703,715

Sec. 15. 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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child care programs:

. . . . . $ 21,801,198

1. Of the funds appropriated in this section, $18,850,674 shall be used for state child care assistance in accordance with section 237A.13.

2. Nothing in this section shall be construed or is intended as, or shall imply, a grant of entitlement for services to persons who are eligible for assistance due to an income level consistent with the waiting list requirements of section 237A.13. Any state obligation to provide services pursuant to this section is limited to the extent of the funds appropriated in this section.

3. Of the funds appropriated in this section, $525,524 is allocated for the statewide program for child care resource and referral services under section 237A.26. A list of the registered and licensed child care facilities operating in the area served by a child care resource and referral service shall be made available to the families receiving state child care assistance in that area.

4. Of the funds appropriated in this section, $1,225,000 is allocated for child care quality improvement initiatives including but not limited to development and continuation of a quality rating system.

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. Projections shall be based on current and projected caseload growth, current and projected provider rates, staffing requirements for eligibility determination and management of program requirements including data systems management, staffing requirements for administration of the program, contractual and grant obligations and any transfers to other state agencies, and obligations for decategorization or innovation projects.

6. A portion of the state match for the federal child care and development block grant shall be provided through the state general fund appropriation for child development grants and other programs for at-risk children in section 279.51.

7. Of the funds appropriated in this section, $1,200,000 is transferred to the Iowa empowerment fund to be used for professional development for the system of early care, health, and education.

Sec. 16. 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, 2006, and ending June 30, 2007, 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:

. . . . . $ 6,667,400
. . . . . FTEs 118.50

a. Of the funds appropriated in this subsection, at least $25,000 is allocated for provision of books or other learning materials and activities associated with the education of children placed at the Iowa juvenile home.

b. It is the intent of the general assembly that effective July 1, 2009, placements at the Iowa juvenile home will be limited to females and that placements of boys at the home will be diverted to other options. The department shall utilize a study group to make recommendations on the options for diversion of placements of boys and the study group shall report on or before July 1, 2007, to the persons designated by this division of this Act to receive reports. Leadership for the study group shall be provided by the department of human services. The study group membership shall also include but is not limited to two departmental service area administrators or their designees, a representative of the division of the commission on the status of women of the department of human rights, a member of the council on human services, a departmental division administrator, two representatives of juvenile court services, a representative of the division of criminal and juvenile justice planning of the department of human rights, and two representatives of child welfare service provider agencies. In addition, the study group membership shall include four members of the general assembly so that the majority and minority parties of both chambers are represented. Legislative members are eligible for reimbursement of actual expenses paid under section 2.10.

2. For operation of the state training school at Eldora and for salaries, support, maintenance, and for not more than the following full-time equivalent positions:

. . . . . $ 10,608,148
. . . . . FTEs 196.55

Of the funds appropriated in this subsection, at least $25,000 is allocated for provision of books or other learning materials and activities associated with the education of children placed at the state training school.

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, 2006.

Sec. 17. 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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

. . . . . $ 80,945,373

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 $37,084,884 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, 2006, annualization of a service area's current expendi-

tures 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, $1,510,661 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.

4. In accordance with the provisions of section 232.188, the department shall continue the child welfare and juvenile justice funding initiative. Of the funds appropriated in this section, $2,500,000 is allocated specifically for expenditure through the decategorization service 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 the decategorization initiative as provided in this subsection.

5. A portion of the funds 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.

Notwithstanding section 234.35 or any other provision of law to the contrary, for the fiscal year beginning July 1, 2006, state funding for shelter care shall be limited to the amount necessary to fund 273 beds that are guaranteed and seven beds that are not guaranteed. The department shall submit an emergency services plan by December 15, 2006, to the persons designated by this division of this Act to receive reports. The plan shall identify crisis intervention and emergency services alternatives to shelter care and shall specify the numbers of shelter beds that are guaranteed and not guaranteed, as determined necessary by the department.

6. Federal funds received by the state during the fiscal year beginning July 1, 2006, 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.

7. Of the funds 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.

8. Of the funds appropriated in this section, $3,696,285 shall be used for protective child care assistance.

9. Of the funds appropriated in this section, up to $3,002,844 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 $1,505,161 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 by the state court administrator. The state court administrator shall make the determination of the distribution amounts on or before June 15, 2006.

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 funds 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.

10. 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.

11. Of the funds 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.

12. Of the funds 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.

13. 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.

14. a. Funds appropriated in this section may be used to provide continued support for young adults who are age eighteen and graduate from high school or complete a graduation equivalency diploma after May 1, 2006, have a self-sufficiency plan, and are continuing their education, working, or are in work training. The department may amend existing contracts to provide the additional services to this population. The department may adopt emergency rules to implement the provisions of this subsection.

b. Of the funds appropriated in this section, $854,012 is allocated for the program described in this subsection for young adults who leave foster care services at age 18 provided legislation is enacted by the Eighty-first General Assembly, 2006 Session, to codify requirements for the program.[6] If enacted, the program shall commence as early as possible in the fiscal year. The department may adopt emergency rules to implement the program.

15. Of the funds appropriated in this section, $50,000 is allocated for a grant to expand an existing program operated by a nonprofit organization providing family treatment and community education services in a nine-county area.

16. Of the funds appropriated in this section, $1,000,000 shall be used for juvenile drug courts to replace lost federal grants and to expand juvenile drug courts. The amount allocated in this subsection shall be distributed as follows:

a. To the judicial branch for salaries to assist with the operation of juvenile drug court programs operated in the following jurisdictions:

(1) Marshall county:

..... $ 60,000

(2) Woodbury county:

..... $ 120,254

[6] See Chapter 1159, §7 herein

(3) Polk county:
. . . . . $ 187,434
(4) For establishing a program in the eighth judicial district and in another judicial district:
. . . . . $ 130,000
b. For court-ordered services to support substance abuse and related services provided to the juveniles participating in the juvenile drug court programs listed in paragraph "a" and the juveniles' families:
. . . . . $ 502,312
The state court administrator shall allocate the funding designated in this paragraph among the programs.

17. Of the funds appropriated in this section, $100,000 is allocated to establish a multidimensional treatment level foster care program provided House File 2567[7] or other legislation requiring the department to establish the program is enacted by the Eighty-first General Assembly, 2006 Session.

18. During the fiscal year beginning July 1, 2006, the department shall continue funding one or more child welfare diversion and mediation pilot projects implemented pursuant to 2004 Iowa Acts, chapter 1130, section 1. The department shall do all of the following in continuing the pilot projects:

a. If an agency providing mediation services under the pilot project has not demonstrated the ability to deliver services throughout the entire fiscal year within the funding allocated, the department shall not renew the contract with the agency.

b. If a contract is not renewed as provided in paragraph "a", the department shall select a replacement provider agency with the experience and capacity to provide mediation services in the county or counties served by the provider agency whose contract was not renewed. Whenever possible in selecting a replacement provider agency, the department shall select a provider agency whose primary operations office is located within the largest county served by the pilot project.

19. Of the funds appropriated in this section, $230,000 shall be used for a grant to a nonprofit human services organization providing services to individuals and families in multiple locations in southwest Iowa and Nebraska for support of a project providing immediate, sensitive support and forensic interviews, medical exams, needs assessments and referrals for victims of child abuse and their nonoffending family members.

Sec. 18. 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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For adoption subsidy payments and services:
. . . . . $ 31,446,063

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, 2006, 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. 19. JUVENILE DETENTION HOME FUND. Moneys deposited in the juvenile detention home fund created in section 232.142 during the fiscal year beginning July 1, 2006, and ending June 30, 2007, are appropriated to the department of human services for the fiscal year beginning July 1, 2006, and ending June 30, 2007, for distribution as follows:

[7] Chapter 1123 herein

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, 2005. 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, 2005. Notwithstanding section 232.142, subsection 3, the financial aid payable by the state under that provision for the fiscal year beginning July 1, 2006, 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 in the latest preceding certified federal census 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 funding of the state match for the federal substance abuse and mental health services administration (SAMSHA)[8] system of care grant:

. . . . . $ 67,600

If the federal grant is not approved on or before January 1, 2007, the amount designated in this subsection shall be allocated as provided in subsection 6.

6. The remainder for additional allocations to county or multicounty juvenile detention homes, in accordance with the distribution requirements of subsection 1.

Sec. 20. FAMILY SUPPORT SUBSIDY PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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 shall use at least $333,312 of the moneys appropriated in this section to continue the children-at-home program in current counties, and if funds are available after exhausting the family support subsidy waiting list, to expand the program to additional counties. Not more than $20,000 of the amount allocated in this subsection shall be used for administrative costs.

2. Notwithstanding contrary provisions of section 225C.38, subsection 1, the monthly family support subsidy payment amount for the fiscal year beginning July 1, 2006, shall be determined by the department in consultation with the council created in section 225C.48, not to exceed the amount in effect on June 30, 2006.

Sec. 21. CONNER DECREE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For building community capacity through the coordination and provision of training opportunities in accordance with the consent decree of Conner v. Branstad, No. 4-86-CV-30871 (S.D. Iowa, July 14, 1994):

. . . . . $ 42,623

Sec. 22. MENTAL HEALTH INSTITUTES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

[8] The abbreviation "(SAMHSA)" probably intended

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:

. . . . . $ 4,893,698
. . . . . FTEs 215.00

Of the funds appropriated in this subsection, at least $5,000 is allocated for provision of books or other learning materials and activities associated with the education of children placed in facilities operated at the state mental health institute at Cherokee.

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:

. . . . . $ 6,179,344
. . . . . FTEs 101.15

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:

. . . . . $ 9,006,899
. . . . . FTEs 286.40

Of the funds appropriated in this subsection, at least $5,000 is allocated for provision of books or other learning materials and activities associated with the education of children placed in facilities located at the state mental health institute at Independence.

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:

. . . . . $ 1,046,074
. . . . . FTEs 102.84

The department shall implement a new 20-bed substance abuse treatment unit beginning October 1, 2006.

Sec. 23. STATE RESOURCE CENTERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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:

. . . . . $ 14,006,583

2. For the state resource center at Woodward for salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 8,590,761

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 2006-2007.

Sec. 24. 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, 2006, and ending June 30, 2007, 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:

. . . . . $ 12,286,619

2. For the fiscal year beginning July 1, 2006, and ending June 30, 2007, $200,000 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, 2004, and ending September 30, 2005, beginning October 1, 2005, and ending September 30, 2006, and beginning October 1, 2006, and ending September 30, 2007. The allocation made in this subsection shall be made prior to any other distribution allocation of the appropriated federal funds.

Sec. 25. MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES — COMMUNITY SERVICES FUND. There is appropriated from the general fund of the state to the mental health and developmental disabilities community services fund created in section 225C.7 for the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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:

. . . . . $ 18,017,890

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.

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. Of the funds appropriated in this section, $260,000 is allocated to the department for development of an assessment process for use beginning in a subsequent fiscal year as authorized specifically by a statute to be enacted in a subsequent fiscal year, determining on a consistent basis the needs and capacities of persons seeking or receiving mental health, mental retardation, developmental disabilities, or brain injury services that are paid for in whole or in part by the state or a county. The assessment process shall be developed with the involvement of counties and the mental health, mental retardation, developmental disabilities, and brain injury commission.

Sec. 26. 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, 2006, and ending June 30, 2007, 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:

.....	$	4,750,704
.....	FTEs	73.66

2. Unless specifically prohibited by law, if the amount charged provides for recoupment of at least the entire amount of direct and indirect costs, the department of human services may contract with other states to provide care and treatment of persons placed by the other states at the unit for sexually violent predators at Cherokee. The moneys received under such a contract shall be considered to be repayment receipts and used for the purposes of the appropriation made in this section.

Sec. 27. 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, 2006, and ending June 30, 2007, 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:

.....	$	57,044,250
.....	FTEs	1,897.87

Priority in filling full-time equivalent positions shall be given to those positions related to child protection services. The full-time equivalent positions authorized in this section include clinical consultation positions relating to child protection services.

Sec. 28. 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, 2006, and ending June 30, 2007, 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:

.....	$	14,528,679
.....	FTEs	311.00

1. Of the funds appropriated in this section, $57,000 is allocated for the prevention of disabilities policy council established in section 225B.3.

2. 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.

3. Of the funds appropriated in this section, $500,000 is allocated for salary and technical assistance expenses for the department to reestablish a separate division to which the appropriate departmental duties addressing mental health, mental retardation, developmental disabilities, and brain injury services shall be assigned.

Sec. 29. VOLUNTEERS. 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 development and coordination of volunteer services:

. . . . . $ 109,568

Sec. 30. 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, 2006, 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, 2006, the total state funding amount for the nursing facility budget shall not exceed $177,701,264. 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, 2006, are projected to exceed the amount specified in this subparagraph, the department shall adjust the skilled nursing facility market basket 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 the fiscal year beginning July 1, 2006, the patient-day-weighted medians used in rate setting for nursing facilities shall be recalculated and the rates adjusted to provide an increase in nursing facility rates not to exceed $162,315,695. The skilled nursing facility market basket inflation factor applied from the mid-point of the cost report 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, 2006, the department shall reimburse pharmacy dispensing fees using a single rate of $4.52 per prescription, or the pharmacy's usual and customary fee, whichever is lower.

c. For the fiscal year beginning July 1, 2006, reimbursement rates for inpatient and outpatient hospital services shall be increased by 3 percent over the rates in effect on June 30, 2006. 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 percentage increase provided in this paragraph.

d. For the fiscal year beginning July 1, 2006, 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, 2006, reimbursement rates for home health agencies shall be increased by 3 percent over the rates in effect on June 30, 2006, 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, 2007.

f. For the fiscal year beginning July 1, 2006, 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, 2006, the reimbursement rates for dental services shall be increased by 3 percent over the rates in effect on June 30, 2006.

h. Beginning July 1, 2006, the reimbursement rates for community mental health centers shall be increased by 3 percent over the rates in effect on June 30, 2006.

i. For the fiscal year beginning July 1, 2006, the maximum reimbursement rate for psychiatric medical institutions for children shall be $160.71 per day.

j. For the fiscal year beginning July 1, 2006, 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, 2006, 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, 2006, 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, 2006; however, this rate shall not exceed the maximum level authorized by the federal government.

l. Beginning July 1, 2006, the department shall increase the personal needs allowance under the medical assistance program which may be retained by a resident of a nursing facility to fifty dollars.

2. For the fiscal year beginning July 1, 2006, 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, 2006, 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. For the fiscal year beginning July 1, 2006, the foster family basic daily maintenance rate paid in accordance with section 234.38 and the maximum adoption subsidy rate for children ages 0 through 5 years shall be $15.31, the rate for children ages 6 through 11 years shall be $15.99, the rate for children ages 12 through 15 years shall be $17.57, and the rate for children ages 16 and older shall be $17.73.

6. For the fiscal year beginning July 1, 2006, the maximum reimbursement rates for social service providers shall be increased by 3 percent over the rates in effect on June 30, 2006, 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, 2006, 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, 2006, the reimbursement rates for rehabilitative treatment and support services providers shall be increased by 3 percent over the rates in effect on June 30, 2006.

9. a. For the fiscal year beginning July 1, 2006, 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 $88.79 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, 2006, 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 $2.59 over the amount in effect for this purpose in the preceding fiscal year.

10. For the fiscal year beginning July 1, 2006, the department shall calculate reimbursement rates for intermediate care facilities for persons with mental retardation at the 80th percentile.

11. For the fiscal year beginning July 1, 2006, effective January 1, 2007, 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 2004. The department shall set rates in a manner so as to provide incentives for a nonregistered provider to become registered.

12. For the fiscal year beginning July 1, 2006, 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 shall apply the three percent reimbursement rate increase prescribed for specified providers for the fiscal year beginning July 1, 2005, pursuant to 2005 Iowa Acts, chapter 175, separately from the three percent reimbursement rate increase prescribed for specified providers for the fiscal year beginning July 1, 2006, under this Act.

14. The department shall adopt rules pursuant to chapter 17A to provide reimbursement for covered services provided by psychology interns and psychology residents to recipients of medical assistance, subject to limitations and exclusions the department finds necessary on the basis of federal laws and regulations.

15. The department may adopt emergency rules to implement this section.

Sec. 31. 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. 32. 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. 33. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM — SUPPLEMENTAL APPROPRIATION.

1. There is appropriated from the general fund of the state to the division of community action agencies of the department of human rights 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 supplementation of the appropriation made for the low-income home energy assistance program made in 2005 Iowa Acts, chapter 164, section 10:

. . . . . $ 3,000,000

2. Of the moneys appropriated in this section, $150,000 shall not be expended in the fiscal year for which appropriated, but shall be transferred in the succeeding fiscal year to the department of human services to be used for the family development and self-sufficiency grant program. 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.

3. The legislative council is requested to authorize a review of the low-income home energy assistance program and weatherization program by the fiscal committee of the legislative council or other body during the 2006 legislative interim. The issues reviewed shall include but are not limited to financial assistance, the application and intake processes, and the community action agencies assessment and resolution proposal. The review shall also include involving the department of human services in the administration of the programs to enable low-income persons to access additional assistance programs through a single location.

Sec. 34. Section 16.183, subsections 1 and 3, Code 2005, are amended to read as follows:

1. A home and community-based services revolving loan program fund is created within the authority to further the goals specified in section 231.3, adult day services, respite services, ~~and~~ congregate meals, health and wellness, health screening, and nutritional assessments. The moneys in the home and community-based services revolving loan program fund shall be used by the authority for the development and operation of a revolving loan program to develop and expand facilities and infrastructure that provide adult day services, respite services, ~~and~~ congregate meals, and programming space for health and wellness, health screening, and nutritional assessments that address the needs of persons with low incomes.

3. The authority, in cooperation with the department of elder affairs, shall annually allocate moneys available in the home and community-based services revolving loan program fund to develop and expand facilities and infrastructure that provide adult day services, respite services, ~~and~~ congregate meals, and programming space for health and wellness, health screening, and nutritional assessments that address the needs of persons with low incomes.

Sec. 35. 2005 Iowa Acts, chapter 175, section 2, subsection 4, unnumbered paragraph 2, is amended to read as follows:

Of the funds appropriated in this subsection, not more than $100,000 shall be used to lever-

age federal funding through the federal Ryan White Care Act, Title II, AIDS drug assistance program supplemental drug treatment grants. Notwithstanding section 8.33, moneys allocated in this subparagraph 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. 2005 Iowa Acts, chapter 175, section 2, subsection 12, 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 for the purposes designated until the close of the succeeding fiscal year.

Sec. 37. 2005 Iowa Acts, chapter 175, section 3, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 38. 2005 Iowa Acts, chapter 175, section 4, subsection 2, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33 and section 35D.18, subsection 5, 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 in succeeding fiscal years. Of the amount remaining available for expenditure under this paragraph, the first $1,000,000 shall be used for Iowa veterans home operations in the immediately succeeding fiscal year and the balance shall be transferred to any appropriation made for the fiscal year beginning July 1, 2006, for purposes of capital improvements, renovations, or new construction at the Iowa veterans home. However, if an appropriation is not made for such purposes for that fiscal year by the Eighty-first General Assembly, 2006 Session, the balance shall remain available to be used to supplement an appropriation made for such purposes for a subsequent fiscal year.

Sec. 39. 2005 Iowa Acts, chapter 175, section 9, 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, 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~~
538,040,317

Sec. 40. 2005 Iowa Acts, chapter 175, section 9, is amended by adding the following new subsection:

NEW SUBSECTION. 15. Notwithstanding section 8.33, $500,000 of the 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 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. 41. 2005 Iowa Acts, chapter 175, section 12, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Notwithstanding section 8.33, $1,100,000 of the moneys appropri-

ated 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. 42. 2005 Iowa Acts, chapter 175, section 14, subsection 2, is amended to read as follows:

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. Notwithstanding section 8.33, $125,000 of the 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.

Sec. 43. 2005 Iowa Acts, chapter 175, section 16, is amended by adding the following new subsection:

NEW SUBSECTION. 18. Notwithstanding section 8.33, $1,000,000 of the 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. 44. 2005 Iowa Acts, chapter 175, section 17, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Notwithstanding section 8.33, $2,000,000 of the 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. 45. 2005 Iowa Acts, chapter 175, section 21, subsection 3, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, revenues that are directly attributable to the psychiatric medical institution for children beds operated by the state at the state mental health institute at Independence in accordance with section 226.9B, that are received as repayment receipts and are attributed to the fiscal year beginning July 1, 2005, shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 46. 2005 Iowa Acts, chapter 175, section 22, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. a. Notwithstanding sections 8.33 and 222.92, of the revenues available to the state resource centers that remain unencumbered or unobligated at the close of the fiscal year the indicated amounts shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year:

(1) For the state resource center at Glenwood, $1,250,000.

(2) For the state resource center at Woodward, $750,000.

b. Of the amounts designated in paragraph "a", $250,000 at each resource center shall be used to continue the procurement and installation of the electronic medical records system initiated in the fiscal year beginning July 1, 2005.

Sec. 47. 2005 Iowa Acts, chapter 175, section 23, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding section 8.33, $400,000 of the 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. 48. 2005 Iowa Acts, chapter 175, section 26, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, the 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. 49. 2005 Iowa Acts, chapter 175, section 29, subsection 1, paragraph a, subparagraph (2), is amended to read as follows:

(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~~ $168,156,999. 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 skilled nursing facility market basket 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.

Sec. 50. 2005 Iowa Acts, chapter 175, section 29, subsection 1, paragraph a, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) For the period of April 1, 2006, through June 30, 2006, the department shall apply one-third of the skilled nursing facility market basket index to the midpoint of the rate period beginning July 1, 2005. The department may adopt emergency rules to implement this subparagraph.

Sec. 51. NONREVERSION — FY 2007-2008 BASE BUDGET. For purposes of the budget process under section 8.23 for the fiscal year beginning July 1, 2007, the base budget amounts for the appropriations made to the department of human services for the purposes designated in this division of this Act shall be adjusted to include the amounts of the appropriations made for the same purposes for the fiscal year beginning July 1, 2005, that, pursuant to this division of this Act, do not revert and remain available for expenditure in the succeeding fiscal year.

Sec. 52. 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 medical assistance relating to the submission of a medical assistance state plan amendment to the centers for Medicare and Medicaid services of the United States department of health and human services.

2. The provision under the appropriation for medical assistance relating to the directive to the department of human services to apply for participation in the Medicaid transformation grants program as specified in the federal Deficit Reduction Act of 2005.

3. 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 2006-2007 fiscal year.

4. The provision enacting a supplemental appropriation to the department of human rights for purposes of the low-income home energy assistance program.

5. The provision amending 2005 Iowa Acts, chapter 175, section 2, subsection 4.

6. The provision amending 2005 Iowa Acts, chapter 175, section 2, subsection 12.
7. The provision amending 2005 Iowa Acts, chapter 175, section 3.
8. The provision amending 2005 Iowa Acts, chapter 175, section 4.
9. The provisions amending 2005 Iowa Acts, chapter 175, section 9.
10. The provision amending 2005 Iowa Acts, chapter 175, section 12.
11. The provision amending 2005 Iowa Acts, chapter 175, section 14, subsection 2.
12. The provision amending 2005 Iowa Acts, chapter 175, section 16.
13. The provision amending 2005 Iowa Acts, chapter 175, section 17.
14. The provision amending 2005 Iowa Acts, chapter 175, section 21, subsection 3.
15. The provision amending 2005 Iowa Acts, chapter 175, section 22.
16. The provision amending 2005 Iowa Acts, chapter 175, section 23.
17. The provision amending 2005 Iowa Acts, chapter 175, section 26.
18. The provision amending 2005 Iowa Acts, chapter 175, section 29, subsection 1, paragraph "a", subparagraph (2).

Sec. 53. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. The provision of this division of this Act amending 2005 Iowa Acts, chapter 175, section 29, subsection 1, paragraph "a", by enacting new subparagraph (4), being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to April 1, 2006.

DIVISION II
SENIOR LIVING TRUST FUND, ENDOWMENT FOR IOWA'S HEALTH ACCOUNT, PHARMACEUTICAL SETTLEMENT ACCOUNT, IOWACARE ACCOUNT, AND HEALTH CARE TRANSFORMATION ACCOUNT

Sec. 54. 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, 2006, and ending June 30, 2007, 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 case management only if the monthly cost per client for case management for the frail elderly services provided does not exceed an average of $70, and 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:

..... $ 8,296,730
..... FTEs 3.00

1. Of the funds appropriated in this section, $2,196,967 shall be used for case management for the frail elderly. Of the funds allocated in this subsection, $1,010,000 shall be transferred to the department of human services in equal amounts on a quarterly basis for reimbursement of case management services provided under the medical assistance elderly waiver. The monthly cost per client for case management for the frail elderly services provided shall not exceed an average of $70. It is the intent of the general assembly that the additional funding provided for case management for the frail elderly for the fiscal year beginning July 1, 2006, and ending June 30, 2007, shall be used to provide case management services for up to an additional 1,650 individuals.

2. 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. 55. 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 ap-

peals 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 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:

..... $ 758,474
..... FTEs 5.00

Sec. 56. 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, 2006, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

1. To supplement the medical assistance appropriation, including program administration and costs associated with implementation, salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 65,000,000
..... FTEs 5.00

2. 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.

In order to carry out the purposes of this section, the department may transfer funds appropriated in this section to supplement other appropriations made to the department of human services.

Sec. 57. 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, 2006, and ending June 30, 2007, 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, 2006.

Sec. 58. ENDOWMENT FOR IOWA'S HEALTH ACCOUNT — SENIOR LIVING TRUST FUND. There is appropriated from the endowment for Iowa's health account of the tobacco settlement trust fund created in section 12E.12 to the senior living trust fund created in section 249H.4 for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the following amount:

..... $ 25,000,000

Sec. 59. 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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement the appropriations made for medical contracts under the medical assistance program:

..... $ 379,000

Sec. 60. APPROPRIATIONS FROM IOWACARE ACCOUNT.

1. There is appropriated from the IowaCare account created in section 249J.24 to the state board of regents for distribution to the university of Iowa hospitals and clinics 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 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, and for medical education:

. . . . . $ 27,284,584

a. The university of Iowa hospitals and clinics shall, when medically appropriate, make reasonable efforts to extend the university of Iowa hospitals and clinics' use of home telemedicine and other technologies to reduce the frequency of visits to the hospital required by indigent patients.

b. The university of Iowa hospitals and clinics shall submit quarterly a report regarding the portion of the appropriation in this subsection 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.

c. Funds appropriated in this subsection 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 subsection, an abortion is the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus, and a medically necessary abortion is one performed under one of the following conditions:

(1) The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman.

(2) The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness.

(3) The pregnancy is the result of a rape which is reported within 45 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

(4) The pregnancy is the result of incest which is reported within 150 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

(5) The abortion is a spontaneous abortion, commonly known as a miscarriage, wherein not all of the products of conception are expelled.

2. There is appropriated from the IowaCare account created in section 249J.24 to the department of human services for distribution 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, 2006, and ending June 30, 2007, 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, and for medical education:

. . . . . $ 40,000,000

Notwithstanding any provision of law 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.24. 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.24 to the department of human services for the state hospitals for persons with mental illness designated in section 226.1 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:

a. For the state mental health institute at Cherokee, for salaries, support, maintenance, and miscellaneous purposes, including services to members of the expansion population pursuant to chapter 249J:

. . . . . $ 9,098,425

b. For the state mental health institute at Clarinda, for salaries, support, maintenance, and miscellaneous purposes, including services to members of the expansion population pursuant to chapter 249J:

. . . . . $ 1,977,305

c. For the state mental health institute at Independence, for salaries, support, maintenance, and miscellaneous purposes, including services to members of the expansion population pursuant to chapter 249J:

. . . . . $ 9,045,894

d. For the state mental health institute at Mount Pleasant, for salaries, support, maintenance, and miscellaneous purposes, including services to members of the expansion population designation pursuant to chapter 249J:

. . . . . $ 5,752,587

Sec. 61. APPROPRIATIONS FROM ACCOUNT FOR HEALTH CARE TRANSFORMATION. There is appropriated from the account for health care transformation created in section 249J.23, to the department of human services, 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. For the costs of medical examinations and development of personal health improvement plans for the expansion population pursuant to section 249J.6:

. . . . . $ 556,800

2. For the provision of a medical information hotline for the expansion population as provided in section 249J.6:

. . . . . $ 150,000

3. For the insurance cost subsidy program pursuant to section 249J.8:

. . . . . $ 1,500,000

4. For the health care account program option pursuant to section 249J.8:

. . . . . $ 400,000

5. For the use of electronic medical records by medical assistance program and expansion population provider network providers pursuant to section 249J.14:

. . . . . $ 2,000,000

6. For other health partnership activities pursuant to section 249J.14:

. . . . . $ 550,000

7. For the costs related to audits, performance evaluations, and studies required pursuant to chapter 249J:

. . . . . $ 100,000

8. For administrative costs associated with chapter 249J:

. . . . . $ 930,352

9. For development of a case-mix acuity-based reimbursement system for intermediate care facilities for persons with mental retardation:

. . . . . $ 150,000

10. For development of a provider incentive payment program to reward performance and quality of service:

. . . . . $ 50,000

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 among the appropriations made in this section, as necessary to carry out the purposes of the account for health care transformation. The department shall report any transfers made pursuant to this section to the legislative services agency.

Sec. 62. TRANSFER FROM ACCOUNT FOR HEALTH CARE TRANSFORMATION. There is transferred from the account for health care transformation created pursuant to section 249J.23, to the IowaCare account created in section 249J.24, a total of $3,000,000 for the fiscal year beginning July 1, 2006, and ending June 30, 2007.

Sec. 63. MEDICAL ASSISTANCE PROGRAM — REVERSION TO SENIOR LIVING TRUST FUND FOR FY 2006-2007. Notwithstanding section 8.33, if moneys appropriated for purposes of the medical assistance program for the fiscal year beginning July 1, 2006, and ending June 30, 2007, from the general fund of the state, the senior living trust fund, and the healthy Iowans tobacco trust fund are in excess of actual expenditures for the medical assistance program and remain unencumbered or unobligated at the close of the fiscal year, the excess moneys shall not revert but shall be transferred to the senior living trust fund created in section 249H.4. **Unless otherwise provided in this Act, moneys appropriated for purposes of the medical assistance program for the fiscal year beginning July 1, 2006, and ending June 30, 2007, are not subject to transfer under section 8.39 or other provision of law except as authorized in this section.**

Sec. 64. Section 249H.11, Code 2005, is amended to read as follows:

249H.11 ~~FUTURE REPEAL~~ GRANTS — NONREVERSION.

1. ~~Section 249H.6 is repealed on June 30, 2005. However,~~ Nursing facility conversion and long-term care services development grants awarded and moneys appropriated for grants on or before June 30, 2005, shall be disbursed to eligible applicants after that date if necessary.

2. 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 the purposes of the contract.

Sec. 65. 2006 Iowa Acts, House File 2347,[9] section 5, is amended to read as follows:

SEC. 5. ~~APPROPRIATION~~ TRANSFER — HEALTH CARE TRANSFORMATION ACCOUNT. There is ~~appropriated~~ transferred from the account for health care transformation created in section 249J.23, to the ~~department of human services~~ IowaCare account created in section 249J.24, $2,000,000 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 payments to the university of Iowa hospitals and clinics for provision of services pursuant to and for costs associated with chapter 249J:~~

~~. . . . . $ 2,000,000~~

~~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 expenditure for the purposes designated until the close of the succeeding fiscal year~~.

Sec. 66. 2005 Iowa Acts, chapter 167, section 63, subsection 1, is amended to read as follows:

1. There is appropriated from the ~~Iowacare~~ 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~~ 37,862,932

Notwithstanding any provision of this Act to the contrary, of the amount appropriated in this subsection, $27,284,584 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 $27,284,584 shall be allocated only if federal funds are available to match the amount allo-

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* Item veto; see message at end of the Act

[9] Chapter 1169 herein

cated. 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.

Sec. 67. 2005 Iowa Acts, chapter 175, section 48, is amended to read as follows:

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 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. Unless otherwise provided in this Act, moneys appropriated for purposes of the medical assistance program for the fiscal year beginning July 1, 2005, and ending June 30, 2006, are not subject to transfer under section 8.39 or other provision of law except as authorized in this section.

Sec. 68. EFFECTIVE DATE. The following provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. The provision amending 2005 Iowa Acts, chapter 167, section 63.
2. The provision amending 2005 Iowa Acts, chapter 175, section 48.
3. The provision amending section 249H.11.

Sec. 69. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. The section of this division of this Act amending 2006 Iowa Acts, House File 2347,[10] section 5, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to March 9, 2006.

DIVISION III
MENTAL HEALTH, MENTAL RETARDATION, DEVELOPMENTAL DISABILITIES, AND BRAIN INJURY SERVICES ALLOWED GROWTH FUNDING — FISCAL YEAR 2006-2007

Sec. 70. 2005 Iowa Acts, chapter 179, section 1, subsection 1, is amended to read as follows:

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~~ 38,888,041

Sec. 71. 2005 Iowa Acts, chapter 179, section 1, subsection 2, paragraph a, is amended to read as follows:

a. For distribution to counties for fiscal year ~~2005-2006~~ 2006-2007 in accordance with the formula in section 331.438, subsection 2, paragraph "b":

..... $ 12,000,000

[10] Chapter 1169 herein

Sec. 72. 2005 Iowa Acts, chapter 179, section 1, subsection 2, paragraphs b and c, are amended to read as follows:

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~~
24,461,148

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~~
0

Sec. 73. 2005 Iowa Acts, chapter 179, section 1, 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 2006-2007 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:

. . . . . $ 32,125,724

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, 2006:

. . . . . $ 17,727,890

NEW SUBSECTION. 4. After applying the applicable statutory distribution formulas to the 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, 2005, 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. If a county borrowed moneys for purposes of providing services from the county's services fund on or before July 1, 2005, and the county's services fund ending balance for that fiscal year includes the loan proceeds or an amount designated in the county budget to service the loan for the borrowed moneys, those amounts shall not be considered to be part of the county's ending balance for purposes of calculating an ending balance percentage under this subsection. 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. However, the amount withheld shall be limited to the amount by which the county's ending balance was in excess of the ending balance percentage of 10 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 $7,664,576. 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".

Sec. 74. EFFECTIVE DATE. The section of this division of this Act amending 2005 Iowa Acts, chapter 179, section 1, subsection 2, paragraph "a", being deemed of immediate importance, takes effect upon enactment.

DIVISION IV
MISCELLANEOUS PROVISIONS

Sec. 75. Section 135.2, Code 2005, is amended to read as follows:

135.2 APPOINTMENT OF DIRECTOR AND ACTING DIRECTOR.

1. a. The governor shall appoint the director of the department, subject to confirmation by the senate. The director shall serve at the pleasure of the governor. The director is exempt from the merit system provisions of chapter 8A, subchapter IV. The governor shall set the salary of the director within the range established by the general assembly.

b. The director shall possess education and experience in public health.

2. The director may appoint an employee of the department to be acting director, who shall have all the powers and duties possessed by the director. The director may appoint more than one acting director but only one acting director shall exercise the powers and duties of the director at any time.

Sec. 76. NEW SECTION. 135.12 OFFICE OF MULTICULTURAL HEALTH — ESTABLISHED — DUTIES.

The office of multicultural health is established within the department. The office shall be responsible for all of the following:

1. Providing comprehensive management strategies to address culturally and linguistically appropriate services, including strategic goals, plans, policies, and procedures, and designating staff responsible for implementation.

2. Requiring and arranging for ongoing education and training for administrative, clinical, and other appropriate staff in culturally and linguistically competent health care and service delivery.

3. Utilizing formal mechanisms for community and consumer involvement and coordinating with other state agencies to identify resources and programs that affect the health service delivery systems.

Sec. 77. Section 135.22A, subsection 3, Code Supplement 2005, is amended to read as follows:

3. The council shall be composed of a minimum of nine members appointed by the governor in addition to the ex officio members, and the governor may appoint additional members. Insofar as practicable, the council shall include persons with brain injuries, family members of persons with brain injuries, representatives of industry, labor, business, and agriculture, representatives of federal, state, and local government, and representatives of religious, charitable, fraternal, civic, educational, medical, legal, veteran, welfare, and other professional groups and organizations. Members shall be appointed representing every geographic and

employment area of the state and shall include members of both sexes. A simple majority of the members appointed by the governor shall constitute a quorum.

Sec. 78. Section 135.63, subsection 2, paragraph o, Code 2005, is amended to read as follows:

o. The change in ownership, licensure, organizational structure, or designation of the type of institutional health facility if the health services offered by the successor institutional health facility are unchanged. This exclusion is applicable only if the institutional health facility consents to the change in ownership, licensure, organizational structure, or designation of the type of institutional health facility and ceases offering the health services simultaneously with the initiation of the offering of health services by the successor institutional health facility.

Sec. 79. NEW SECTION. 135.105D BLOOD LEAD TESTING — PROVIDER EDUCATION — PAYOR OF LAST RESORT.

1. For purposes of this section:

a. "Blood lead testing" means taking a capillary or venous sample of blood and sending it to a laboratory to determine the level of lead in the blood.

b. "Capillary" means a blood sample taken from the finger or heel for lead analysis.

c. "Health care provider" means a physician who is licensed under chapter 148, 150, or 150A, or a person who is licensed as a physician assistant under chapter 148C, or as an advanced registered nurse practitioner.

d. "Venous" means a blood sample taken from a vein in the arm for lead analysis.

2. The department shall work with health care provider associations to educate health care providers regarding requirements for testing children who are enrolled in certain federally funded programs and regarding department recommendations for testing other children for lead poisoning.

3. The department shall implement blood lead testing for children under six years of age who are not eligible for the testing services to be paid by a third-party source. The department shall contract with one or more public health laboratories to provide blood lead analysis for such children. The department shall establish by rule the procedures for health care providers to submit samples to the contracted public health laboratories for analysis. The department shall also establish by rule a method to reimburse health care providers for drawing blood samples from such children and the dollar amount that the department will reimburse health care providers for the service. Payment for blood lead analysis and drawing blood samples shall be limited to the amount appropriated for the program in a fiscal year.

Sec. 80. Section 135.109, subsection 3, paragraph b, Code 2005, is amended to read as follows:

b. A licensed physician or nurse who is knowledgeable concerning domestic abuse injuries and deaths, including suicides.

Sec. 81. Section 135.109, subsection 4, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. The director of the state law enforcement academy.

Sec. 82. Section 135.110, subsection 1, paragraph a, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Prepare ~~an annual~~ a biennial report for the governor, supreme court, attorney general, and the general assembly concerning the following subjects:

Sec. 83. Section 135.140, subsection 6, paragraph a, Code Supplement 2005, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (6) A natural occurrence or incident, including but not limited to fire, flood, storm, drought, earthquake, tornado, or windstorm.

NEW SUBPARAGRAPH. (7) A man-made occurrence or incident, including but not limited to an attack, spill, or explosion.

Sec. 84. Section 137.6, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. Rules of a county board shall become effective upon approval by the county board of supervisors by a motion or resolution as defined in section 331.101, subsection 13, and publication in a newspaper having general circulation in the county.

Sec. 85. NEW SECTION. 139A.13A ISOLATION OR QUARANTINE — EMPLOYMENT PROTECTION.

1. An employer shall not discharge an employee, or take or fail to take action regarding an employee's promotion or proposed promotion, or take action to reduce an employee's wages or benefits for actual time worked, due to the compliance of an employee with a quarantine or isolation order issued by the department or a local board.

2. An employee whose employer violates this section may petition the court for imposition of a cease and desist order against the person's employer and for reinstatement to the person's previous position of employment. This section does not create a private cause of action for relief of money damages.

Sec. 86. Section 147.82, subsection 3, Code Supplement 2005, is amended to read as follows:

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.

Sec. 87. Section 147.153, subsection 3, Code 2005, is amended to read as follows:

3. Pass an examination ~~administered~~ as determined by the board ~~to assure the applicant's professional competence in speech pathology or audiology~~ by rule.

Sec. 88. Section 147.155, Code 2005, is amended to read as follows:

147.155 TEMPORARY CLINICAL LICENSE.

Any person who has fulfilled all of the requirements for licensure under this division, except for having completed the nine months clinical experience requirement as provided in section 147.153, subsection 1 or 2, and the examination as provided in section 147.153, subsection 3, may apply to the board for a temporary clinical license. The license shall be designated "temporary clinical license in speech pathology" or "temporary clinical license in audiology" and shall authorize the licensee to practice speech pathology or audiology under the supervision of a licensed speech pathologist or licensed audiologist, as appropriate. The license shall be valid for one year and may be renewed once at the discretion of the board. The fee for a temporary clinical license shall be set by the board to cover the administrative costs of issuing the license, and if renewed, a renewal fee as set by the board shall be required. A temporary clinical license shall be issued only upon evidence satisfactory to the board that the applicant will be supervised by a person licensed as a speech pathologist or audiologist, as appropriate. ~~The board shall revoke any temporary clinical license at any time it determines either that the work done by the temporary clinical licensee or the supervision being given the temporary clinical licensee does not conform to reasonable standards established by the board.~~

Sec. 89. NEW SECTION. 147A.15 AUTOMATED EXTERNAL DEFIBRILLATOR EQUIPMENT — PENALTY.

Any person who damages, wrongfully takes or withholds, or removes any component of au-

tomated external defibrillator equipment located in a public or privately owned location, including batteries installed to operate the equipment, is guilty of a serious misdemeanor.

Sec. 90. Section 148.2, subsection 5, Code 2005, is amended to read as follows:

5. Physicians and surgeons of the United States army, navy, ~~or~~ air force, marines, public health service, or other uniformed service when acting in the line of duty in this state, and holding a current, active permanent license in good standing in another state, district, or territory of the United States, or physicians and surgeons licensed in another state, when incidentally called into this state in consultation with a physician and surgeon licensed in this state.

Sec. 91. Section 149.3, Code 2005, is amended to read as follows:

149.3 LICENSE.

Every applicant for a license to practice podiatry shall:

1. Be a graduate of an accredited ~~high~~ school of podiatry.

2. Present ~~a diploma~~ an official transcript issued by a school of podiatry approved by the board of podiatry examiners.

3. Pass an examination ~~in the subjects of anatomy, chemistry, dermatology, diagnosis, pharmacy and materia medica, pathology, physiology, histology, bacteriology, neurology, practical and clinical podiatry, foot orthopedics, and others, as prescribed by the board of podiatry examiners~~ as determined by the board by rule.

4. Have successfully completed a ~~one-year~~ residency ~~or preceptorship approved by the board of podiatry examiners~~ as determined by the board by rule. This subsection applies to all applicants who graduate from podiatric college on or after January 1, 1995.

Sec. 92. Section 149.7, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The temporary certificate shall be issued for one year and may be renewed, but a person shall not be entitled to practice podiatry in excess of three years while holding a temporary certificate. The fee for this certificate shall be set by the podiatry examiners and if extended beyond one year a renewal fee per year shall be set by the podiatry examiners. The fees shall be based on the administrative costs of issuing and renewing the certificates. ~~The podiatry examiners may cancel a temporary certificate at any time, without a hearing, for reasons deemed sufficient to the podiatry examiners.~~

Sec. 93. Section 149.7, unnumbered paragraphs 3 and 4, Code 2005, are amended by striking the unnumbered paragraphs.

Sec. 94. Section 151.12, Code 2005, is amended to read as follows:

151.12 TEMPORARY CERTIFICATE.

The chiropractic examiners may, in their discretion, issue a temporary certificate authorizing the licensee to practice chiropractic if, in the opinion of the chiropractic examiners, a need exists and the person possesses the qualifications prescribed by the chiropractic examiners for the license, which shall be substantially equivalent to those required for licensure under this chapter. The chiropractic examiners shall determine in each instance those eligible for this license, whether or not examinations shall be given, ~~and~~ the type of examinations, and the duration of the license. No requirements of the law pertaining to regular permanent licensure are mandatory for this temporary license except as specifically designated by the chiropractic examiners. The granting of a temporary license does not in any way indicate that the person so licensed is eligible for regular licensure, nor are the chiropractic examiners in any way obligated to so license the person.

The temporary certificate shall be issued for one year and at the discretion of the chiropractic examiners may be renewed, but a person shall not practice chiropractic in excess of three years while holding a temporary certificate. The fee for this license shall be set by the chiropractic examiners and if extended beyond one year a renewal fee per year shall be set by the

chiropractic examiners. The ~~fees~~ fee for the temporary license shall be based on the administrative costs of issuing ~~and renewing~~ the licenses. ~~The chiropractic examiners may cancel a temporary certificate at any time, without a hearing, for reasons deemed sufficient to the chiropractic examiners.~~

~~When the chiropractic examiners cancel a temporary certificate they shall promptly notify the licensee by registered mail, at the licensee's last-named address, as reflected by the files of the chiropractic examiners, and the temporary certificate is terminated and of no further force and effect three days after the mailing of the notice to the licensee.~~

Sec. 95. Section 154.3, subsection 1, Code 2005, is amended to read as follows:

1. Every applicant for a license to practice optometry shall:

a. ~~Present satisfactory evidence of a preliminary education equivalent to at least four years study in an accredited high school or other secondary school.~~ Be a graduate of an accredited school of optometry.

b. Present ~~a diploma from~~ an official transcript issued by an accredited school of optometry.

c. Pass an examination ~~prescribed by the optometry examiners in the subjects of physiology of the eye, optical physics, anatomy of the eye, ophthalmology, and practical optometry~~ as determined by the board by rule.

Sec. 96. Section 154B.6, subsection 3,[11] Code 2005, is amended to read as follows:

3. Have not failed the examination required in subsection 2 within ~~the six months next~~ sixty days preceding the date of the subsequent examination.

The examinations required in this section may, at the discretion of the board, be waived for holders by examination of licenses or certificates from states whose requirements are substantially equivalent to those of this chapter, and for holders by examination of specialty diplomas from the American board of professional psychology.

~~Any person who within one year after July 1, 1975, meets the requirements specified in subsection 1 shall receive licensure without having passed the examination required in subsection 2 if application for licensure is filed with the board of psychology examiners before July 1, 1977. Any person holding a certificate as a psychologist from the board of examiners of the Iowa psychological association on July 1, 1977, who applies for certification before July 1, 1975, shall receive certification.~~

Sec. 97. Section 154D.2, subsection 2, paragraph b, Code Supplement 2005, is amended to read as follows:

b. Has at least two years of supervised clinical experience or its equivalent in assessing mental health needs and problems and in providing appropriate mental health services as approved by the board. Standards for supervision, including the required qualifications for supervisors, shall be determined by the board by rule.

Sec. 98. NEW SECTION. 154E.3A TEMPORARY LICENSE.

Beginning July 1, 2007, an individual who does not meet the requirements for licensure by examination pursuant to section 154E.3 may apply for or renew a temporary license. The temporary license shall authorize the licensee to practice as a sign language interpreter or transliterator under the direct supervision of a sign language interpreter or transliterator licensed pursuant to section 154E.3. The temporary license shall be valid for two years and may only be renewed one time in accordance with standards established by rule. An individual shall not practice for more than a total of four years under a temporary license. The board may revoke a temporary license if it determines that the temporary licensee has violated standards established by rule. The board may adopt requirements for temporary licensure to implement this section.

Sec. 99. Section 154E.4, subsection 2, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Students enrolled in a school of interpreting may interpret only un-

[11] The phrase "subsection 3 and unnumbered paragraphs 2 and 3" probably intended

der the direct supervision of a permanently licensed interpreter as part of the student's course of study.

Sec. 100. Section 157.2, subsection 1, paragraph e, Code Supplement 2005, is amended to read as follows:

e. Employees ~~and residents~~ of hospitals, health care facilities, orphans' homes, juvenile homes, and other similar facilities who ~~shampoo, arrange, dress, or curl the hair of~~ perform cosmetology services for any resident without receiving direct compensation from the person receiving the service.

Sec. 101. Section 157.2, subsection 1, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. ee. Volunteers for and residents of health care facilities, orphans' homes, juvenile homes, and other similar facilities who shampoo, arrange, dress, or curl the hair, apply makeup, or polish the nails of any resident without receiving compensation from the person receiving the service.

Sec. 102. Section 157.10, subsection 1, Code 2005, is amended to read as follows:

1. The course of study required for licensure for the practice of cosmetology shall be two thousand one hundred clock hours, or seventy semester credit hours or the equivalent thereof as determined pursuant to administrative rule and regulations promulgated by the United States department of education. The clock hours, and equivalent number of semester credit hours or the equivalent thereof as determined pursuant to administrative rule and regulations promulgated by the United States department of education, of a course of study required for licensure for the practices of electrology, esthetics, ~~and~~ nail technology, manicuring, and pedicuring shall be established by the board. The board shall adopt rules to define the course and content of study for each practice of cosmetology arts and sciences.

Sec. 103. Section 157.13, subsection 1, Code Supplement 2005, is amended by striking the subsection and inserting in lieu thereof the following:

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. The following exceptions to this subsection shall apply:

a. A licensee may practice at a location which is not a licensed salon, school of cosmetology arts and sciences, or licensed barbershop under extenuating circumstances arising from physical or mental disability or death of a customer.

b. Notwithstanding section 157.12, when the licensee is employed by a physician and provides cosmetology services at the place of practice of a physician and is under the supervision of a physician licensed to practice pursuant to chapter 148, 150, or 150A.

c. When the practice occurs in a facility licensed pursuant to chapter 135B or 135C.

Sec. 104. Section 157.13, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. It is unlawful for a licensee to claim to be a licensed barber, however a licensed cosmetologist may 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. 105. Section 225B.8, Code 2005, is amended to read as follows:

225B.8 REPEAL.

This chapter is repealed July 1, ~~2006~~ 2011.

Sec. 106. Section 231.23, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 13. Provide annual training for area agency on aging board of directors members.

NEW SUBSECTION. 14. Establish a procedure for an area agency on aging to use in selection of members of the agency's board of directors. The selection procedure shall be incorporated into the bylaws of the board of directors and shall include a nomination process by which nominations are submitted to the department, objections to a nominee may be submitted to the department by a date certain, and if at least twenty-five objections to a nominee are received by the department, the nominee shall be eliminated from nomination for that term of membership.

NEW SUBSECTION. 15. Provide oversight to ensure that the composition of the area agency on aging board of directors complies with the rules of the department.

Sec. 107. Section 231.33, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 19. Require the completion by board of directors members, annually, of four hours of training, provided by the department of elder affairs.

NEW SUBSECTION. 20. Incorporate into the bylaws of the area agency's board of directors and comply with the procedure established by the department for selection of members to the board of directors as provided in section 231.23.

Sec. 108. Section 237A.5, subsection 2, paragraph a, subparagraph (1), Code 2005, is amended to read as follows:

(1) "Person subject to ~~an evaluation"~~ a record check" means a person ~~who has committed a transgression and~~ who is described by any of the following:

(a) The person is being considered for licensure or registration or is registered or licensed under this chapter.

(b) The person is being considered by a child care facility for employment involving direct responsibility for a child or with access to a child when the child is alone or is employed with such responsibilities.

(c) The person will reside or resides in a child care facility.

(d) The person has applied for or receives public funding for providing child care.

(e) The person will reside or resides in a child care home that is not registered under this chapter but that receives public funding for providing child care.

Sec. 109. Section 237A.5, subsection 2, paragraph a, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (1A) "Person subject to an evaluation" means a person subject to a record check whose record indicates that the person has committed a transgression.

Sec. 110. Section 237A.5, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. aa. If an individual person subject to a record check is being considered for employment by a child care facility or child care home, in lieu of requesting a record check to be conducted by the department under paragraph "b", the child care facility or child care home may access the single contact repository established pursuant to section 135C.33 as necessary to conduct a criminal and child abuse record check of the individual. A copy of the results of the record check conducted through the single contact repository shall also be provided to the department. If the record check indicates the individual is a person subject to an evaluation, the child care facility or child care home may request that the department perform an evaluation as provided in this subsection. Otherwise, the individual shall not be employed by the child care facility or child care home.

Sec. 111. Section 237A.5, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. ~~The~~ Unless a record check has already been conducted in accordance with paragraph "aa", the department shall conduct a criminal and child abuse record ~~checks~~ check in this state for a person who is subject to a record check and may conduct ~~these checks~~ such a check in other states. In addition, the department may conduct a dependent adult abuse, sex offender registry, ~~and~~ or other public or civil offense record ~~checks~~ check in this state or in other states for a person who is subject to a record check. If ~~the department~~ a record check performed pursuant to this paragraph identifies an individual as a person subject to an evaluation, an evaluation shall be performed to determine whether prohibition of the person's involvement with child care is warranted. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

Prior to performing an evaluation, the department shall notify the affected person, licensee, registrant, or child care home applying for or receiving public funding for providing child care, that an evaluation will be conducted to determine whether prohibition of the person's involvement with child care is warranted.

Sec. 112. Section 249J.5, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Following initial enrollment, an expansion population member shall reenroll annually by the last day of the month preceding the month in which the expansion population member initially enrolled. The department may provide a process for automatic reenrollment of expansion population members.

Sec. 113. Section 249J.6, subsection 2, paragraph a, Code Supplement 2005, is amended to read as follows:

a. ~~Beginning no later than March 1, 2006, within ninety days of enrollment in the expansion population, each~~ Each expansion population member who enrolls or reenrolls in the expansion population on or after January 31, 2007, 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. The health risk assessment shall utilize a gender-specific approach. In developing the queries unique to women, a clinical advisory team shall be utilized that includes women's health professionals including but not limited to those with specialties in obstetrics and gynecology, endocrinology, mental health, behavioral health, oncology, cardiology, and rheumatology.

Sec. 114. Section 249J.6, subsection 2, Code Supplement 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. Following completion of an initial health risk assessment, comprehensive medical examination, and personal health improvement plan, an expansion population member may complete subsequent assessments, examinations, or plans with the recommendation and approval of a provider specified in paragraph "c".

NEW PARAGRAPH. e. Refusal of an expansion population member to participate in a health risk assessment, comprehensive medical examination, or personal health improvement plan shall not be a basis for ineligibility for or disenrollment from the expansion population.

Sec. 115. Section 249J.8, subsections 1 and 2, Code Supplement 2005, are amended to read as follows:

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~~ Regardless of the length of enrollment, the member is subject to payment of the premium for a minimum of four consecutive months. However, an expansion population member who complies with the requirement of payment of the premium for a minimum of four consecutive months during a consecutive twelve-month period of enrollment shall be deemed to have complied with this requirement for the subsequent consecutive twelve-month period of enrollment and shall only be subject to payment of the monthly premium on a month-by-month basis. 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.23. 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. Information regarding the premium payment obligation and the hardship exemption, including the process by which a prospective enrollee may apply for the hardship exemption, shall be provided to a prospective enrollee at the time of application. The prospective enrollee shall acknowledge, in writing, receipt and understanding of the information provided.

Sec. 116. Section 249J.20, subsection 5, Code Supplement 2005, is amended to read as follows:

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~~ review the consensus projection of expenditures for the fiscal year beginning the following July 1~~, based upon the consensus projection submitted~~.

Sec. 117. Section 249J.24, subsections 1 and 6, Code Supplement 2005, are amended to read as follows:

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 dispro-

portionate share hospitals and credited to the account, moneys received for graduate medical education and credited to the account, proceeds ~~transferred~~ distributed 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.

6. a. Notwithstanding any provision to the contrary, ~~from each semiannual~~ for the 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~~ distribute 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 as follows:

(1) The first seventeen million dollars in collections pursuant to section 347.7 between July 1 and December 31 annually shall be distributed to the treasurer of state for deposit in the IowaCare account and collections during this time period in excess of seventeen million dollars shall be distributed to the acute care teaching hospital identified in this subsection.

(2) The first seventeen million dollars in collections pursuant to section 347.7 between January 1 and June 30 annually shall be distributed to the treasurer of state for deposit in the IowaCare account and collections during this time period in excess of seventeen million dollars shall be distributed to the acute care teaching hospital identified in this subsection.

b. 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~~ distribution 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.

c. Notwithstanding the specified amount of proceeds to be ~~transferred~~ distributed 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~~ distributed 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.

Sec. 118. NEW SECTION. 263.23 OBLIGATIONS TO INDIGENT PATIENTS.

The university of Iowa hospitals and clinics shall continue the obligation 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, with the exception of the specific obligation to committed indigent patients pursuant to section 255.16, Code 2005.

Sec. 119. Section 272C.1, subsection 6, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. ad. The director of public health in certifying emergency medical care providers and emergency medical care services pursuant to chapter 147A.

Sec. 120. Section 691.6, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. To retain tissues, organs, and bodily fluids as necessary to determine the cause and manner of death or as deemed advisable by the state medical examiner for medical or public health investigation, teaching, or research. Tissues, organs, and bodily fluids shall be properly disposed of by following procedures and precautions for handling biologic material and blood-borne pathogens as established by rule.

Sec. 121. CHILD SUPPORT RECOVERY UNIT REPORT — LIMITATION. If 2006 Iowa Acts, House File 2332,[12] is enacted, the section of the Act relating to the child support recovery unit submitting a report on the effects of the nonsupport provision under section 726.5, as amended in that Act, shall be limited in scope to cases in which the child support recovery unit is providing services pursuant to chapter 252B.

Sec. 122. 2004 Iowa Acts, chapter 1175, section 432, subsection 3, is amended to read as follows:

3. Applicants issued a temporary license pursuant to this section shall pass a licensure examination approved by the board on or before July 1, 2007, in order to ~~remain licensed as an interpreter~~ qualify to be licensed by examination.

**Sec. 123. TRAVEL POLICY.*

1. For the fiscal year beginning July 1, 2006, each department or independent agency receiving an appropriation in this Act shall review the employee policy for daily or short-term travel including but not limited to the usage of motor pool vehicles under the department of administrative services, employee mileage reimbursement for the use of a personal vehicle, and the usage of private automobile rental companies. Following the review, the department or agency shall implement revisions in the employee policy for daily or short-term travel as necessary to maximize cost savings.

*2. Each department or independent agency subject to subsection 1 shall report to the general assembly's standing committees on government oversight regarding the policy revisions implemented and the savings realized from the changes. An initial report shall be submitted on or before December 1, 2006, and a follow-up report shall be submitted on or before December 1, 2007.**

Sec. 124. VETERANS TRUST FUND — FEDERAL REPLACEMENT FUNDS. If funds are received from the United States department of veterans affairs for the establishment and operation of a veterans cemetery in this state, a portion of those funds, not to exceed $500,000, shall be credited to the general fund of the state, and the remainder is appropriated to and shall be deposited in the veterans trust fund established in section 35A.13, subject to the requirements of this section and consistent with any federal requirements associated with such funds. The portion deposited in the veterans trust fund shall be equal to moneys expended for the establishment and operation of a veterans cemetery from moneys appropriated for that purpose pursuant to 2004 Iowa Acts, chapter 1175, section 288, subsection 16.

Sec. 125. SINGLE POINT OF ENTRY LONG-TERM LIVING SYSTEM INTERIM STUDY COMMITTEE. The legislative council is requested to establish an interim study committee to make recommendations for establishing a single point of entry to the long-term living system. The membership of the interim study committee shall include four members of the senate,

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[12] Chapter 1119, §9 herein

* Item veto; see message at end of the Act

three members of the house of representatives, and not more than four members of the public. The study committee shall report its findings and recommendations, including recommendations for coordinating state efforts to provide access to informational and educational resources to assist individuals in making informed choices to address their long-term living needs and recommendations for funding the single point of entry, to the general assembly for consideration during the 2007 Legislative Session.

Sec. 126. Section 157.5A, Code 2005, is repealed.

Sec. 127. EFFECTIVE DATE. The provisions of this division of this Act amending sections 249J.5, 249J.8, 249J.20, and 249J.24, being deemed of immediate importance, take effect upon enactment.

Sec. 128. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. The sections of this division of this Act amending section 249J.6, being deemed of immediate importance, take effect upon enactment and are retroactively applicable to March 1, 2006.

Approved June 2, 2006, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2734, 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 Department of Veterans Affairs and the Iowa Veterans Home, the Department of Human Rights, and the Department of Inspections and Appeals, providing for fee increases, and including other related provisions and appropriations, and including effective, applicability, and retroactive applicability date provisions.

House File 2734 is approved on this date with the following exceptions, which I hereby disapprove:

I am unable to approve the bracketed portions of the item identified as Section 63. This section restricts the flexibility of the executive branch to transfer funds so that it can meet the priorities of Iowa's citizens. Accordingly, this provision threatens the ability to efficiently and effectively provide health care security, opportunities through job creation, and a world-class education that Iowans expect and deserve.

I am unable to approve the item designated as Section 123 in its entirety. Not only does this language create an unnecessary bureaucratic step in the efficient operation of state government, but it also calls into question the cost-savings produced by the state motor pool while disregarding the benefits that the state of Iowa derives from maintaining a state motor pool.

The cost-savings of maintaining a state motor pool are clear. In meetings with legislators and the private sector this legislative session and prior legislative sessions, the Department of Administrative Services (DAS) has continually shown that it provides a cost-effective service and the private sector has not shown that they can provide a similar service for the same or a lesser amount. It should also be noted that the state motor pool is a marketplace service that currently competes with the private sector for its state customer business.

In addition, this language only addresses the fiscal impact of the state motor pool and does not

recognize other benefits of maintaining a state motor pool. The State of Iowa benefits greatly from having accessibility to a full service, on-site motor pool team with the sole responsibility of maintaining the state motor pool, which ensures convenience to the motor pool's customers, state agencies. In signing Executive Order 41, I requested that DAS take the initiative to move its fleet towards flexible fuel vehicles (vehicles that can either use E-85 or soy biodiesel). By December of 2007, 90% of eligible motor pool vehicles will be flexible fuel vehicles, which will encourage and contribute to the use of renewable fuels.

The state motor pool consistently provides cost-effective services to state agencies that enhance the ability of state government to operate efficiently and promotes Iowa's image as a leader in renewable energy.

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 2734 are hereby approved this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1185

STATE AND LOCAL GOVERNMENT
FINANCIAL AND REGULATORY MATTERS —
APPROPRIATIONS AND MISCELLANEOUS CHANGES

H.F. 2797

AN ACT relating to state and local finances by providing for funding of property tax credits and reimbursements, by making, increasing, reducing, and transferring appropriations, providing for salaries and compensation of state employees, providing for fees and penalties, providing tax exemptions, and providing for properly related matters, 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 2007-2008.

1. There is appropriated from the general fund of the state to the department of human services 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 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:
. . . . . $ 43,287,141

2. The funding appropriated in this section is the allowed growth factor adjustment for fiscal year 2007-2008, and is allocated as follows:

a. For distribution to counties for fiscal year 2007-2008 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:
. . . . . $ 24,360,548

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 expansion of services to persons with brain injury in accordance with the law enacted by the Eighty-first General Assembly, 2006 Session, as law providing for such expansion of services to commence in the fiscal year beginning July 1, 2006:
. . . . . $ 4,926,593

If 2006 Iowa Acts, House File 2772,[1] is enacted by the Eighty-first General Assembly, 2006 Session, the allocation made in this lettered paragraph shall be transferred to the Iowa department of public health to be used for the brain injury services program created pursuant to that Act.

DIVISION II
STANDING APPROPRIATIONS
AND REVENUE ESTIMATE

Sec. 2. BUDGET PROCESS FOR FISCAL YEAR 2007-2008.

1. For the budget process applicable to the fiscal year beginning July 1, 2007, on or before October 1, 2006, 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 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. GENERAL ASSEMBLY. The appropriations made pursuant to section 2.12 for the expenses of the general assembly and legislative agencies for the fiscal year beginning July 1, 2006, and ending June 30, 2007, are reduced by the following amount:
. . . . . $ 1,267,106

Sec. 4. LIMITATION OF STANDING APPROPRIATIONS. Notwithstanding the standing appropriations in the following designated sections for the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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 substance abuse treatment and prevention under section 123.53, subsection 3:
. . . . . $ 0

[1] Chapter 1114 herein

2. For instructional support state aid under section 257.20:
. . . . . $ 14,428,271
3. 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".
4. For payment for nonpublic school transportation under section 285.2:
. . . . . $ 8,604,714
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.
5. For the educational excellence program under section 294A.25, subsection 1:
. . . . . $ 55,469,053
6. For the state's share of the cost of the peace officers' retirement benefits under section 411.20:
. . . . . $ 2,745,784

Sec. 5. PROPERTY TAX CREDIT FUND — PAYMENTS IN LIEU OF GENERAL FUND REIMBURSEMENT.
1. Notwithstanding section 8.57, prior to the appropriation and distribution to the senior living trust fund and 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, 2005, and ending June 30, 2006, pursuant to section 8.57, subsections 1 and 2, of that surplus, $159,868,964 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, 2006, and ending June 30, 2007, 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:
. . . . . $ 2,773,402
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 of revenue 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, 2006. 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, 2006. 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. 6. Section 257.35, subsection 4, Code Supplement 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, ~~2005~~ 2006, shall be reduced by the department of management by ~~eleven~~ eight million ~~seven hundred ninety-eight thousand seven hundred three~~ dollars. The reduction for each area education agency shall be ~~equal to~~ prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

Sec. 7. 2005 Iowa Acts, chapter 179, section 7, is amended to read as follows:

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. CASH RESERVE APPROPRIATION FOR FY 2006-2007. For the fiscal year beginning July 1, 2006, and ending June 30, 2007, the appropriation to the cash reserve fund provided in section 8.57, subsection 1, paragraph "a", shall not be made.

Sec. 9. MARCH 24, 2006, 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, 2006, and for purposes of calculating the state general fund expenditure limitation pursuant to section 8.54 for the fiscal year beginning July 1, 2006, the revenue estimate for the fiscal year beginning July 1, 2006, that shall be used in the budget process and such calculation shall be the revenue estimate determined by the revenue estimating conference on March 24, 2006, 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 2005. This section also authorizes the use of the estimated revenue figures for the purposes or sources designated in section 8.22A, subsection 5.

Sec. 10. EFFECTIVE AND APPLICABILITY DATES.

1. The section of this division of this Act creating the property tax credit fund, being deemed of immediate importance, takes effect upon enactment.

2. The section of this division of this Act relating to the use of the March 24, 2006, revenue estimate, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 9, 2006.

3. The section of this division of this Act amending 2005 Iowa Acts, chapter 179, section 7, being deemed of immediate importance, takes effect upon enactment.

DIVISION III
SALARIES, COMPENSATION, AND RELATED MATTERS

Sec. 11. STATE COURTS — JUSTICES, JUDGES, AND MAGISTRATES.

1. The salary rates specified in subsection 2 are for the fiscal year beginning July 1, 2006, effective for the pay period beginning June 30, 2006, 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 or otherwise made available to the judicial branch pursuant to other Acts 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, 2006, effective with the pay period beginning June 30, 2006, and for subsequent pay periods.

a. Chief justice of the supreme court:
..... $ 150,110

b. Each justice of the supreme court:
..... $ 144,000

c. Chief judge of the court of appeals:
..... $ 138,960

d. Each associate judge of the court of appeals:
..... $ 134,060

e. Each chief judge of a judicial district:
..... $ 131,000

f. Each district judge except the chief judge of a judicial district:
..... $ 126,020

g. Each district associate judge:
..... $ 111,000

h. Each associate juvenile judge:
..... $ 111,000

i. Each associate probate judge:
..... $ 111,000

j. Each judicial magistrate:
..... $ 34,200

k. Each senior judge:
..... $ 7,100

3. Persons receiving the salary rates established under this section shall not receive any additional salary adjustments provided by this division of this Act.

4. The collective bargaining agreements negotiated pursuant to chapter 20 for employees in the judicial branch of government bargaining units and the annual pay adjustments, related benefits, and expense reimbursements of judicial branch employees not covered by a collective bargaining agreement shall be paid from funds appropriated or made available to the judicial branch as provided in subsection 1.

Sec. 12. 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 the section of this division of this Act that addresses the salary ranges of state officers 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 Iowa public broadcasting board shall establish the salary for the administrator of the public broadcasting division of the department of education, 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 the section of this division of this Act that addresses the salary ranges of state officers.

The governor, in establishing salaries as provided in the section of this division of this Act that addresses the salary ranges of state officers, 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 the section of this division of this Act that addresses the salary ranges of state officers 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 reimburse-

ment for necessary travel and expenses incurred in the performance of duties or fringe benefits normally provided to employees of the state.

Sec. 13. SALARY RANGE — STATE OFFICERS. The following annual salary ranges are effective for the positions specified in this section for the fiscal year beginning July 1, 2006, and for subsequent fiscal years until otherwise provided by the general assembly. The governor or other person designated in the section of this division of this Act relating to appointed state officers 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, 2006, effective with the pay period beginning June 30, 2006:

SALARY RANGE	Minimum	Maximum
a. Range 1	$ 8,800	$ 34,430
b. Range 2	$ 45,395	$ 69,460
c. Range 3	$ 52,210	$ 79,880
d. Range 4	$ 60,040	$ 91,860
e. Range 5	$ 69,045	$ 105,640
f. Range 6	$ 79,405	$ 121,490
g. Range 7	$ 95,055	$ 145,430

2. The following are range 1 positions: There are no range 1 positions for the fiscal year beginning July 1, 2006.

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 Iowans 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.

4. The following are range 3 positions: 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 department 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, administrator of the division of homeland security and emergency management of the department of public defense, 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: administrator of the alcoholic beverages division of the department of commerce, director of the department of inspections and appeals, commandant of the Iowa veterans home, commissioner of public safety, commissioner of insurance, executive director of the Iowa finance authority, director of the department of natural resources, superintendent of banking, superintendent of credit unions, 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, administrator of the public broadcasting division of the department of education, 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. 14. 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 and the judicial branch, for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the amount of $29,000,000, or so much thereof as may be necessary, to fully fund annual pay adjustments, expense reimbursements, and related benefits implemented pursuant to the following:

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 clerical bargaining unit.
6. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional social services bargaining unit.
7. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the community-based corrections bargaining unit.
8. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the patient care bargaining unit.
9. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the science bargaining unit.
10. The annual pay adjustments, related benefits, and expense reimbursements referred to in the section of this division of this Act addressing noncontract state employees not covered by a collective bargaining agreement.

Sec. 15. NONCONTRACT STATE EMPLOYEES — GENERAL.

1. a. For the fiscal year beginning July 1, 2006, 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, 2006, shall be increased by 2 percent for the pay period beginning June 30, 2006, and any additional changes in the pay plans shall be approved by the governor.

b. For the fiscal year beginning July 1, 2006, 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 division of this Act or set by the governor, other persons designated in the section of this division of this Act addressing appointed state officers, 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. 16. 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, 2006, and ending June 30, 2007, 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:

..... $ 1,416,695

2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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:

..... $ 9,593,363

3. Except as otherwise provided in this division of this Act, the amounts appropriated in subsections 1 and 2 shall be used to fund the annual pay adjustments, expense reimbursements, and related benefits for public employees as provided in this division of this Act.

Sec. 17. SPECIAL FUNDS — AUTHORIZATION. To departmental revolving, trust, or special funds, except for the primary road fund or the road use tax fund, for which the general assembly has established an operating budget, a supplemental expenditure authorization is provided, unless otherwise provided, in an amount necessary to fund salary adjustments as otherwise provided in this division of this Act.

Sec. 18. GENERAL FUND SALARY MONEYS. Funds appropriated for distribution from the salary adjustment fund in the section of this division of this Act providing for funding of collective bargaining agreements relate only to salaries supported from general fund appropriations of the state except for employees of the state board of regents and the judicial branch.

Sec. 19. FEDERAL FUNDS APPROPRIATED. All federal grants to and the federal receipts of the agencies affected by this division of this Act which are received and may be expended for purposes of this division of this Act are appropriated for those purposes and as set forth in the federal grants or receipts.

Sec. 20. 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. 21. SICK LEAVE CONVERSION. It is the intent of the general assembly that 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, consistent with any legislation enacted during the 2006 Regular Session of the general assembly providing for such extension.

Sec. 22. Section 256.81, subsection 1, Code 2005, is amended to read as follows:

1. The public broadcasting division of the department of education is created. The chief administrative officer of the division is the administrator who shall be appointed by and serve at the pleasure of the Iowa public broadcasting board. The ~~governor~~ board shall set the division administrator's salary within the applicable salary range established by the general as-

sembly unless otherwise provided by law. Educational programming shall be the highest priority of the division. The director of the department of education and the state board of education are not liable for the activities of the division of public broadcasting.

Sec. 23. Section 256.82, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The Iowa public broadcasting board is created to plan, establish, and operate educational radio and television facilities and other telecommunications services ~~including narrowcast and broadcast systems~~ to serve the educational needs of the state. The board shall be composed of nine members selected in the following manner:

Sec. 24. Section 256.82, subsection 1, paragraph a, subparagraphs (1) and (2), Code 2005, are amended to read as follows:

(1) One member shall be appointed from the business community other than ~~the commercial broadcasting industry and~~ the television and telecommunications industry.

(2) One member shall be appointed ~~from the commercial broadcast~~ with experience in or knowledge about the television industry.

Sec. 25. Section 256.82, subsection 1, paragraph b, subparagraph (4), Code 2005, is amended to read as follows:

(4) One member ~~who is knowledgeable about telecommunications~~ shall be appointed by the state board of regents.

Sec. 26. Section 256.84, subsections 1 and 2, Code 2005, are amended to read as follows:

1. The board may purchase, lease, and improve property, equipment, and services for educational telecommunications including the broadcast and narrowcast systems, and may dispose of property and equipment when not necessary for its purposes. ~~The board and division administrator may arrange for joint use of available services and facilities.~~

2. The board shall apply for channels, frequencies, licenses, ~~and~~ permits, and other authorizations as necessary for the performance of the board's duties.

Sec. 27. Section 256.84, subsection 5, Code 2005, is amended by striking the subsection.

Sec. 28. Section 256.84, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 11. To preserve the integrity of its editorial processes, the board may select programming, content partners, and other authorized contractual services without using a competitive selection process or performance measures that may otherwise be required by law for such services. For purposes of this subsection, authorized contractual services are those services related, directly or indirectly, to the development of program production and instructional and educational media. Authorized contractual services include but are not limited to on-air performers, producers or directors, field producers, writers, production assistants, manual laborers, mobile unit services, closed captioning services, duplication of tape services, and satellite services.

NEW SUBSECTION. 12. The board shall approve for submission the annual budget request and any supplementary budget request for the public broadcasting division of the department of education.

Sec. 29. Section 256.85, Code 2005, is amended to read as follows:

256.85 PURCHASE OF ENERGY EFFICIENCY PACKAGES.

The public broadcasting division of the department of education may use the state of Iowa facilities improvement corporation to purchase energy efficiency packages ~~for its ultrahigh frequency transmitters~~.

Sec. 30. Section 421.1A, subsection 6, Code Supplement 2005, is amended to read as follows:

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.

Sec. 31. Section 256.89, Code 2005, is repealed.

DIVISION IV
OTHER APPROPRIATIONS
AND RELATED MATTERS

Sec. 32. ARTS EDUCATION AND ENRICHMENT PROGRAMMING.

1. There is appropriated from the general fund of the state to the department of cultural affairs 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 purposes designated:

For a study of arts education and enrichment programming for school age children in accordance with this section:

. . . . . $ 5,000

2. a. The department shall conduct a study of arts education and enrichment programming for school age children to evaluate the status of arts education and enrichment programming available to school age children in this state; develop a strategy for greatly expanding the availability of arts education and enrichment programming outside of school settings; and identify curricula, model programs, best practices, and other resources that may be used by programs and persons in this state that provide arts education and enrichment programming outside of school settings.

b. The department shall utilize a resource committee in conducting the study. The committee membership may include representatives of the departments of economic development, education, and human services, the Iowa after school alliance, the Iowa community education association, the Iowa library association, legislators, art educators, artists and performers, and others with relevant expertise.

c. The study may utilize regional forums through the Iowa communications network and other approaches for securing public input and discussion of the study topics.

d. The department shall report to the governor and general assembly concerning the study with findings and recommendations in December 2006.

Sec. 33. VETERANS TRUST FUND. There is appropriated from the general fund of the state to the veterans trust fund for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the following amount:

. . . . . $ 4,500,000

Sec. 34. COUNTY GRANT PROGRAM FOR VETERANS — APPROPRIATION. There is appropriated from the general fund of the state to the department of veterans affairs, 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 providing matching grants to counties to provide improved services to veterans:

. . . . . $ 1,000,000

The department shall establish a grant application process and shall require each county applying for a grant to submit a plan for utilizing the grant to improve services for veterans. The maximum matching grant to be awarded to a county shall be $10,000 and the amount awarded shall be matched on a dollar-for-dollar basis by the county. Each county receiving a grant shall submit a report to the department identifying the impact of the grant on increasing services to veterans. The department shall submit a report to the general assembly by October 1, 2007, concerning the impact of the grant program on increasing services to veterans.

Sec. 35. IOWA LAW ENFORCEMENT ACADEMY. There is appropriated from the general fund of the state to the Iowa law enforcement academy 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 the purchase of equipment and furnishings:

. . . . . $ 25,000

Sec. 36. GOVERNOR AND LIEUTENANT GOVERNOR. If 2006 Iowa Acts, House File 2521,[2] is enacted and provides for appropriations from the general fund of the state to the offices of the governor and lieutenant governor for the fiscal year beginning July 1, 2006, and ending June 30, 2007, for the following indicated purposes, those appropriations are increased by the following amounts:

1. TERRACE HILL QUARTERS

For salaries, support, maintenance and miscellaneous purposes for the governor's quarters at Terrace Hill:

. . . . . $ 22,676

2. NATIONAL GOVERNORS ASSOCIATION

For payment of Iowa's membership in the national governors association:

. . . . . $ 16,207

**Sec. 37. UPDATED MANURE MANAGEMENT PLANS. There is appropriated from the manure storage indemnity fund created in section 459.501 to the department of natural resources 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 the department to modify its computer database in order to provide documentation to persons required to submit updated manure management plans and updated manure management plan filing fees to the department pursuant to the schedules provided in sections 459.312 and 459.400, if amended by the Eighty-first General Assembly, 2006 Session:

. . . . . *$ 80,000*

*As a condition of this appropriation, the department shall repay the manure storage indemnity fund in four equal installments by June 30 of each fiscal year for the fiscal period beginning July 1, 2007, and ending June 30, 2011.**

Sec. 38. REAL ESTATE EDUCATION PROGRAM. There is appropriated from the general fund of the state to the state board of regents 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 allocation to the university of northern Iowa for the real estate education program:

. . . . . $ 200,000

The appropriation made in this section is contingent upon enactment of 2006 Iowa Acts, House File 2773,[3] or other enactment by the Eighty-first General Assembly, 2006 Session, amending section 543B.54[4] to appropriate fees credited to the Iowa real estate education fund to the real estate commission in lieu of the state board of regents.

Sec. 39. STATE BOARD OF REGENTS — GENERAL FUND ENDING BALANCE.

1. Notwithstanding section 8.62, 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, 2005, pursuant to section 8.57, subsection 1, from appropriations that remain unencumbered or unobligated and would otherwise revert on August 31, 2006, 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, 2006, to be used as additional funding for the fiscal year beginning July 1, 2006, for the institutions under the state board of regents.

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[2] Chapter 1177 herein

* Item veto; see message at end of the Act

[3] Not enacted

[4] See chapter 1177, §39 herein

Sec. 40. STATUS OF IOWANS OF ASIAN AND PACIFIC ISLANDER HERITAGE DIVISION. If 2006 Iowa Acts, House File 2521,[5] is enacted and provides for an appropriation from the general fund of the state to the department of human rights for the status of Iowans of Asian and Pacific islander heritage division for the fiscal year beginning July 1, 2006, and ending June 30, 2007, there is appropriated to supplement that appropriation as follows:

For salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent position:

..... $ 80,000
..... FTEs 1.00

Sec. 41. DEPARTMENT OF CULTURAL AFFAIRS. There is appropriated from the general fund of the state to the department of cultural affairs 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. For the African-American historical museum and cultural center of Iowa in Cedar Rapids:
..... $ 85,000

2. For historical resource development program emergency grants for qualified historic preservation projects in gubernatorially declared natural disaster emergency areas in Johnson county, notwithstanding section 303.16, subsection 6, paragraph "d":
..... $ 250,000

Sec. 42. DEPARTMENT OF JUSTICE. There is appropriated from the general fund of the state to the department of justice 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 the purpose of funding farm mediation services pursuant to the farm assistance program created in sections 13.13 through 13.24:

..... $ 100,000

Sec. 43. SUSTAINABLE NATURAL RESOURCE FUNDING STUDY.

1. There is established a sustainable natural resource funding advisory committee for the purpose of studying how to provide a sustainable source or sources of funding for natural resources needs in Iowa. The department of natural resources shall provide staffing for the advisory committee. The following shall be members of the advisory committee:

a. One representative from the following organizations or entities to be appointed by the governor:

(1) Secretary of agriculture.
(2) Iowa natural heritage foundation.
(3) Ducks unlimited.
(4) Pheasants forever.
(5) Iowa association of county conservation boards.
(6) Iowa farm bureau.
(7) Farmers union.
(8) The nature conservancy.
(9) Iowa environmental council.
(10) Iowa renewable fuels association.[6]

b. The director of the department of natural resources, who shall be the chairperson of the advisory committee.

c. Two members of the senate, one of which is appointed by the majority leader and one of which is appointed by the minority leader.

d. Two members of the house of representatives, one of which is appointed by the majority leader and one of which is appointed by the minority leader.

2. The advisory committee shall submit a report to the governor and the general assembly by January 10, 2007. The report shall contain but is not limited to the following:

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[5] Chapter 1177 herein

[6] See chapter 1182, §65 herein

a. Information on what surrounding states have done to provide sustainable funding for natural resource conservation.

b. Outline of a conservation funding initiative agree[7] upon by the advisory committee.

c. Outline of the amount of revenue needed and what would be accomplished if the conservation funding initiative is implemented.

d. Analysis of Iowa's citizens' willingness to pay for identified conservation funding initiative.[8]

Sec. 44. 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, 2004 Iowa Acts, chapter 1175, section 270, and 2005 Iowa Acts, chapter 179, section 23, 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	$	0
FY 2006-2007	$	~~17,773,000~~ 0

Sec. 45. Section 16.100, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Notwithstanding any provision to the contrary, all assets held in the housing improvement fund shall be transferred to the housing trust fund created in section 16.181. On and after July 1, 2006, any moneys or assets received for deposit in the housing improvement fund shall be transferred to the housing trust fund.

Sec. 46. NEW SECTION. 137F.3A MUNICIPAL CORPORATION INSPECTIONS — CONTINGENT APPROPRIATION.

1. If a municipal corporation operating pursuant to a chapter 28E agreement with the department of inspections and appeals to enforce this chapter and chapters 137C and 137D either fails to renew the agreement effective after July 1, 2005, but before July 1, 2007, or discontinues prior to July 1, 2007, enforcement activities in one or more jurisdictions during the agreement time frame, or the department of inspections and appeals cancels an agreement prior to July 1, 2007, due to noncompliance with the terms of the agreement, the department of inspections and appeals may employ additional full-time equivalent positions for the fiscal years ending prior to July 1, 2007, to enforce the provisions of the chapters, with the approval of the department of management. Before approval is given, the director of the department of management shall determine that the expenses exceed the funds budgeted by the general assembly for food inspections to the department of inspections and appeals. The department of inspections and appeals may hire no more than one full-time equivalent position for each six hundred inspections required pursuant to this chapter and chapters 137C and 137D.

2. Notwithstanding chapter 137D, and sections 137C.9 and 137F.6, if the conditions described in this section are met, fees imposed pursuant to that chapter and those sections shall be retained by and are appropriated to the department of inspections and appeals for the fiscal years ending prior to July 1, 2007, to provide for salaries, support, maintenance, and miscellaneous purposes associated with the additional inspections.

3. This section is repealed July 1, 2007.

Sec. 47. Section 256D.5, subsection 4, Code Supplement 2005, is amended to read as follows:

4. For each fiscal year of the fiscal period beginning July 1, 2004, and ending June 30, ~~2006~~ 2007, the sum of twenty-nine million two hundred fifty thousand dollars.

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[7] According to enrolled Act

[8] According to enrolled Act; the word "initiatives" probably intended

Sec. 48. 2005 Iowa Acts, chapter 175, section 4, subsection 4, as enacted by 2006 Iowa Acts, House File 2080,[9] section 3, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Of the amount transferred pursuant to this subsection, not more than $50,000 shall be transferred to the department of public defense to be used for the enduring families program.

Sec. 49. REPORT. By October 1, 2009, the Iowa finance authority shall submit a written report to the general assembly regarding the status of the housing trust fund. The report shall review the program and activities under the program during the existence of the fund, an update on the housing needs in the state, and any recommendations for changes.

Sec. 50. HOUSING TRUST FUND. It is the intent of the general assembly to make appropriations from the general fund of the state to the housing trust fund created in section 16.181 for the designated fiscal years in the following amounts:

1. FY 2007-2008	$	2,000,000
2. FY 2008-2009	$	3,000,000
3. FY 2009-2010	$	4,000,000

Sec. 51. WORLD FOOD PRIZE. It is the intent of the general assembly to make appropriations from the general fund of the state for purposes of the world food prize for the designated fiscal years in the following amounts:

1. FY 2007-2008	$	750,000
2. FY 2008-2009	$	1,000,000

Sec. 52. *CONTINGENT EFFECTIVE DATE. The section of this division of this Act making an appropriation from the manure storage indemnity fund to the department of natural resources is contingent upon the enactment by the Eighty-first General Assembly, 2006 Session of an Act which amends sections 459.312 and 459.400 making it necessary for the department to modify its computer database in order to provide documentation to persons required to submit updated manure management plans and updated manure management plan filing fees to the department.

Sec. 53. EFFECTIVE AND APPLICABILITY DATES.

1. The section of this division of this Act transferring moneys that would otherwise revert to the state board of regents, being deemed of immediate importance, takes effect upon enactment.

2. The section of this division of this Act enacting section 137F.3A, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2005.

DIVISION V
MISCELLANEOUS STATUTORY CHANGES

Sec. 54. Section 7D.29, Code 2005, as amended by 2006 Iowa Acts, Senate File 2273,[10] section 7, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The executive council shall receive requests from the Iowa department of public health, relative to the purchase, storing, and distribution of vaccines and medication for prevention, prophylaxis, or treatment. Upon review and after compliance with subsection 2, the executive council may approve the request and may incur the necessary expense and pay the same out of any money in the state treasury not otherwise appropriated.

Sec. 55. Section 15E.208, subsection 3, paragraph b, subparagraph (2), Code 2005, is amended by adding the following new subparagraph subdivision:

NEW SUBPARAGRAPH SUBDIVISION. (e) Notwithstanding any provision of this divi-

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[9] Chapter 1167 herein

* Item veto; see message at end of the Act

[10] Chapter 1171 herein

sion to the contrary, payments of principal and interest of the loan granted by the corporation to an eligible person and assigned to the department pursuant to this subparagraph during calendar year 2003 which were deferred pursuant to subparagraph subdivision (c) shall be forgiven and the total debt, including interest, shall be retired.

Sec. 56. Section 15G.119, subsection 4, paragraph c, if enacted by 2006 Iowa Acts, House File 2759,[11] is amended to read as follows:

c. Notwithstanding section 8.33, unencumbered and unobligated moneys remaining in the infrastructure fund at the close of each fiscal year shall not revert but shall remain available in the infrastructure fund for expenditure for the same purposes ~~in the succeeding fiscal year~~ until the end of the fiscal year that begins July 1, 2011, at which time the unencumbered and unobligated moneys remaining shall revert to the funds from which appropriated.

Sec. 57. Section 22.7, subsection 52, unnumbered paragraph 1, as enacted by 2006 Iowa Acts, House File 2706,[12] if enacted, is amended to read as follows:

The following records relating to a charitable donation made to a foundation acting solely for the support of an institution governed by the state board of regents, to a foundation acting solely for the support of an institution governed by chapter 260C, to a private foundation as defined in section 509 of the Internal Revenue Code organized for the support of a government body, or to an endow Iowa qualified community foundation, as defined in section 15E.303, organized for the support of a government body:

Sec. 58. Section 22.7, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 53. Individually identifiable client information contained in the records of the state database created as a homeless management information system pursuant to standards developed by the United States department of housing and urban development and utilized by the Iowa department of economic development.

NEW SUBSECTION. 54. The following information contained in the records of any governmental body relating to any form of housing assistance:

a. An applicant's social security number.

b. An applicant's personal financial history.

c. An applicant's personal medical history or records.

d. An applicant's current residential address when the applicant has been granted or has made application for a civil or criminal restraining order for the personal protection of the applicant or a member of the applicant's household.

Sec. 59. Section 29A.28, subsections 1 and 3, Code 2005, are amended to read as follows:

1. All officers and employees of the state, or a subdivision thereof, or a municipality other than employees employed temporarily for six months or less, who are members of the national guard, organized reserves or any component part of the military, naval, or air forces or nurse corps of this state or nation, or who are or may be otherwise inducted into the military service of this state or of the United States, or who are members of the civil air patrol, shall, when ordered by proper authority to state active duty, state military service, or federal service, or when performing a civil air patrol mission pursuant to section 29A.3A, be entitled to a leave of absence from such civil employment for the period of state active duty, state military service, ~~or~~ federal service, or civil air patrol duty without loss of status or efficiency rating, and without loss of pay during the first thirty days of such leave of absence. Where state active duty, state military service, ~~or~~ federal service, or civil air patrol duty is for a period of less than thirty days, a leave of absence under this section shall only be required for those days that the civil employee would normally perform services for the state, subdivision of the state, or a municipality.

3. Upon returning from a leave of absence under this section, an employee shall be entitled to return to the same position and classification held by the employee at the time of entry into state active duty, state military service, ~~or~~ federal service, or civil air patrol duty, or to the posi-

[11] Chapter 1175, §6 herein

[12] Chapter 1127 herein

tion and classification that the employee would have been entitled to if the continuous civil service of the employee had not been interrupted by state active duty, state military service, ~~or~~ federal service, or civil air patrol duty. Under this subsection, "position" includes the geographical location of the position.

Sec. 60. Section 29A.40, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Any person who, without authority under the laws of the United States or of one of the states, wears the uniform of, or a distinctive part of the uniform of the armed forces of the United States, shall be guilty of a ~~simple~~ serious misdemeanor.

Sec. 61. Section 29A.43, subsection 1, Code Supplement 2005, is amended to read as follows:

1. A person shall not discriminate against any officer or enlisted person of the national guard or organized reserves of the armed forces of the United States or any member of the civil air patrol because of that membership. An employer, or agent of an employer, shall not discharge a person from employment because of being an officer or enlisted person of the military forces of the state or member of the civil air patrol, or hinder or prevent the officer or enlisted person or member of the civil air patrol from performing any military service or civil air patrol duty the person is called upon to perform by proper authority. A member of the national guard or organized reserves of the armed forces of the United States ordered to temporary duty, as defined in section 29A.1, subsection 3, 11, or 12, or a member of the civil air patrol performing duty pursuant to section 29A.3A, for any purpose is entitled to a leave of absence during the period of the duty or service, from the member's private employment, other than employment of a temporary nature, and upon completion of the duty or service the employer shall restore the person to the position held prior to the leave of absence, or employ the person in a similar position. However, the person shall give evidence to the employer of satisfactory completion of the training or duty, and that the person is still qualified to perform the duties of the position. The period of absence shall be construed as an absence with leave, and shall in no way affect the employee's rights to vacation, sick leave, bonus, or other employment benefits relating to the employee's particular employment. A person violating a provision of this section is guilty of a simple misdemeanor.

Sec. 62. Section 29C.8, subsection 3, paragraph f, Code Supplement 2005, is amended to read as follows:

f. ~~(1)~~ Approve and support the development and ongoing operations of ~~an urban search and rescue team~~ homeland security and emergency response teams to be deployed as a resource to supplement and enhance disrupted or overburdened local emergency and disaster operations and deployed as available to provide assistance to other states pursuant to the interstate emergency management assistance compact described in section 29C.21. The following shall apply to homeland security and emergency response teams:

~~(2)~~ (1) A member of ~~an urban search and rescue~~ a homeland security and emergency response team acting under ~~the authority~~ this section upon the directive of the administrator or pursuant to a governor's disaster proclamation as provided in section 29C.6 shall be considered an employee of the state ~~under~~ for purposes of section 29C.21 and chapter 669 and shall be afforded protection as an employee of the state under section 669.21. Disability, workers' compensation, and death benefits for team members working under the authority of the administrator or pursuant to the provisions of section 29C.6 shall be paid by the state in a manner consistent with the provisions of chapter 85, 410, or 411 as appropriate, depending on the status of the member, provided that the member is registered with the homeland security and emergency management division as a member of an approved team and is participating as a team member in a response or recovery operation initiated by the administrator or governor pursuant to this section or in a training or exercise activity approved by the administrator.

(2) Each approved homeland security and emergency management response team shall establish standards for team membership, shall provide the division with a listing of all team members, and shall update the list each time a member is removed from or added to the team. Individuals so identified as team members shall be considered to be registered as team members for purposes of subparagraph (1).

(3) Upon notification of a compensable loss to a member of a homeland security and emergency management response team, the department of administrative services shall process the claim and seek funding from the executive council for those costs associated with covered benefits.

Sec. 63. Section 29C.20, subsection 1, paragraph a, subparagraph (5), Code Supplement 2005, is amended to read as follows:

(5) Paying the expenses incurred by and claims of ~~an urban search and rescue~~ a homeland security and emergency response team when acting under the authority of ~~the administrator and the provisions of~~ section ~~29C.6~~ 29C.8 and public health response teams when acting under the provisions of section 135.143.

Sec. 64. Section 29C.20, subsection 1, paragraph b, Code Supplement 2005, is amended to read as follows:

b. When a state department or agency requests that moneys from the contingent fund be expended to repair, rebuild, or restore state property injured, destroyed, or lost by fire, storm, theft, or unavoidable cause, or to repair, rebuild, or restore state property that is fiberoptic cable and that is injured or destroyed by a wild animal, or to purchase a police service dog for the department of corrections when such a dog is injured or destroyed, or for payment of the expenses incurred by and claims of ~~an urban search and rescue~~ a homeland security and emergency response team when acting under the authority of ~~the administrator and the provisions of~~ section ~~29C.6~~ 29C.8, the executive council shall consider the original source of the funds for acquisition of the property before authorizing the expenditure. If the original source was other than the general fund of the state, the department or agency shall be directed to utilize moneys from the original source if possible. The executive council shall not authorize the repairing, rebuilding, or restoring of the property from the disaster aid contingent fund if it determines that moneys from the original source are available to finance the project.

Sec. 65. Section 35A.5, subsection 9, Code Supplement 2005, is amended to read as follows:

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.

PARAGRAPH DIVIDED. 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. The department may lease or use property received pursuant to this subsection for any purpose so long as such leasing or use does not interfere with the use of the property for cemetery purposes and is not contrary to federal or state guidelines. All funds received pursuant to this subsection, including lease payments or funds generated from any activity engaged in on any property accepted pursuant to this subsection, shall be deposited into an account dedicated to the establishment, op-

eration, and maintenance of a veterans cemetery and these funds shall be expended only for those purposes.

PARAGRAPH DIVIDED. 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.

Sec. 66. Section 35A.13, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. It is the intent of the general assembly that beginning with the fiscal year beginning July 1, 2007, appropriations be made annually to the veterans trust fund. Prior to any additional appropriations to this fund, the commission shall provide the general assembly with information identifying immediate and long-term veteran services throughout the state and a plan for delivering those services.

Sec. 67. Section 35A.13, subsection 6, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

6. Moneys appropriated to the commission under this section shall not be used to supplant funding provided by other sources. The moneys may be expended upon a majority vote of the commission membership for the benefit of veterans and the spouses and dependents of veterans, for any of the following purposes:

a. Travel expenses for wounded veterans directly related to follow-up medical care.

b. Job training or college tuition assistance for job retraining.

c. Unemployment assistance during a period of unemployment due to prolonged physical or mental illness or disability resulting from military service.

d. Expenses related to nursing facility or at-home care.

e. Benefits provided to children of disabled or deceased veterans.

f. Individual counseling or family counseling programs.

g. Family support group programs or programs for children of members of the military.

h. Honor guard services.

Sec. 68. Section 35A.13, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. If the commission identifies other purposes for which the moneys appropriated under this section may be used for the benefit of veterans and the spouses and dependents of veterans, the commission shall submit recommendations for the addition of such purposes to the general assembly for review.

Sec. 69. Section 68B.32A, subsection 2, unnumbered paragraph 2, Code Supplement 2005, is amended to read as follows:

The board may establish a process to assign signature codes to a person or committee for purposes of facilitating an electronic filing procedure. The assignment of signature codes shall be kept confidential, notwithstanding section 22.2. The board and persons electronically filing reports and statements shall keep assigned signature codes or subsequently selected signature codes confidential. Signature codes shall not be subject to state security policies regarding frequency of change.

Sec. 70. NEW SECTION. 70A.15A CHARITABLE GIVING PAYROLL DEDUCTION BY OTHER THAN STATE OFFICER OR EMPLOYEE.

1. For purposes of this section, unless the context otherwise requires:

a. "Applicable public employer" means a board of directors of a school district, a county board of supervisors, or a governing body of a city.

b. "Eligible charitable organization" means a not-for-profit federation of health and human services, social welfare, or environmental agencies or associations that meets all of the following conditions:

(1) The federation is tax exempt under section 501(c)(3) of the Internal Revenue Code

and contributions to the federation are deductible under section 170 of the Internal Revenue Code.

(2) The federation has had an office in this state for the last five years.

(3) The federation represents at least ten health and human services, social welfare, or environmental agencies or associations that are located in this state.

(4) The federation is governed by an active, voluntary board, which exercises administrative control over the federation.

(5) The federation is not a charitable foundation.

(6) The federation is registered with the secretary of state's office.

2. An applicable public employer may authorize deductions from the salaries or wages of its employees of an amount specified by an employee for payment to an eligible charitable organization. The authorization by an employee for deductions from the employee's salary or wages shall be evidenced by a written request signed by the employee directed to and filed with the treasurer, or official in charge of the payroll system, of the applicable public employer and the treasurer or responsible official shall deduct from the salary or wages of the employee the amount specified for payment to the eligible charitable organization. The request for the deduction may be withdrawn by the employee at any time by filing a written notification of withdrawal with the applicable treasurer or responsible official in charge of the payroll system.

3. If an applicable public employer authorizes deductions from the salaries or wages of its employees for payment to any eligible charitable organization, the applicable public employer shall ensure that an employee shall be permitted to authorize a deduction to any eligible charitable organization.

Sec. 71. Section 103A.10, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. To all newly constructed buildings and structures the construction of which is paid for in whole or in part with moneys appropriated by the state but not wholly owned by the state.

Sec. 72. NEW SECTION. 103A.10A PLAN REVIEWS AND INSPECTIONS.

1. Beginning on January 1, 2007, all newly constructed buildings or structures, excluding any addition, renovation, or repair of a building or structure whether existing prior to January 1, 2007, or thereafter, that are owned by the state or an agency of the state, except as provided in subsection 2, shall be subject to a plan review and inspection by the commissioner or an independent building inspector appointed by the commissioner. A fee shall be assessed for the cost of plan review and the cost of inspection.

2. Beginning on July 1, 2007, all newly constructed buildings, excluding any addition, renovation, or repair of a building whether existing prior to July 1, 2007, or thereafter, that are owned by the state board of regents shall be subject to a plan review and inspection by the commissioner or the commissioner's staff or assistant. The commissioner and the state board of regents shall develop a plan to implement the requirements of this subsection, including funding recommendations related to plan review and inspection, by March 1, 2007.

3. All newly constructed buildings and structures the construction of which is paid for in whole or in part with moneys appropriated by the state but not wholly owned by the state are subject to the plan review and inspection requirements as provided in this subsection. If a governmental subdivision has adopted a building code, electrical code, mechanical code, and plumbing code and performs inspections pursuant to such codes, such buildings or structures shall be built to comply with such codes. However, if a governmental subdivision has not adopted a building code, electrical code, mechanical code, and plumbing code, or does not perform inspections pursuant to such codes, such buildings or structures shall be built to comply with the state building code and shall be subject to a plan review and inspection by the commissioner or an independent building inspector appointed by the commissioner. A fee shall be assessed for the cost of plan review and the cost of inspection.

4. The commissioner shall administer this section notwithstanding section 103A.19. The

commissioner shall establish by rule proper qualifications for an independent building inspector and for the commissioner's staff or assistant who performs inspections, and fees for plan reviews and inspections.

Sec. 73. Section 147.106, subsection 1, paragraph e, Code Supplement 2005, is amended to read as follows:

e. The referring clinical laboratory, other than the laboratory of a physician's office or group practice, that ordered the services. A laboratory of a physician's office or group practice that ordered the services may be presented a claim, bill, or demand for payment if a physician in the physician's office or group practice is performing the professional component of the anatomic pathology services.

Sec. 74. Section 147.106, subsection 5, Code Supplement 2005, is amended to read as follows:

5. This section does not prohibit claims or charges presented ~~by~~ to a referring clinical laboratory, other than a laboratory of a physician's office or group practice~~, to~~ unless in accordance with subsection 1, paragraph "e", by another clinical laboratory when samples are transferred between laboratories for the provision of anatomic pathology services.

Sec. 75. Section 225C.48, subsection 1, Code 2005, if amended by both 2006 Iowa Acts, House File 845,[13] if enacted, and by 2006 Iowa Acts, Senate File 2217,[14] section 22, if enacted, is amended by striking the subsection and inserting in lieu thereof the following:

1. a. An eleven-member comprehensive family support council is created in the department. The members of the council shall be appointed by the governor. At least five of the members shall be family members of individuals with a disability as defined in section 225C.47. At least five of the members shall be current or former service consumers or family members of such service consumers. Members shall serve for three-year staggered terms. A vacancy on the council shall be filled in the same manner as the original appointment.

b. The members of the council are entitled to reimbursement of actual and necessary expenses incurred in the performance of their official duties. In addition, the members who are family members of individuals with a disability or current or former service consumers or family members of such service consumers are entitled to a stipend of fifty dollars for each council meeting attended, subject to a limit of one meeting per month. The expenses and stipend shall be paid from the appropriation made for purposes of the comprehensive family support program.

c. The council shall elect officers from among the council's members.

Sec. 76. Section 232.147, subsection 2, paragraph b, if enacted by 2006 Iowa Acts, House File 2651,[15] section 1, is amended to read as follows:

b. Official juvenile court records containing a petition or complaint alleging delinquency filed on or after January 1, 2007, shall be public records subject to a confidentiality order under section 232.149A or sealing under section 232.150. ~~However, the~~ The official records shall not be available to the public or any governmental agency through the internet or in an electronic customized data report unless the child has been adjudicated delinquent. However, the following shall have access to official juvenile court records through the internet or in an electronic customized data report prior to the child being adjudicated delinquent:

(1) The judge and professional court staff, including juvenile court officers.

(2) The child's counsel or guardian ad litem.

(3) The county attorney and the county attorney's assistants.

(4) A court, court professional staff, and adult probation officers in connection with the preparation of a presentence report concerning a person who prior thereto had been the subject of a juvenile court proceeding.

(5) A state or local law enforcement agency.

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[13] Not enacted

[14] Chapter 1159 herein

[15] Chapter 1164 herein

(6) The state public defender.
(7) The division of criminal and juvenile justice planning of the department of human rights.

Sec. 77. Section 232.149A, subsection 3, if enacted by 2006 Iowa Acts, House File 2651,[16] section 2, is amended by adding the following new paragraph:
NEW PARAGRAPH. i. The state public defender.

Sec. 78. NEW SECTION. 257.12 ADJUSTMENT IN STATE FOUNDATION AID.
1. If a school district is required to repay property taxes paid for school taxes levied on property originally assessed at five million dollars or more because the assessment was subsequently reduced by the action of the property assessment appeal board or judicial action and the amount of the reduction in the assessment equals at least one hundred thousand dollars or two percent of the assessed value of all taxable property in the district prior to the reduction, whichever is less, the school district is eligible for an adjustment in state foundation aid. To receive the adjustment in state foundation aid, the school district shall apply to the department of management prior to the beginning of the budget year following the budget year in which the repayment of the property taxes occurred. The department of management shall determine the amount of adjustment in state foundation aid pursuant to subsection 2.
2. The department of management shall determine the amount of state foundation aid which the school district would have received under section 257.1 if the amount of the school district's foundation property tax was determined using the reduced assessment of the applicable property. The difference between the amount of the state foundation aid using the reduced assessment and the amount of state foundation aid actually received under section 257.1 equals the amount of the adjustment in state foundation aid to be paid to the school district.
3. The adjustment in state foundation aid under this section shall be paid as provided in section 257.16. If the application to receive an adjustment in state aid was filed prior to April 15, the adjustment shall be paid in the budget year. If the application is made after April 15, the adjustment shall be paid in the following budget year.

Sec. 79. Section 275.15, unnumbered paragraph 4, Code 2005, is amended to read as follows:
The administrator shall at once publish the decision in the same newspaper in which the original notice was published. Within twenty days after the publication, the decision rendered by the area education agency board may be appealed to the district court in the county involved by any school district affected. For purposes of appeal, only those school districts who filed reorganization petitions are school districts affected. An appeal from a decision of an area education agency board or joint area education agency boards under section 275.4, 275.16, or this section is subject to appeal procedures under this chapter and is ~~not~~ subject to appeal under procedures set forth in chapter 290.

Sec. 80. Section 314.1, subsection 2, Code 2005, as amended by 2006 Iowa Acts, House File 2713,[17] section 27, is amended to read as follows:
2. Notwithstanding any other provision of law to the contrary, a public improvement that involves the construction, reconstruction, or improvement of a highway, bridge, or culvert and that has a cost in excess of the applicable threshold in section 73A.18, 262.34, 297.7, 309.40, 310.14, or 313.10, as modified by the bid threshold subcommittee pursuant to section 314.1B, shall be advertised and let for bid, except such public improvements that involve emergency work pursuant to section 309.40A, 313.10, or 384.103, subsection 2. For a city having a population of fifty thousand or less, a public improvement that involves the construction, reconstruction, or improvement of a highway, bridge, or culvert that has a cost in excess of twenty-five thousand dollars, as modified by the bid threshold subcommittee pursuant to section 314.1B, shall be advertised and let for bid, excluding emergency work. However, a public improvement that has an estimated total cost to a city in excess of a threshold of fifty thousand dollars,

[16] Chapter 1164 herein
[17] Chapter 1017 herein

as modified by the bid threshold subcommittee pursuant to section 314.1B, and that involves the construction, reconstruction, or improvement of a highway, bridge, or culvert that is under the jurisdiction of a city with a population of more than fifty thousand, shall be advertised and let for bid. Cities required to competitively bid highway, bridge, or culvert work shall do so in compliance with the contract letting procedures of sections 38.3 through 38.13.

*Sec. 81. Section 352.2, subsection 7, Code 2005, is amended to read as follows:

7. "Farm products" means those plants and animals and their products which are useful to people and includes but is not limited to forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, canines from licensed facilities, fruits, vegetables, flowers, seeds, grasses, trees, fish, honey, and other similar products, or any other plant, animal, or plant or animal product which supplies people with food, feed, fiber, or fur.*

Sec. 82. Section 421.17, subsection 27, paragraph j, if enacted by 2006 Iowa Acts, House File 2521,[18] is amended by striking the paragraph and inserting in lieu thereof the following:

j. Of the amount of debt actually collected pursuant to this subsection an amount, not to exceed the amount collected, which is sufficient to pay for salaries, support, maintenance, services, and other costs incurred by the department related to the administration of this subsection shall be retained by the department. Revenues retained by the department pursuant to this section shall be considered repayment receipts as defined in section 8.2. The director shall, in the annual budget request pursuant to section 8.23, make an estimate as to the amount of receipts to be retained and the estimated amount of additional receipts to be collected. The director shall report annually to the department of management, the legislative fiscal committee, and the legislative services agency on any additional positions added and the costs incurred during the previous fiscal year pursuant to this subsection.

*Sec. 83. Section 423.1, subsection 3, Code Supplement 2005, is amended to read as follows:

3. "Agricultural production" includes the production of flowering, ornamental, or vegetable plants in commercial greenhouses or otherwise, and production from aquaculture or canines from licensed facilities. "Agricultural products" includes flowering, ornamental, or vegetable plants and those products of aquaculture or canines from licensed facilities.*

Sec. 84. Section 427.1, subsection 21A, Code Supplement 2005, is amended by striking the subsection and inserting in lieu thereof the following:

21A. DWELLING UNIT PROPERTY OWNED BY COMMUNITY HOUSING DEVELOPMENT ORGANIZATION. Dwelling unit property owned and managed by a community housing development organization, as recognized by the state of Iowa and the federal government pursuant to criteria for community housing development organization designation contained in the HOME program of the federal National Affordable Housing Act of 1990, if the organization is also a nonprofit organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code and owns and manages more than one hundred and fifty dwelling units that are located in a city with a population of more than one hundred ten thousand.[19]

Sec. 85. NEW SECTION. 441.38A NOTICE TO SCHOOL DISTRICT.

In addition to any other requirement for providing of notice, if a property owner or aggrieved taxpayer files a protest against the assessment of property valued at five million dollars or more or files an appeal to the property assessment appeal board or the district court with regard to such property, the assessor shall provide notice to the school district in which such property is located within ten days of the filing of the protest or the appeal, as applicable.

Sec. 86. Section 466A.3, subsection 1, paragraph b, Code Supplement 2005, is amended to read as follows:

b. The board shall consist of four members of the general assembly who shall serve as ~~voting~~

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* Item veto; see message at end of the Act

18 Chapter 1177 herein

19 See chapter 1182, §62 herein

ex officio, nonvoting 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.

Sec. 87. Section 631.14, Code 2005, is amended to read as follows:

631.14 REPRESENTATION IN SMALL CLAIMS ACTIONS.

1. Actions constituting small claims may be brought or defended by an individual, partnership, association, corporation, or other entity. In actions in which a person other than an individual is a party, that person may be represented by an officer or an employee.

2. In actions concerning residential rental property that is titled in the name of one or more individuals, an employee of one or more of the titled owners, or an officer or employee of a property management entity acting on behalf of one or more of the titled owners, may bring or defend an action in the name of the titled owners, the property management entity, or the name by which the property is commonly known.

Notwithstanding any other provision to the contrary, if the defendant or plaintiff has been improperly named in the petition in an action concerning residential rental property, the real party in interest shall be substituted at the time the error is identified and the action shall not be dismissed or delayed except to the extent necessary to identify and serve the real parties in interest.

3. A person who in the regular course of business takes assignments of instruments or accounts pursuant to chapter 539, which assignments constitute small claims, may bring an action on an assigned instrument or account in the person's own name and need not be represented by an attorney, provided that in an action brought to recover payment on a dishonored check or draft, as defined in section 554.3104, the action is brought in the county of residence of the maker of the check or draft or in the county where the draft or check was first presented. Any person, however, may be represented in a small claims action by an attorney.

Sec. 88. 2006 Iowa Acts, Senate File 2251,[20] section 1, subsection 2, paragraph b, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (35) The Iowa podiatric medical society.

NEW SUBPARAGRAPH. (36) The Iowa speech-language hearing association.

Sec. 89. EFFECTIVE AND APPLICABILITY DATE PROVISIONS.

1. The section of this division of this Act amending section 7D.29, being deemed of immediate importance, takes effect upon enactment.

2. The section of this division of this Act amending section 427.1, subsection 21A, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2005, for assessment years beginning on or after that date.

3. The section of this division of this Act enacting section 441.38A takes effect January 1, 2007, and applies to assessment years beginning on or after that date.

DIVISION VI
SETTLEMENT OF STATE FINANCIAL AND TORT CLAIMS

Sec. 90. Section 8.6, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 15. STATE TORT CLAIMS — RISK MANAGEMENT COORDINATOR. Designate a position within the department to serve as the executive branch's risk management coordinator. The risk management coordinator shall have all of the following responsibilities:

a. Coordinating and monitoring risk control policies and programs in the executive branch,

[20] Chapter 1085 herein

including but not limited to coordination with the employees of departments who are responsible for the workers' compensation for state employees and management of state property.

b. Consulting with the attorney general with respect to the risk control policies and programs and trends in claims and liability of the state under chapter 669.

c. Coordinating the state's central data repository for claims and risk information.

The costs of salary, benefits, and support for the risk management coordinator shall be authorized by the state appeal board established in chapter 73A and shall be paid as claims for services furnished to the state under section 25.2.

Sec. 91. Section 8A.512, subsection 1, paragraph b, subparagraph (3), Code 2005, is amended to read as follows:

(3) Claims approved by an agency according to the provisions of ~~sections 25.1 and~~ section 25.2.

Sec. 92. Section 22.7, subsection 32, Code Supplement 2005, is amended to read as follows:

32. Social security numbers of the owners of unclaimed property reported to the treasurer of state pursuant to section 556.11, subsection 2, included on claim forms filed with the treasurer of state pursuant to section 556.19, included in outdated warrant reports received by the treasurer of state pursuant to section ~~25.2~~ 556.2C, or stored in record systems maintained by the treasurer of state for purposes of administering chapter 556, or social security numbers of payees included on state warrants included in records systems maintained by the department of administrative services for the purpose of documenting and tracking outdated warrants pursuant to section ~~25.2~~ 556.2C.

Sec. 93. Section 25.1, subsection 1, Code 2005, is amended to read as follows:

1. ~~When~~ Except for those claims that are addressed as provided in section 25.2, subsection 2, when a claim is filed or made against the state, on which in the judgment of the director of the department of management the state would be liable except for the fact of its sovereignty or that it has no appropriation available for its payment, the director of the department of management shall deliver that claim to the state appeal board. However, this chapter does not apply to a claim as defined in section 669.2.

Sec. 94. Section 25.1, subsection 3, Code 2005, is amended by striking the subsection.

Sec. 95. Section 25.1, unnumbered paragraph 1, Code 2005, is amended by striking the unnumbered paragraph.

Sec. 96. Section 25.2, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The state appeal board with the recommendation of the special assistant attorney general for claims may approve or reject claims against the state of less than ~~ten~~ five years involving the following:

Sec. 97. Section 25.2, subsection 1, paragraph a, Code 2005, is amended by striking the paragraph.

Sec. 98. Section 25.2, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Notwithstanding the time period specified in subsection 1, the state appeal board may approve or reject a claim against the state of five years or more, provided an error was made by the state or the claim involves a dispute that commenced five years or more prior.

Sec. 99. Section 25.2, subsection 2, Code 2005, is amended to read as follows:

2. a. Notwithstanding subsection 1, an agency that receives a claim that is charged to a

funding source other than the general fund of the state that does not revert and is based on an outdated invoice, outdated bill for merchandise, or for services furnished to the state ~~pursuant to section 25.1, subsection 3,~~ may on its own approve or deny the claim. The agency shall provide the state appeal board with notification of receipt of the claim and action taken on the claim by the agency. The state appeal board shall adopt rules setting forth the procedures and standards for resolution of such claims by state agencies. Claims denied by an agency shall be forwarded to the state appeal board by the agency for further consideration, in accordance with this chapter.

b. The department of administrative services staff performing financial administration duties under chapter 8A, subchapter V, shall establish reporting requirements for dealing with claims under this subsection as necessary to conform with generally accepted accounting principles.

Sec. 100. Section 25.2, subsection 4, Code 2005, is amended by striking the subsection and inserting in lieu thereof the following:

4. Outstanding state warrants that have been canceled pursuant to section 8A.519 and were charged to the general fund of the state or another state funding source shall be addressed as provided in section 556.2C.

Sec. 101. Section 25.2, subsection 5, Code 2005, is amended by striking the subsection.

Sec. 102. NEW SECTION. 556.2C OUTSTANDING STATE WARRANTS.

1. a. An unpaid, outdated warrant that is canceled pursuant to section 8A.519 shall be included in a list of outstanding state warrants maintained by the director of the department of administrative services. On or before July 1 of each year, the director of the department of administrative services shall provide the office of the treasurer of state with a consolidated list of such outstanding warrants that have not been previously reported to the office.

b. The consolidated list shall be accompanied by supporting information as specified by the treasurer of state. The treasurer of state may include information regarding the outstanding warrants in the notice published pursuant to section 556.12 and on the treasurer of state's official internet website.

c. The reporting requirements of this section do not apply to outdated warrants charged to federal grants or other nonstate funds for which funding is no longer available as described in section 25.2.

2. An agreement to pay compensation to recover or assist in the recovery of an outstanding warrant made within twenty-four months after the date the warrant is canceled is unenforceable. However, an agreement made after twenty-four months from the date the warrant is canceled is valid if the fee or compensation agreed upon is not more than fifteen percent of the recoverable property, the agreement is in writing and signed by the payee, and the writing discloses the nature and value of the property and the name and address of the person in possession. This subsection does not apply to a payee who has a bona fide fee contract with a practicing attorney regulated under chapter 602, article 10.

Sec. 103. Section 556.18, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Any costs in connection with information on outstanding state warrants addressed pursuant to section 556.2C.

Sec. 104. Section 669.2, subsection 2, Code Supplement 2005, is amended to read as follows:

2. "Award" means any amount determined by the ~~state appeal board~~ attorney general to be payable to a claimant under section 669.3, and the amount of any compromise or settlement under section 669.9.

Sec. 105. Section 669.3, Code 2005, is amended to read as follows:

669.3 ADJUSTMENT AND SETTLEMENT OF CLAIMS.

1. ~~Authority is hereby conferred upon the state appeal board, acting~~ The attorney general, on behalf of the state of Iowa, ~~subject to the advice and approval of the attorney general, to~~ shall consider, ascertain, adjust, compromise, settle, determine, and allow any claim ~~as defined in~~ that is subject to this chapter. ~~If any claim is compromised, settled, or allowed in an amount of more than five thousand dollars, the unanimous approval of all members of the state appeal board and the attorney general shall be required and the approval of the district court of the state of Iowa for Polk county shall also be required.~~

2. ~~Claims~~ A claim made under this chapter shall be filed with the director of the department of management, who shall acknowledge receipt on behalf of the state ~~appeal board~~.

3. The state appeal board shall adopt rules and procedures for the handling, processing, and investigation of claims, ~~according to the provisions of the Iowa administrative procedure Act,~~ in accordance with chapter 17A.

Sec. 106. Section 669.4, unnumbered paragraph 5, Code 2005, is amended by striking the unnumbered paragraph.

Sec. 107. Section 669.5, Code 2005, is amended to read as follows:

669.5 WHEN SUIT PERMITTED — EMPLOYEES OF THE STATE.

1. ~~No~~ A suit shall not be permitted for a claim under this chapter unless the ~~state appeal board~~ attorney general has made final disposition of the claim~~; except that if~~. However, if the ~~state appeal board~~ attorney general does not make final disposition of a claim within six months after the claim is made in writing to the ~~state appeal board~~ director of the department of management, the claimant may, by notice in writing, withdraw the claim from consideration ~~of the state appeal board~~ and begin suit under this chapter. Disposition of or offer to settle any claim made under this chapter shall not be competent evidence of liability or amount of damages in any suit under this chapter.

2. a. Upon certification by the attorney general that a defendant in a suit was an employee of the state acting within the scope of the employee's office or employment at the time of the incident upon which the claim is based, the suit commenced upon the claim shall be deemed to be an action against the state under the provisions of this chapter, and if the state is not already a defendant, the state shall be substituted as the defendant in place of the employee.

b. If the attorney general refuses to certify that a defendant was acting within the scope of the defendant's office or employment as described in paragraph "a" at the time of the incident out of which the claim arose, the defendant may petition the court, with notice to the attorney general, for the court to find and certify that the defendant was an employee of the state and was acting within the scope of the defendant's office or employment. The defendant must file the petition within ninety days of the date the attorney general serves notice of the attorney general's refusal to provide certification as provided in paragraph "a". If the court issues the finding and certification, the suit shall be deemed to be brought against the state and subject to the provisions of this chapter and the state shall be substituted as the defendant party unless the state is already a defendant. If the court denies the petition for certification, the order shall not be a final order and is not subject to interlocutory appeal by the defendant.

Sec. 108. Section 669.13, Code 2005, is amended to read as follows:

669.13 LIMITATION OF ACTIONS.

1. ~~Every~~ A claim ~~and~~ or suit otherwise permitted under this chapter shall be forever barred, unless within two years after ~~such~~ the claim accrued, the claim is made in writing ~~to~~ and filed with the ~~state appeal board~~ director of the department of management under this chapter. The time to begin a suit under this chapter shall be extended for a period of six months from the date of mailing of notice to the claimant by the ~~state appeal board~~ attorney general as to the final disposition of the claim or from the date of withdrawal of the claim ~~from the state appeal~~

~~board~~ under section 669.5, if the time to begin suit would otherwise expire before the end of ~~such~~ the period.

2. If a claim is made or filed under any other law of this state and a determination is made by a state agency or court that this chapter provides the exclusive remedy for the claim, the ~~time~~ two-year period authorized in subsection 1 to make a claim and to begin a suit under this chapter shall be extended for a period of six months from the date of the court order making such determination or the date of mailing of notice to the claimant of such determination by a state agency, if the time to make the claim and to begin the suit under this chapter would otherwise expire before the end of ~~such~~ the two-year period. The time to begin a suit under this chapter may be further extended as provided in ~~the preceding paragraph~~ subsection 1.

3. This section is the only statute of limitations applicable to claims as defined in this chapter.

Sec. 109. Section 669.15, Code 2005, is amended to read as follows:

669.15 ~~ATTORNEY'S~~ ATTORNEY FEES AND EXPENSES.

The court rendering a judgment for ~~the~~ a claimant under this chapter~~,~~ or ~~the state appeal board, with the advice and approval of~~ the attorney general, making an award under section 669.3~~,~~ or ~~the attorney general making an award under section~~ 669.9, ~~as the case may be,~~ shall, as a part of the judgment or award, determine and allow reasonable ~~attorney's~~ attorney fees and expenses~~, to~~. The attorney fees and expenses shall be paid out of but not in addition to the amount of judgment or award recovered, to the attorneys representing the claimant. Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this section, if recovery be had, shall be guilty of a serious misdemeanor.

Sec. 110. Section 669.18, Code 2005, is amended to read as follows:

669.18 EXTENSION OF TIME.

If a claim is made or a suit is begun under this chapter, and if a determination is made by the ~~state appeal board~~ attorney general or by the court that the claim or suit is not permitted under this chapter for any reason other than lapse of time, the time to make a claim or to begin a suit under any other applicable law of this state shall be extended for a period of six months from the date of the court order making such determination or the date of mailing of notice to the claimant of such determination by the ~~state appeal board~~ attorney general, if the time to make the claim or begin the suit under such other law would otherwise expire before the end of such period.

Sec. 111. Section 669.19, Code 2005, is amended to read as follows:

669.19 INVESTIGATION OF CLAIMS ~~BEFORE APPEAL BOARD~~.

~~Chapter 25 does not apply to claims as defined in this chapter. However, any or all of the provisions of sections 25.1, 25.4, and 25.5 may be made applicable to claims as defined in this chapter by agreement between the attorney general and the state appeal board from time to time.~~ The attorney general shall fully investigate each claim under this chapter and may exercise the authority provided in section 25.5 in performing the investigation.

Sec. 112. Section 669.20, Code 2005, is amended to read as follows:

669.20 LIABILITY INSURANCE.

~~Whenever~~ If a claim or suit against the state is covered by liability insurance, the provisions of the liability insurance policy on defense and settlement shall be applicable notwithstanding any inconsistent provisions of this chapter. The attorney general ~~and the state appeal board~~ shall ~~co-operate~~ cooperate with the insurance company.

Sec. 113. Section 669.21, Code 2005, is amended to read as follows:

669.21 EMPLOYEES DEFENDED AND INDEMNIFIED.

1. ~~The~~ Except as otherwise provided in subsection 2, the state shall defend any employee,

and shall indemnify and hold harmless an employee against any claim as defined in section 669.2, subsection 3, paragraph "b", including claims arising under the Constitution, statutes, or rules of the United States or of any state.

2. a. The duty to indemnify and hold harmless shall not apply and the state shall be entitled to restitution from an employee if the employee fails to cooperate in the investigation or defense of the claim, as defined in this section, or if, in an action commenced by the state against the employee, it is determined that the conduct of the employee upon which a tort claim or demand was based constituted a willful and wanton act or omission or malfeasance in office.

b. The duty to indemnify and hold harmless shall not apply if, in a suit commenced against the employee, the state has been substituted as the defendant in place of the employee, as provided in section 669.5.

DIVISION VII
CORRECTIVE PROVISIONS

Sec. 114. Section 8A.204, subsection 3, paragraph g, subparagraph (4), unnumbered paragraph 2, as enacted by 2006 Iowa Acts, House File 2705,[21] section 1, is amended to read as follows:

The board shall keep detailed minutes of all discussion, persons present, and action occurring at a closed session, and shall also tape record all of the closed session. The minutes and the tape recording of a session closed under this subparagraph shall be made available for public examination when a final decision is made regarding whether to issue the request for proposals. All board actions and decisions regarding this information shall be made in open ~~meetings~~ session and appropriately recorded.

Sec. 115. Section 35A.14, subsection 3, if enacted by 2006 Iowa Acts, Senate File 2312,[22] section 1, is amended to read as follows:

3. The department may receive and accept donations, grants, gifts, and contributions from any public or private source for the purpose of providing grants under this section. Moneys received by the department pursuant to this subsection shall be deposited in an injured veterans trust fund which shall be created in the state treasury under the control of the department. Moneys credited to the trust fund ~~shall be~~ are appropriated to the department for the purpose of providing injured veterans grants under this section and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except as provided in this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the trust fund shall be credited to the trust fund.

Sec. 116. Section 70A.23, subsection 3, paragraph a, as enacted by 2006 Iowa Acts, Senate File 2231,[23] is amended to read as follows:

a. An eligible state employee, excluding an employee covered under a collective bargaining agreement which provides otherwise or an employee of the state board of regents, who retires and receives a payment as provided in subsection 2 shall be entitled to elect to have the employee's available remaining value of sick leave ~~to be~~ used to pay the state share for the employee's continuation of state group health insurance coverage pursuant to the requirements of this subsection.

Sec. 117. Section 91.4, subsection 9, Code 2005, as amended by 2006 Iowa Acts, House File 2586,[24] section 1, if enacted, is amended to read as follows:

9. The commissioner may establish rules pursuant to chapter 17A to assess and collect interest on fees, penalties, and other amounts due the division. The commissioner may delay~~,~~ or, following written notice, deny the issuance of a license, commission, registration, certificate, or permit authorized under chapter 88A, 89, 89A, 90A, 91C, or 94A if the applicant for the

[21] Chapter 1072 herein
[22] Chapter 1106 herein
[23] Chapter 1020 herein
[24] Chapter 1053 herein

license, commission, registration, certificate, or permit owes a liquidated debt to the commissioner.

Sec. 118. Section 123.3, subsection 37, as amended by 2006 Iowa Acts, Senate File 2305,[25] section 1, is amended to read as follows:

37. "Wine" means any beverage containing more than five percent of alcohol by weight but not more than seventeen percent of alcohol by weight or twenty-one and twenty-five hundredths percent of alcohol by volume obtained by the fermentation of the natural sugar contents of fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grain, cereal, molasses, or cactus.

Sec. 119. Section 124.506A, subsection 1, as enacted by 2006 Iowa Acts, House File 2696,[26] section 1, is amended to read as follows:

1. Notwithstanding the provisions of section 124.506, if more than ten pounds of marijuana or more than one pound of any other controlled substance is seized ~~in~~ as a result of a violation of this chapter, the law enforcement agency responsible for retaining the seized controlled substance may destroy the seized controlled substance if the law enforcement agency retains at least ten pounds of the marijuana seized or at least one pound of any other controlled substance seized for evidence purposes.

Sec. 120. Section 266.27, Code 2005, as amended by 2006 Iowa Acts, Senate File 2253,[27] section 34, is amended to read as follows:

266.27 ACT ACCEPTED.

The assent of the general assembly of the state of Iowa is hereby given to the provisions and requirements of the Smith-Lever Act, 38 Stat. 372 – 374, approved May ~~18~~ 8, 1914, and any amendments to that Act, codified at 7 U.S.C. § 341 – 349.

Sec. 121. Section 331.756, subsection 44, Code Supplement 2005, is amended by striking the subsection.

Sec. 122. Section 455G.31, subsection 2, paragraph a, if enacted by 2006 Iowa Acts, House File 2754,[28] section 25, is amended to read as follows:

a. For gasoline storage and dispensing infrastructure other than the dispenser, the department of natural resources under this chapter or the state fire marshal under chapter 101~~, division II~~ must determine that it is compatible with E-85 gasoline.

Sec. 123. Section 541A.3, subsection 1, unnumbered paragraph 1, Code 2005, as amended by 2006 Iowa Acts, House File 2644,[29] section 5, is amended to read as follows:

Payment by the state of a savings refund on amounts of up to two thousand dollars per calendar year that an account holder deposits in the account holder's account. Moneys transferred to an individual development account from another individual development account and a savings refund received by the account holder in accordance with this section ~~541A.3~~ shall not be considered an account holder deposit for purposes of determining a savings refund. Payment of a savings refund either shall be made directly to the account holder or to an operating organization's central reserve account for later distribution to the account holder in the most appropriate manner as determined by the administrator. The state savings refund shall be the indicated percentage of the amount deposited:

Sec. 124. Section 602.8102, subsection 38, Code Supplement 2005, is amended by striking the subsection.

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[25] Chapter 1032 herein
[26] Chapter 1027 herein
[27] Chapter 1030 herein
[28] Chapter 1142 herein
[29] Chapter 1016 herein

Sec. 125. 2006 Iowa Acts, House File 2238,[30] section 2, subsection 1, paragraph d, is amended to read as follows:

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~~, mental retardation, developmental disabilities, and brain injury 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.

Sec. 126. CONTINGENT REPEAL — IPERS. The section of 2006 Iowa Acts, House File 2245,[31] amending section 97B.1A, subsection 24, paragraph "c", is repealed if the section of 2006 Iowa Acts, House File 729,[32] amending section 97B.1A, subsection 24, paragraph "c", is enacted.

Sec. 127. 2006 Iowa Acts, House File 2713,[33] as enacted, is amended by adding the following new section:

SEC. 23A. Section 256F.4, subsection 8, Code 2005, is amended to read as follows:

8. A charter school may enter into contracts in accordance with chapter ~~73A~~ 38.

Sec. 128. COLLABORATIVE EDUCATIONAL FACILITY — CODE EDITOR DIRECTIVE. The Code editor shall codify the provisions of 2006 Iowa Acts, House File 864,[34] notwithstanding that the Act was drafted to the Code 2005 rather than to the Code Supplement 2005. The provisional numbering in that Act in section 423.3 of new subsection 85 and in section 423.4 of new subsection 4 used subsection numbers that were not assigned in the Code 2005 and their use in that Act does not imply that the subsections in sections 423.3 and 423.4, Code Supplement 2005, with those same subsection numbers, are in any way affected. In addition, the Code editor, under the authority of section 2B.13 relating to the correction of internal references to sections which have been repealed, shall insert before the references to chapter 504A in sections 2 and 3 of that Act the words "former chapter".

Approved June 2, 2006, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2797, an Act relating to state and local finances by providing for funding of property tax credits and reimbursements, by making, increasing, reducing, and transferring appropriations, providing for salaries and compensation of state employees, providing for fees and penalties, providing tax exemptions, and providing for properly related matters, and including effective and retroactive applicability date provisions.

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30 Chapter 1168 herein
31 Chapter 1092 herein
32 Chapter 1091 herein
33 Chapter 1017 herein
34 Chapter 1001 herein

House File 2797 is approved on this date with the following exceptions, which I hereby disapprove:

I am unable to approve the items designated as Section 37 and Section 52 in their entirety. Both provisions direct the Department of Natural Resources to borrow money from the manure management indemnity fund for database upgrades. The related legislation (HF 2755), however, did not pass both chambers so these items are no longer necessary.

I am unable to accept the item designated as Section 81 in its entirety. This provision adds "canines from licensed facilities" to the list of farm products under chapter 352 of the Iowa Code. That chapter allows counties to regulate land use through adoption of zoning ordinances if a county so chooses. To include licensed canine facilities to the list of farm products would eliminate a county's ability to address the concerns of neighbors and the impacts such operations would have on adjacent property.

Commercial dog kennels are generally the type of use that most zoning ordinances only allow as a "special use" rather than a "permitted use." Special uses generally require public hearings before a Zoning Board of Adjustments, which gives neighbors the right to know and voice input during the review process. Approval of this bill would eliminate that right.

I am unable to accept the item designated as Section 83 in its entirety. This provision adds "canines from licensed facilities" to the definition of an "agricultural product" under section 423.1 of the Iowa Code, thereby eliminating the sales tax on inputs for commercial dog kennels. Simply put, breeding dogs is not equivalent to any of the other activities that fall within the definition of an agricultural product, which includes "flowering, ornamental, or vegetable plants and those products of aquaculture." Moreover, other services involved in the breeding and raising companion animals must charge sales tax, including veterinary and grooming services. There is no compelling reason why commercial dog kennels should enjoy a tax advantage not offered to others in the business of raising companion animals.

Concern has been raised about the item designated as Section 87 of this bill. This provision allows for an employee of a property management company to institute a claim in small claims court on behalf of the property owner. This language was in response to a recent change in Polk County to the longstanding practice of allowing property management companies to initiate actions in small claims court. I call upon the General Assembly to review this provision next legislative session to make it clear that this change does not ease restrictions on the unauthorized practice of law in small claims court.

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 2797 are hereby approved this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1186

WORLD FOOD PRIZE AWARDS CEREMONY

S.J.R. 2001

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 19, 2006, 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 21, 2006

CHAPTER 1187

NULLIFICATION OF ADMINISTRATIVE RULE — MANDATORY REPORTING BY IOWA BOARD OF DENTAL EXAMINERS LICENSEES

H.J.R. 2006

A JOINT RESOLUTION nullifying administrative rules relating to the mandatory reporting of certain acts or omissions by persons licensed by the Iowa board of dental examiners and providing an effective date.

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

Section 1. 650 Iowa administrative code, rule 10.6, subrule 4, and rule 30.4, subrule 24, first unnumbered paragraph, relating to the mandatory reporting of certain acts or omissions by persons licensed by the Iowa board of dental examiners, are nullified.

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

Effective May 3, 2006

CHAPTER 1188

PROPOSED CONSTITUTIONAL AMENDMENT
— QUALIFICATION OF ELECTORS

H.J.R. 5

First Time Passed

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa relating to the qualification of electors.

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

Section 1. The following amendment to the Constitution of the State of Iowa is proposed:

Section 5 of Article II of the Constitution of the State of Iowa is repealed and the following adopted in lieu thereof:

DISQUALIFIED PERSONS. SEC. 5. A person adjudged mentally incompetent to vote or a person convicted of any infamous crime shall not be entitled to the privilege of an elector.

Sec. 2. REFERRAL AND PUBLICATION. The foregoing amendment to the Constitution of the State of Iowa is referred to the General Assembly to be chosen at the next general election for members of the General Assembly, and the Secretary of State is directed to cause the same to be published for three consecutive months previous to the date of that election as provided by law.

ANALYSIS OF TABLES

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CONVERSION TABLES OF SENATE AND HOUSE FILES AND JOINT RESOLUTIONS TO CHAPTERS OF THE ACTS OF THE GENERAL ASSEMBLY

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2183	1133	2290	1076	2362	1116
2194	1018	2292	1077	2363	1145
2199	1028	2299	1040	2364	1117
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CONVERSION TABLES OF SENATE AND HOUSE FILES AND JOINT RESOLUTIONS TO CHAPTERS OF THE ACTS OF THE GENERAL ASSEMBLY — Continued

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722	1147	2507	1025	2679	1057
729	1091	2508	1083	2686	1126
864	1001	2509	1046	2695	1037
2002	1173	2512	1035	2696	1027
2050	1002	2515	1097	2697	1150
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2080	1167	2522	1052	2706	1127
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2171	1043	2540	1178	2713	1017
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2238	1168	2546	1121	2734	1184
2240	1065	2557	1174	2740	1129
2244	1108	2558	1183	2742	1104
2245	1092	2562	1122	2743	1181
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2319	1113	2565	1099	2751	1111
2330	1093	2567	1123	2754	1142
2331	1094	2569	1036	2759	1175
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2333	1033	2586	1053	2765	1143
2337	1034	2587	1015	2768	1105
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2365	1058	2612	1124	2777	1131
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8A.204[3g(4)] **S**	1072, §1; 1185, §114
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[2] Code Supplement 2005 probably intended
[3] Code Supplement 2005 probably intended
[4] Code Supplement 2005 probably intended

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[6] Not enacted
[7] Not enacted

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WATER AND WATERCOURSES

2006 First Extraordinary Session

of the

Eighty-First General Assembly

of the

State of Iowa

HELD AT DES MOINES, THE CAPITAL OF THE STATE

FIRST EXTRAORDINARY SESSION HELD THE FOURTEENTH DAY OF JULY, A.D. 2006
IN THE ONE HUNDRED SIXTIETH YEAR OF THE STATE

CHAPTER 1001

EMINENT DOMAIN

H.F. 2351

AN ACT relating to government authority, including eminent domain authority and condemnation procedures, and other properly related matters, and including effective and applicability provisions.

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

Section 1. Section 6A.4, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Upon the owner or lessee of lands, which have no public or private way to the lands, for the purpose of providing a public way~~, not exceeding forty feet in width,~~ which will connect with an existing public road. The condemned public way shall not exceed forty feet in width when such lands are agricultural or have a single residence located on them. For all other uses, the condemned public way shall not exceed sixty-six feet. The condemned public way shall be located on a division, subdivision or "forty" line, or immediately adjacent thereto, and along the line which is the nearest feasible route to an existing public road, or along a route established for a period of ten years or more by an easement of record or by use and travel to and from the property by the owner and the general public. The public way shall not interfere with buildings, orchards, or cemeteries. When passing through enclosed lands, the public way shall be fenced on both sides by the condemner upon request of the owner of the condemned land. The condemner or the condemner's assignee, shall provide easement for access to the owner of property severed by the condemnation. The public way shall be maintained by the condemner or the condemner's assignee, and shall not be considered any part of the primary or secondary road systems.

Sec. 2. Section 6A.21, subsection 2, Code 2005, is amended to read as follows:

2. The limitation on the definition of public use, public purpose, or public improvement does not apply to ~~a slum area or blighted area as defined in section 403.17, or to agricultural land acquired for industry as that term is defined in section 260E.2, or to~~ the establishment, relocation, or improvement of a road pursuant to chapter 306, or to the establishment of a railway under the supervision of the department of transportation as provided in section 327C.2, or to an airport as defined in section 328.1, or to land acquired in order to replace or mitigate land used in a road project when federal law requires replacement or mitigation. This limitation also does not apply to utilities, ~~or~~ persons, companies, or corporations under the jurisdiction of the Iowa utilities board in the department of commerce or to any other utility conferred the right by statute to condemn private property or to otherwise exercise the power of eminent domain.

Sec. 3. NEW SECTION. 6A.22 ADDITIONAL LIMITATIONS ON EXERCISE OF POWER — DEFINITIONS.

1. In addition to the limitations in section 6A.21, the authority of an acquiring agency to condemn any private property through eminent domain may only be exercised for a public purpose, public use, or public improvement. However, if the owner of the property consents to the condemnation, the property may be condemned for any purpose.

2. a. "Public use", "public purpose", or "public improvement" means one or more of the following:

(1) The possession, occupation, and enjoyment of property by the general public or governmental entities.

(2) The acquisition of any interest in property necessary to the function of a public or private utility, common carrier, or airport or airport system.

(3) Private use that is incidental to the public use of the property, provided that no property shall be condemned solely for the purpose of facilitating such incidental private use.

(4) The acquisition of property pursuant to chapter 455H.

(5) The acquisition of property for redevelopment purposes and to eliminate slum or blighted conditions in that portion of an urban renewal area designated as a slum or blighted area if each parcel, or any improvements thereon, for which condemnation is sought is determined by the governing body of the municipality to be in a slum or blighted condition. However, for a project or acquisition plan adopted by the governing body of a municipality after due deliberation and public input, if seventy-five percent or more of the area included in the plan consists of property in a slum or blighted condition at the time the plan was established, the entire project or acquisition plan area is subject to condemnation by the municipality. The project or acquisition plan area shall only include the adjacent and contiguous parcels necessary for the completion of planned activities for a specific business or housing project. Before a municipality exercises its eminent domain authority to acquire properties in a project or acquisition plan area that are not in a slum or blighted condition, the municipality shall be required to adopt a resolution by a two-thirds majority to authorize the acquisition of such property by eminent domain. The resolution shall make a finding that includes at a minimum all of the following:

(a) The taking of such property is necessary to achieve the project or acquisition plan objectives.

(b) The taking of property for the project or acquisition plan will eliminate or rehabilitate the slum and blighted conditions in the area.

(c) If the specific project is for a business, the proposed project or acquisition plan will confer economic benefits upon the municipality.

For purposes of this subparagraph (5):

(a) "Blighted condition" means the presence of a substantial number of slum or deteriorated structures; insanitary or unsafe conditions; excessive and uncorrected deterioration of site or other improvements; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; or the existence of conditions which endanger

life or property by fire and other causes; or the existence of conditions which retard the provision of housing accommodations for low or moderate income families, or is a menace to the public health and safety in its present condition and use.

(b) "Slum condition" means a condition conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, or detrimental to the public health and safety due to a predominance of buildings or improvements, whether residential or nonresidential, by reason of the following: by reason of dilapidation, deterioration that is excessive and uncorrected, age or obsolescence; by reason of inadequate provision for sanitation; by reason of high density of population and overcrowding; by reason of the existence of conditions which endanger life or property by fire and other causes; or by reason of any combination of such factors.

(c) In no case shall land that is agricultural land be determined to be in a slum condition or blighted condition.

(d) "Project or acquisition plan" means the planned activities of a municipality to rehabilitate or redevelop specific property in that portion of an urban renewal area designated as a slum or blighted area pursuant to chapter 403. The planned activities may include the sale and acquisition of property; demolition and removal of buildings and improvements; construction, repair, and rehabilitation of buildings or other improvements; and installation, construction, or reconstruction of streets and utilities.

(e) "Economic benefits" means the creation of new employment opportunities or the retention of employment opportunities.

b. Except as specifically included in the definition in paragraph "a", "public use" or "public purpose" or "public improvement" does not mean economic development activities resulting in increased tax revenues, increased employment opportunities, privately owned or privately funded housing and residential development, privately owned or privately funded commercial or industrial development, or the lease of publicly owned property to a private party.

c. Notwithstanding paragraph "a":

(1) If private property is to be condemned for development or creation of a lake, only that number of acres justified as necessary for a surface drinking water source, and not otherwise acquired, may be condemned. In addition, the acquiring agency shall conduct a review of prudent and feasible alternatives to provision of a drinking water source prior to making a determination that such lake development or creation is reasonable and necessary. Development or creation of a lake as a surface drinking water source includes all of the following:

(a) Construction of the dam, including sites for suitable borrow material and the auxiliary spillway.

(b) The water supply pool.

(c) The sediment pool.

(d) The flood control pool.

(e) The floodwater retarding pool.

(f) The surrounding area upstream of the dam no higher in elevation than the top of the dam's elevation.

(g) The appropriate setback distance required by state or federal laws and regulations to protect drinking water supply.

For purposes of this subparagraph (1), "number of acres justified as necessary for a surface drinking water source" means according to guidelines of the United States natural resource conservation service and according to analyses of surface drinking water capacity needs conducted by one or more registered professional engineers.

(2) The use of eminent domain authority to acquire private property in the unincorporated area of a county for use as an airport, airport system, or aviation facilities is prohibited, notwithstanding any provision of the law to the contrary, if the property to be condemned is located outside the geographic boundaries of the city or county operating the airport, airport system, or aviation facilities or outside the geographic boundaries of the member municipalities of the commission or authority. However, an acquiring agency may proceed with condemnation of property under these circumstances if the board of supervisors of the county where the

property for which condemnation is sought is located holds a public hearing on the matter and subsequent to the hearing approves, by resolution, the condemnation action. This subparagraph does not apply if any of the following conditions is met:

(a) The property to be condemned is for an improvement to an existing airport, airport system, or aviation facilities if such improvement is required by federal law, regulation, or order or if such improvement is included in an airport layout plan approved by the federal aviation administration for the existing site of the airport, airport system, or aviation facilities.

(b) The property to be condemned has been zoned by a city or county for use as an airport, airport system, or aviation facilities.

(c) The property to be condemned is for a proposed airport, airport system, or aviation facilities that as of July 1, 2006, was designated in the federal aviation administration national plan for integrated airport services, and the property to be condemned is located within the county where at least one of the cities that will participate in operation of the proposed airport, airport system, or aviation facilities is located.

Sec. 4. NEW SECTION. 6A.22A EXCEPTION FOR CERTAIN URBAN RENEWAL AREAS.

1. The requirement in section 6A.22, subsection 2, paragraph "a", subparagraph (5), that eminent domain authority be exercised on a parcel-by-parcel basis and the exception in that subparagraph (5) for project or acquisition plans with seventy-five percent or more of the area consisting of property in a slum or blighted condition, take effect October 1, 2006. However, if an acquiring agency adopts a resolution after the date of enactment of this Act but before October 1, 2006, approving acquisition of property by eminent domain in that portion of an urban renewal area designated as a slum or blighted area, such requirement or exception shall not apply to any condemnation application seeking to condemn that property if the application is filed before October 1, 2007, with the chief judge of the judicial district of the county in which the property is located.

2. This section is repealed December 31, 2007.

Sec. 5. NEW SECTION. 6A.23 JUDICIAL REVIEW OF EMINENT DOMAIN AUTHORITY.

1. An owner of property described in an application for condemnation may bring an action challenging the exercise of eminent domain authority or the condemnation proceedings. Such action shall be commenced within thirty days after service of notice of assessment pursuant to section 6B.8 by the filing of a petition in district court. Service of the original notice upon the acquiring agency shall be as required in the rules of civil procedure. In addition to the owner of the property, a contract purchaser of record of the property or a tenant occupying the property under a recorded lease shall also have standing to bring such action.

2. An acquiring agency that proposes to acquire property by eminent domain may file a petition in district court seeking a determination and declaration that its finding of public use, public purpose, or public improvement necessary to support the taking meets the definition of those terms. The action shall be commenced by the filing of a petition identifying all property owners whose property is proposed to be acquired, any contract purchaser of record of the property, and any tenant known to be occupying the property, and including a description of the properties proposed to be acquired and a statement of the public use, public purpose, or public improvement supporting the acquisition of the property by eminent domain. The original notice shall be served as required by the rules of civil procedure on each property owner named in the petition and on any contract purchaser of record of the property and on any tenant occupying the property under a recorded lease. Such action may be commenced by an acquiring agency at any time prior to the filing of an application for condemnation pursuant to section 6B.3.

3. For any action brought under this section, the burden of proof shall be on the acquiring agency to prove by a preponderance of the evidence that the finding of public use, public purpose, or public improvement meets the definition of those terms. If a property owner or a con-

tract purchaser of record or a tenant occupying the property under a recorded lease prevails in an action brought under this section, the acquiring agency shall be required to pay the costs, including reasonable attorney fees, of the adverse party.

Sec. 6. Section 6B.2B, Code 2005, is amended to read as follows:

6B.2B ACQUISITION NEGOTIATION ~~STATEMENT OF RIGHTS~~.

The acquiring agency shall make a good faith effort to negotiate with the owner to purchase the private property or property interest before filing an application for condemnation or otherwise proceeding with the condemnation process. An acquiring agency shall not make an offer to purchase the property or property interest that is less than the fair market value the acquiring agency has established for the property or property interest pursuant to the appraisal required in section 6B.45 or less than the value determined under the acquiring agency's waiver procedure established pursuant to section 6B.54, subsection 2, for acquisition of property with a low fair market value. A purchase offer made by an acquiring agency shall include provisions for payment to the owner of expenses, including relocation expenses, expenses listed in section 6B.54, subsection 10, and other expenses required by law to be paid by an acquiring agency to a condemnee. However, ~~an~~ in the alternative, the acquiring agency may make, and the owner may accept, a purchase offer from the acquiring agency that is an amount equal to one hundred thirty percent of the appraisal amount plus payment to the owner of expenses listed in section 6B.54, subsection 10, once those expenses have been determined. If the owner accepts such a purchase offer, the owner is barred from claiming payment from the acquiring agency for any other expenses allowed by law. An acquiring agency need not make an offer in excess of ~~that amount~~ the amounts described in this section in order to satisfy the requirement to negotiate in good faith. ~~An acquiring agency is deemed to have met the requirements of this section if the acquiring agency complies with section 6B.54.~~ The option to make an alternative purchase offer does not apply when property is being acquired for street and highway projects undertaken by the state, a county, or a city.

Sec. 7. NEW SECTION. 6B.2D NOTICE OF INTENT TO APPROVE ACQUISITION OF PROPERTY BY EMINENT DOMAIN.

1. The acquiring agency shall send notice of a proposed resolution, motion, or other document authorizing acquisition of property by eminent domain to each property owner whose property is proposed to be acquired by eminent domain, to any contract purchaser of record of the property, and to any tenant known to be occupying the property at least fourteen days prior to the date of the meeting at which such proposed authorization will be considered for adoption by the acquiring agency. The notice shall include the date, time, and place of the meeting and a statement that the persons receiving the notice have a right to attend the meeting and to voice objection to the proposed acquisition of the property. The notice shall include a copy of the proposed resolution, motion, or other document authorizing acquisition by eminent domain. The notice shall also include the same statement of individual rights that is required by section 6B.2A.

2. This section shall not apply to the following:

a. Street and highway projects undertaken by the state, a county, or a city.

b. Projects undertaken by a municipal utility.

c. Projects undertaken by a city enterprise providing services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, or solid waste disposal.

d. Projects undertaken by a county enterprise providing services described in section 331.461, subsection 2, paragraphs "b" and "f".

Sec. 8. Section 6B.3, subsection 1, paragraph d, Code 2005, is amended to read as follows:

d. The purpose for which condemnation is sought. ~~For purposes of section 6B.4A, if condemnation of agricultural land is sought by a city or county, or an agency of a city or county, for location of an industry as that term is defined in section 260E.2, the application shall so state. However, the city or county shall not be required to disclose information on an industrial prospect with which the city or county is currently negotiating.~~

Sec. 9. Section 6B.3, subsection 2, Code 2005, is amended to read as follows:

2. The applicant shall mail a copy of the application by certified mail to the owner at the owner's last known address, to any contract purchaser of record of the property, to any tenant known to be occupying the property, and to any record lienholder or encumbrancer of the property at the lienholder's or encumbrancer's last known address. The applicant shall also cause the application to be published once in a newspaper of general circulation in the county, not less than four nor more than twenty days before the meeting of the compensation commission to assess the damages. Service of the application by publication shall be deemed complete on the day of publication.

In lieu of mailing and publishing the application, the applicant may cause the application to be served upon the owner, contract purchaser of record, tenant known to be occupying the property, record lienholders, and record encumbrancers of the property in the manner provided by the Iowa rules of civil procedure for the personal service of original notice. The application shall be mailed and published or served, as above provided, prior to or contemporaneously with the mailing and publication or service of the list of compensation commissioners as provided in section 6B.4.

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

When indexed, the proceeding is considered pending so as to charge all persons not having an interest in the property with notice of its pendency, and while pending no interest can be acquired by the third parties in the property against the rights of the applicant. If the appraisement of damages by the commission pursuant to section 6B.14 is not made within one hundred twenty days of indexing, the proceedings instituted under this section are terminated and all rights and interests of the applicant arising out of the application for condemnation terminate. The applicant may reinstitute a new condemnation proceeding at any time. The reinstituted proceedings are entirely new proceedings and not a revival of the terminated proceeding.

Sec. 11. NEW SECTION. 6B.3A CHALLENGE BY OWNER.

An owner of property described in an application for condemnation may bring an action to challenge the exercise of eminent domain authority or the condemnation proceedings in the district court of the county in which the private property is situated as provided in section 6A.23.

Sec. 12. Section 6B.8, Code 2005, is amended to read as follows:

6B.8 NOTICE OF ASSESSMENT.

The applicant, or the owner or any lienholder or encumbrancer of any land described in the application, may, at any time after the appointment of the commissioners, have the damages to the lands of any such owner assessed by giving the other party, if a resident of this state, thirty days' notice, in writing. The notice shall specify the day and the hour when the compensation commission will meet, view the premises, and assess the damages. The notice shall be personally served upon all necessary parties in the same manner provided by the Iowa rules of civil procedure for the personal service of original notice. ~~If a city or county, or an agency of a city or county, is seeking to condemn agricultural land for an industry as that term is defined in section 260E.2, the notice shall inform the landowner that the landowner may request that the compensation commission review the application as provided in section 6B.4A.~~

Sec. 13. Section 6B.14, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Prior to the meeting of the commission, the commission or a commissioner shall not communicate with the applicant, property owner, or tenant, or their agents, regarding the condemnation proceedings. The commissioners shall meet in open session to view the property and to receive evidence, ~~but~~ may deliberate in closed session. When deliberating in closed session, the meeting is closed to all persons who are not commissioners except for personnel from the

sheriff's office if such personnel is requested by the commission. After deliberations commence, the commission and each commissioner is prohibited from communicating with any party to the proceeding~~, unless such communication occurs in the presence of or with the consent of the property owner and the other parties who appeared before the commission~~. However, if the commission is deliberating in closed session, and after deliberations commence the commission requires further information from a party or a witness, the commission shall notify the property owner and the acquiring agency that they are allowed to attend the meeting at which such additional information shall be provided but only for that period of time during which the additional information is being provided. The property owner and the acquiring agency shall be given a reasonable opportunity to attend the meeting. The commission shall keep minutes of all its meetings showing the date, time, and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

Sec. 14. Section 6B.14, Code 2005, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. In determining fair market value of property, the commissioners shall not consider only the assessed value assigned to such property for purposes of property taxation.

Sec. 15. Section 6B.33, Code 2005, is amended to read as follows:

6B.33 COSTS AND ATTORNEY FEES.

The ~~applicant~~ acquiring agency shall pay all costs of the assessment made by the commissioners and reasonable attorney fees and costs, including the reasonable cost of one appraisal, incurred by the condemnee as determined by the commissioners if the award of the commissioners exceeds one hundred ten percent of the final offer of the applicant prior to condemnation. The condemnee shall submit an application for fees and costs prior to adjournment of the final meeting of the compensation commission held on the matter. The ~~applicant~~ acquiring agency shall file with the sheriff an affidavit setting forth the most recent offer made to the person whose property is sought to be condemned. Members of such commissions shall receive a per diem of two hundred dollars and actual and necessary expenses incurred in the performance of their official duties. The ~~applicant~~ acquiring agency shall reimburse the county sheriff for the per diem and expense amounts paid by the sheriff to the members. The ~~applicant~~ acquiring agency shall reimburse the owner for the expenses the owner incurred for recording fees, penalty costs for full or partial prepayment of any preexisting recorded mortgage entered into in good faith encumbering the property, and for similar expenses incidental to conveying the property to the ~~applicant~~ acquiring agency. The ~~applicant~~ acquiring agency shall also pay all costs occasioned by the appeal, including reasonable attorney fees and the reasonable cost incurred by the property owner for one appraisal to be taxed by the court, unless on the trial thereof the same or a lesser amount of damages is awarded than was allowed by the tribunal from which the appeal was taken.

Sec. 16. Section 6B.42, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. The acquiring agency shall provide to the person, in addition to any other sums of money in payment of just compensation, the payments and assistance required by law, in accordance with chapter 316, as if the acquiring agency were a displacing agency under that chapter.

Sec. 17. Section 6B.45, Code 2005, is amended to read as follows:

6B.45 MAILING COPY OF APPRAISAL.

When any real property or interest in real property is to be purchased, or in lieu thereof to be condemned, the acquiring agency or its agent shall submit to the person, corporation, or

entity whose property or interest in the property is to be taken, by ordinary mail, at least ten days prior to the date upon which the acquiring agency or its agent contacts the property owner to commence negotiations, a copy of the appraisal in its entirety upon such real property or interest in such real property prepared for the acquiring agency or its agent, which shall include, at a minimum, an itemization of the appraised value of the real property or interest in the property, any buildings on the property, all other improvements including fences, severance damages, and loss of access. In determining fair market value of property, the acquiring agency shall not consider only the assessed value assigned to such property for purposes of property taxation. The appraisal sent to the condemnee shall be that appraisal upon which the condemnor will rely to establish an amount which the condemnor believes to be just compensation for the real property. All other appraisals made on the property as a result of the condemnation proceeding shall be made available to the condemnee upon request. In lieu of an appraisal, a utility or person under the jurisdiction of the utilities board of the department of commerce, or any other utility conferred the right by statute to condemn private property, shall provide in writing by certified mail to the owner of record thirty days prior to negotiations, the methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount of each component. An acquiring agency may obtain a signed written waiver from the landowner to allow negotiations to commence prior to the expiration of the applicable waiting period for the commencement of negotiations.

Only the appraisal prepared under this section shall be forwarded to the compensation commission by the acquiring agency.

Sec. 18. Section 6B.54, Code 2005, is amended to read as follows:

6B.54 ~~FEDERALLY ASSISTED PROJECT AND DISPLACING ACTIVITIES —~~ ACQUISITION POLICIES FOR ACQUIRING AGENCIES.

For any ~~project or displacing activity that has received or will receive federal financial assistance as defined in section 316.1, for any state-funded projects, or for any other~~ public use, public purpose, or public improvement for which condemnation is sought, an acquiring agency shall, at a minimum, satisfy the following policies:

1. Every reasonable and good faith effort shall be made to acquire expeditiously real property by negotiation as provided in section 6B.2B.

2. Real property shall be appraised as required by section 6B.45 before the initiation of negotiations, and the owner or the owner's designated representative shall be given an opportunity to accompany at least one appraiser of the acquiring agency during an inspection of the property, except that an acquiring agency may prescribe a procedure to waive the appraisal in cases involving the acquisition of property with a low fair market value. In lieu of an appraisal, a utility or person under the jurisdiction of the utilities board of the department of commerce, or any other utility conferred the right by statute to condemn private property, shall provide in writing by certified mail to the owner of record thirty days before negotiations, the methods and factors used in arriving at an offered price for voluntary easements including the range of cash amount of each component.

3. Before the initiation of negotiations for real property, the acquiring agency shall establish an amount which it believes to be just compensation for the real property, and shall make a prompt offer to acquire the property for the full amount established by the agency. In no event shall the amount be less than the ~~lowest appraisal of the~~ fair market value ~~of~~ the acquiring agency has established for the property or property interest pursuant to the appraisal required in section 6B.45 or less than the value determined under the acquiring agency's waiver procedure established pursuant to subsection 2. A purchase offer made by an acquiring agency shall include provisions for payment to the owner of expenses, including relocation expenses, expenses listed in subsection 10, and other expenses required by law to be paid by an acquiring agency to a condemnee. However, in the alternative, the acquiring agency may make, and the owner may accept, a purchase offer from the acquiring agency that is an amount equal to one hundred thirty percent of the appraisal amount plus payment to the owner of expenses listed in subsection 10, once those expenses have been determined. If the owner accepts such a purchase offer, the owner is barred from claiming payment from the acquiring agency for any

other expenses allowed by law. In the case of a utility or person under the jurisdiction of the utilities board of the department of commerce, or any other utility conferred the right by statute to condemn private property, the amount shall not be less than the amount indicated by the methods and factors used in arriving at an offered price for a voluntary easement. The option to make an alternative purchase offer does not apply when property is being acquired for street and highway projects undertaken by the state, a county, or a city.

4. The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling or to move the person's business or farm operation without at least ninety days' written notice of the date by which the move is required.

5. If after damages have been finally determined and paid, an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

6. In no event shall the time of condemnation be advanced, or negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

7. If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of the owner's real property.

8. If the acquisition of only a portion of property would leave the owner with an uneconomical remnant, the acquiring agency shall offer to acquire that remnant. For the purposes of this chapter, an "uneconomical remnant" is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, where the acquiring agency determines that the parcel has little or no value or utility to the owner.

9. A person whose real property is being acquired in accordance with this chapter, after the person has been fully informed of the person's right to receive just compensation for the property, may donate the property, any part of the property, any interest in the property, or any compensation paid for it as the person may determine.

10. As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is earlier, the acquiring agency shall reimburse the owner, to the extent the acquiring agency deems fair and reasonable, for expenses the owner necessarily incurred for all of the following:

a. Recording fees, transfer taxes, and similar expenses incidental to conveying the real property to the acquiring agency.

b. Penalty costs for full or partial prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property.

Payments and expenditures under this subsection are incident to and arise out of the program or project for which the acquisition activity takes place. Such payments and expenditures may be made from the funds made available for the program or project.

A person aggrieved by a determination as to the eligibility for or amount of a reimbursement may apply to have the matter reviewed by the acquiring agency or in accordance with section 316.9 if applicable.

11. An owner shall not be required to surrender possession of real property before the acquiring agency concerned pays the agreed purchase price.

12. After damages have been finally determined and paid, the acquiring agency may offer, and the owner may accept, an amount equal to thirty percent of the amount of damages plus payment to the owner of expenses listed in subsection 10, once those expenses have been determined. If the owner accepts such an offer, the owner is barred from claiming payment from the acquiring agency for any other expenses allowed by law. This subsection does not apply when property is being acquired for street and highway projects undertaken by the state, a county, or a city.

Sec. 19. Section 6B.55, unnumbered paragraph 1, Code 2005, is amended to read as follows:

For any ~~program or project that has received or will receive federal financial assistance as defined in section 316.1, for any state-funded projects, or for any other~~ public use, public purpose, or public improvement for which condemnation is sought, an acquiring agency shall at a minimum satisfy the following policies:

Sec. 20. Section 6B.56, subsection 1, Code 2005, is amended to read as follows:

1. If real property condemned pursuant to this chapter is not used for the purpose stated in the application filed pursuant to section 6B.3 and the ~~condemner~~ acquiring agency seeks to dispose of the real property, the ~~condemner~~ acquiring agency shall first offer the property for sale to the prior owner of the condemned property as provided in this section. If real property condemned pursuant to this chapter is used for the purpose stated in the application filed pursuant to section 6B.3 and the acquiring agency seeks to dispose of the real property by sale to a private person or entity within five years after acquisition of the property, the acquiring agency shall first offer the property for sale to the prior owner of the condemned property as provided in this section. For purposes of this section, the prior owner of the real property includes the successor in interest of the real property.

Sec. 21. Section 6B.56, subsection 2, Code 2005, is amended to read as follows:

2. Before the real property may be offered for sale to the general public, the ~~condemner~~ acquiring agency shall notify the prior owner of the real property condemned in writing of the ~~condemner's~~ acquiring agency's intent to dispose of the real property, of the current appraised value of the real property, and of the prior owner's right to purchase the real property within sixty days from the date the notice is served at a price equal to the current appraised value of the real property or the fair market value of the property at the time it was acquired by the acquiring agency from the prior owner plus cleanup costs incurred by the acquiring agency, whichever is less. However, the current appraised value of the real property shall be the purchase price to be paid by the previous owner if any other amount would result in a loss of federal funding for projects funded in whole or in part with federal funds. The notice sent by the ~~condemner~~ acquiring agency as provided in this subsection shall be filed with the office of the recorder in the county in which the real property is located.

For purposes of this subsection, "cleanup costs" means costs incurred to abate a nuisance or a public nuisance as those terms are defined in chapters 657 and 657A and costs incurred to recycle and remediate land pursuant to chapter 455H.

Sec. 22. Section 6B.56, subsection 3, Code 2005, is amended to read as follows:

3. If the prior owner elects to purchase the real property at the price established in subsection 2, before the expiration of the sixty-day period, the prior owner shall notify the ~~condemner~~ acquiring agency in writing of this intention and file a copy of this notice with the office of the recorder in the county in which the real property is located.

Sec. 23. NEW SECTION. 6B.56A DISPOSITION OF CONDEMNED PROPERTY — FIVE-YEAR TIME PERIOD.

1. When five years have elapsed since property was condemned and the property has not been used for the purpose stated in the application filed pursuant to section 6B.3, and the acquiring agency has not taken action to dispose of the property pursuant to section 6B.56, the acquiring agency shall, within sixty days, adopt a resolution reaffirming the purpose for which the property will be used or offering the property for sale to the prior owner at a price as provided in section 6B.56. If the resolution adopted approves an offer of sale to the prior owner, the offer shall be made in writing and mailed by certified mail to the prior owner. The prior owner has one hundred eighty days after the offer is mailed to purchase the property from the acquiring agency.

2. If the acquiring agency has not adopted a resolution described in subsection 1 within the

sixty-day time period, the prior owner may, in writing, petition the acquiring agency to offer the property for sale to the prior owner at a price as provided in section 6B.56. Within sixty days after receipt of such a petition, the acquiring agency shall adopt a resolution described in subsection 1. If the acquiring agency does not adopt such a resolution within sixty days after receipt of the petition, the acquiring agency is deemed to have offered the property for sale to the prior owner.

3. The acquiring agency shall give written notice to the owner of the right to purchase the property under this section at the time damages are paid to the owner.

4. This section does not apply to property acquired for street and highway projects undertaken by the state, a county, or a city.

Sec. 24. Section 6B.57, Code 2005, is amended to read as follows:

6B.57 PROCEDURAL COMPLIANCE.

If an acquiring agency makes a good faith effort to serve, send, or provide the notices or documents required under this chapter to the owner and any contract purchaser of private property that is or may be the subject of condemnation, or to any tenant known to be occupying such property if notices or documents are required to be served, sent, or provided to such a person, but fails to provide the notice or documents to the owner and any contract purchaser, or to any tenant known to be occupying the property if applicable, such failure shall not constitute grounds for invalidation of the condemnation proceeding if the chief judge of the judicial district determines that such failure can be corrected by delaying the condemnation proceedings to allow compliance with the requirement or such failure does not unreasonably prejudice the owner or any contract purchaser.

Sec. 25. Section 6B.58, Code 2005, is amended to read as follows:

6B.58 ACQUIRING AGENCY — DEFINITION.

For purposes of this chapter, an "acquiring agency" means the state of Iowa or any person or entity conferred the right by statute to condemn private property or to otherwise exercise the power of eminent domain. In the exercise of eminent domain power, the words "applicant" and "condemner" mean acquiring agency as defined in this section, unless the context clearly requires otherwise.

Sec. 26. NEW SECTION. 6B.60 RENTAL CHARGES PROHIBITED.

Rent shall not be charged to a person in possession of the property and shall not accrue against the property owner until all or a portion of the compensation commission award has been paid to the condemnee pursuant to section 6B.25.

Sec. 27. NEW SECTION. 6B.61 APPROVAL OF LOCAL ELECTED OFFICIALS REQUIRED.

Notwithstanding any provision of law to the contrary, any entity created by or on behalf of one or more political subdivisions and granted, by statute, eminent domain authority to acquire property shall not exercise such authority outside the jurisdictional limits of the political subdivisions participating in the entity at the time of such exercise of authority without first presenting the proposal to acquire such property by eminent domain to the board of supervisors of each county where the property is located and such proposal receives the approval, by resolution, of each applicable board of supervisors. However, this section does not apply to an entity created by or on behalf of one or more political subdivisions if the entity is authorized by statute to act as a political subdivision and if this section would limit the ability of the entity to comply with requirements or limitations imposed by the Internal Revenue Code to preserve the tax exemption of interest payable on bonds or obligations of the entity acting as a political subdivision.

This section does not apply to a person issued a certificate of public convenience, use, and necessity under chapter 476A. This section does not apply to property condemned by or on

behalf of a multistate entity created to provide drinking water that has received or is receiving federal funds, but only if such property is to be acquired for water transmission and service lines, pump stations, water storage tanks, meter houses and vaults, related appurtenances, or supporting utilities.

Sec. 28. Section 28F.11, Code 2005, is amended to read as follows:

28F.11 EMINENT DOMAIN.

Any public agency participating in an agreement authorizing the joint exercise of governmental powers pursuant to this chapter may exercise its power of eminent domain to acquire interests in property, under provisions of law then in effect and applicable to the public agency, for the use of the entity created to carry out the agreement, provided that the power of eminent domain is not used to acquire interests in property which is part of a system of facilities in existence, under construction, or planned, for the generation, transmission or sale of electric power. In the exercise of the power of eminent domain, the public agency shall proceed in the manner provided by chapter 6B. Any interests in property acquired are acquired for a public purpose, as defined in chapter 6A, of the condemning public agency, and the payment of the costs of the acquisition may be made pursuant to the agreement or to any separate agreement between the public agency and the entity or the other public agencies participating in the entity or any of them. Upon payment of costs, any property acquired is the property of the entity.

Sec. 29. Section 327I.7, subsection 4, Code 2005, is amended to read as follows:

4. Exercise the power of eminent domain consistent with the provisions of chapters 6A and 6B.

Sec. 30. Section 330A.8, subsection 11, Code 2005, is amended to read as follows:

11. To have the power of eminent domain, ~~such power to be exercised in the manner provided by law for municipal corporations of this state~~ but only as provided in section 330A.13.

Sec. 31. Section 346.27, subsection 9, paragraph b, Code 2005, is amended to read as follows:

b. To acquire in the corporate name of the authority the fee simple title to the real property located within the area by purchase, gift, devise, or by the exercise of the power of eminent domain consistent with the provisions of chapters 6A and 6B, or to take possession of real estate by lease.

Sec. 32. Section 364.4, subsection 1, Code 2005, is amended to read as follows:

1. Acquire, hold, and dispose of property outside the city in the same manner as within. However, the power of a city to acquire property outside the city does not include the power to acquire property outside the city by eminent domain, except for the following, subject to the provisions of chapters 6A and 6B:

a. The operation of a city utility as defined in section 362.2.

b. The operation of a city franchise conferred the authority to condemn private property under section 364.2.

c. The operation of a combined utility system as defined in section 384.80.

d. The operation of a municipal airport.

e. The operation of a landfill or other solid waste disposal or processing site.

f. The use of property for public streets and highways.

g. The operation of a multistate entity, of which the city is a participating member, created to provide drinking water that has received or is receiving federal funds, but only if such property is to be acquired for water transmission and service lines, pump stations, water storage tanks, meter houses and vaults, related appurtenances, or supporting utilities.

The exceptions provided in paragraphs "a" through "c" apply only to the extent the city had this power prior to July 1, 2006.

Sec. 33. Section 389.3, unnumbered paragraph 2, Code 2005, is amended to read as follows:

A joint water utility is a political subdivision and an instrumentality of municipal government. The statutory powers, duties, and limitations conferred upon a city utility apply to a joint water utility, except that title to property of a joint water utility may be held in the name of the joint water utility. The joint water utility board shall have all powers and authority of a city with respect to property which is held by the joint water utility. A joint water utility shall have the power of eminent domain, including the powers, duties, and limitations conferred upon a city in chapters 6A and 6B, for the purposes of constructing and operating a joint water utility.

Sec. 34. Section 403.2, subsection 4, Code 2005, is amended to read as follows:

4. It is further found and declared that the powers conferred by this chapter are for public uses and purposes for which public money may be expended and for which the power of eminent domain, to the extent authorized, and police power exercised; and that the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination.

Sec. 35. Section 403.5, subsection 4, paragraph b, subparagraph (2), Code 2005, is amended to read as follows:

(2) If it is to be developed for nonresidential uses, the local governing body shall determine that such nonresidential uses are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives.

PARAGRAPH DIVIDED. The acquisition of open land authorized in subparagraphs (1) and (2) may require the exercise of governmental action, as provided in this chapter, because of defective or unusual conditions of title, diversity of ownership, tax delinquency, improper subdivisions, outmoded street patterns, deterioration of site, economic disuse, unsuitable topography or faulty lot layouts, or because of the need for the correlation of the area with other areas of a municipality by streets and modern traffic requirements, or any combination of such factors or other conditions which retard development of the area. If such governmental action involves the exercise of eminent domain authority, the municipality is subject to the limitations of this chapter and chapters 6A and 6B.

Sec. 36. Section 403.5, subsection 4, unnumbered paragraph 2, Code 2005, is amended by striking the unnumbered paragraph.

Sec. 37. Section 403.6, subsection 3, Code 2005, is amended to read as follows:

3. Within its area of operation, to enter into any building or property in any urban renewal area in order to make inspections, surveys, appraisals, soundings or test borings, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain or otherwise, any real property, or personal property for administrative purposes, together with any improvements thereon; to hold, improve, clear or prepare for redevelopment any such property; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the municipality against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this chapter: ~~Provided, however, that no statutory provision with respect to the acquisition, clearance or disposition of property by public bodies shall restrict a municipality or other public body exercising powers hereunder in the exercise of such functions with respect to an urban renewal project, unless the legislature shall specifically so state~~. A municipality or other public body exercising powers under this chapter with respect to the acquisition, clearance, or disposition of property shall not be restricted by any other statutory provision in the exercise of

such powers unless such statutory provision specifically states its application to this chapter or unless this chapter specifically applies restrictions contained in another statutory provision to the powers that may be exercised under this chapter.

Sec. 38. Section 403.7, Code 2005, is amended to read as follows:

403.7 CONDEMNATION OF PROPERTY.

1. A municipality shall have the right to acquire by condemnation any interest in real property, including a fee simple title thereto, which it may deem necessary for or in connection with an urban renewal project under this chapter, subject to the limitations on eminent domain authority in chapter 6A. However, a municipality shall not condemn agricultural land included within an economic development area for any use unless the owner of the agricultural land consents to condemnation or unless ~~the agricultural land is to be acquired for industry as that term is defined in section 260E.2~~ the municipality determines that the land is necessary or useful for any of the following:

a. The operation of a city utility as defined in section 362.2.

b. The operation of a city franchise conferred the authority to condemn private property under section 364.2.

c. The operation of a combined utility system as defined in section 384.80.

2. A municipality ~~may~~ shall exercise the power of eminent domain in the manner provided in chapter 6B~~, and Acts amendatory to that chapter or supplementary to that chapter, or it may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other statutory provisions for the exercise of the power of eminent domain~~. Property already devoted to a public use may be acquired in like manner. However, real property belonging to the state, or any political subdivision of this state, shall not be acquired without its consent, and real property or any right or interest in the property owned by any public utility company, pipeline company, railway or transportation company vested with the right of eminent domain under the laws of this state, shall not be acquired without the consent of the company, or without first securing, after due notice to the company and after hearing, a certificate authorizing condemnation of the property from the board, commission, or body having the authority to grant a certificate authorizing condemnation.

3. In a condemnation proceeding, if a municipality proposes to take a part of a lot or parcel of real property, the municipality shall also take the remaining part of the lot or parcel if requested by the owner.

Sec. 39. Section 403A.3, subsection 4, Code 2005, is amended to read as follows:

4. To lease or rent any dwellings, accommodations, lands, buildings, structures or facilities embraced in any project and (subject to the limitations contained in this chapter with respect to the rental of dwellings in housing projects) to establish and revise the rents or charges therefor; to own, hold and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise or otherwise any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property subject to section 403A.20; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein; to insure or provide for the insurance, in any stock or mutual company of any real or personal property or operations of the municipality against any risks or hazards; to procure or agree to the procurement of federal or state government insurance or guarantees of the payment of any bonds or parts thereof issued by a municipality, including the power to pay premiums on any such insurance.

Sec. 40. Section 403A.20, Code 2005, is amended to read as follows:

403A.20 CONDEMNATION OF PROPERTY.

A municipality shall have the right to acquire by condemnation any interest in real property, including a fee simple title thereto, which it may deem necessary for or in connection with a municipal housing project under this chapter, subject to the limitations on eminent domain authority in chapter 6A. A municipality ~~may~~ shall exercise the power of eminent domain in

the manner provided in chapter 6B~~, and acts amendatory thereof or supplementary thereto, or it may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other statutory provisions for the exercise of the power of eminent domain~~. Property already devoted to a public use may be acquired in like manner~~: Provided, that no~~. However, real property belonging to the state, or any political subdivision thereof, ~~may~~ shall not be acquired without its consent, ~~provided further that no~~ and real property or any right or interest ~~therein~~ in the property owned by any public utility company, pipeline company, railway or transportation company vested with the right of eminent domain under the laws of this state, shall not be acquired without the consent of ~~such~~ the company, or without first securing, after due notice to ~~such~~ the company and after hearing, a certificate authorizing condemnation of such property from the board, commission, or body having the authority to grant a certificate authorizing condemnation.

Sec. 41. Section 422.7, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 45. Subtract, to the extent included, the amount of ordinary or capital gain realized by the taxpayer as a result of the involuntary conversion of property due to eminent domain. However, if the total amount of such realized ordinary or capital gain is not recognized because the converted property is replaced with property that is similar to, or related in use to, the converted property, the amount of such realized ordinary or capital gain shall not be subtracted under this subsection until the remaining realized ordinary or capital gain is subject to federal taxation or until the time of disposition of the replacement property as provided under rules of the director. The subtraction allowed under this subsection shall not alter the basis as established for federal tax purposes of any property owned by the taxpayer.

Sec. 42. Section 422.35, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 22. Subtract, to the extent included, the amount of ordinary or capital gain realized by the taxpayer as a result of the involuntary conversion of property due to eminent domain. However, if the total amount of such realized ordinary or capital gain is not recognized because the converted property is replaced with property that is similar to, or related in use to, the converted property, the amount of such realized ordinary or capital gain shall not be subtracted under this subsection until the remaining realized ordinary or capital gain is subject to federal taxation or until the time of disposition of the replacement property as provided under rules of the director. The subtraction allowed under this subsection shall not alter the basis as established for federal tax purposes of any property owned by the taxpayer.

Sec. 43. Section 422.73, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding subsection 1, a claim for credit or refund of the income tax paid on the gain realized from the involuntary conversion of property due to a condemnation action is timely filed with the department as provided in this subsection if the taxpayer's claim is the result of the reacquisition by the taxpayer, as the prior owner, of the property condemned pursuant to section 6B.56, subsection 2, or section 6B.56A. The claim under this subsection shall be timely filed only if the claim is made prior to the end of the sixth month following the month in which the reacquisition occurs.

Sec. 44. Section 468.128, Code 2005, is amended to read as follows:

468.128 IMPOUNDING AREAS AND EROSION CONTROL DEVICES.

Levee and drainage districts are empowered to construct impounding areas and other flood and erosion control devices to protect lands of the district and drainage structures and may provide ways for access to improvements for the operation or protection thereof, where the cost is not excessive in consideration of the value to the district. Necessary lands or easements may be acquired within or without the district by purchase, lease or agreement, or by exercise of the right of eminent domain as provided for in chapter 6B and may be procured and con-

struction undertaken either independently or in co-operation with other districts, individuals, or any federal or state agency or political subdivision.

Sec. 45. Section 468.146, subsection 1, Code 2005, is amended to read as follows:

1. When a drainage district is established and a satisfactory outlet cannot be obtained except through lands in an adjoining county, or when an improved outlet cannot be obtained except through lands downstream from the district boundary, the board shall have the power to purchase a right of way, to construct and maintain such outlets, and to pay all necessary costs and expenses out of the district funds. The board shall have similar authority relative to the construction and maintenance of silt basins upstream from the district boundary. In case the board and the owners of the land required for such outlet or silt basin cannot agree upon the price to be paid as compensation for the land taken or used, the board is hereby empowered to exercise the right of eminent domain as provided for in chapter 6B in order to procure such necessary right of way.

Sec. 46. Section 468.366, Code 2005, is amended to read as follows:

468.366 SETTLING BASIN — CONDEMNATION.

If, before a district operating a pumping plant is completed and accepted, it appears that portions of the lands within said district are wet or nonproductive by reason of the floods or overflow waters from one or more streams running into, through, or along said district and that said district or some other district of which such district shall have formed a part, shall have provided a settling basin to care for the said floods and overflow waters of said stream or watercourse, but no channel to said settling basin has been provided, said board or boards are hereby empowered to lease, buy, or condemn the necessary lands within or without the district for such channel. Proceedings to condemn shall be as provided in chapter 6B for the exercise of the right of eminent domain.

Sec. 47. CODE EDITOR DIRECTIVE.

1. The Code editor is directed to make the following transfers:

a. Section 6B.10 to become subsection 2 of section 6B.9.

b. Section 6B.20 to become subsection 4 of section 6B.18.

c. Section 6B.27 to become subsection 2 of section 6B.26.

d. Sections 6B.39 and 6B.41 to become subsections 3 and 4, respectively, of section 6B.38.

e. Section 6B.43 to become unnumbered paragraph 3 of section 6B.4.

f. Sections 6B.47 through 6B.51 to become subsections 2 through 6, respectively, of section 6B.46.

g. Section 6B.58 to become subsection 2 of section 6B.1.

2. The Code editor is directed to correct internal references in the Code as necessary due to enactment of this section.

Sec. 48. Section 6B.4A, Code 2005, is repealed.

Sec. 49. EFFECTIVE AND APPLICABILITY DATES.

1. The section of this Act enacting section 422.73, subsection 3, being deemed of immediate importance, takes effect upon enactment and applies to reacquisitions of property occurring on or after the effective date of that section of this Act.

2. The sections of this Act enacting section 422.7, subsection 45, and section 422.35, subsection 22, apply retroactively to January 1, 2006, for tax years beginning on or after that date.

3. The sections of this Act amending sections 6B.2B and 6B.14, unnumbered paragraph 2, the portion of the section of this Act amending section 6B.54, subsection 3, and the section of this Act enacting section 6B.2D take effect January 1, 2007.

4. The sections of this Act amending section 6B.3, subsection 3, section 6B.56, subsection 2, sections 6B.57 and 6B.58, being deemed of immediate importance, take effect upon enactment.

5. The remainder of this Act, being deemed of immediate importance, takes effect upon enactment and applies to applications for condemnation filed pursuant to section 6B.3 on or after the date of enactment, with the following exceptions:

a. The section of this Act enacting section 6A.23 applies to applications for condemnation pending on the date of enactment of this Act if the appropriate parties have not been served with a notice of assessment pursuant to section 6B.8 as of the date of enactment of this Act.

b. The section of this Act amending section 6B.33 and that portion of the section of this Act enacting 6B.54, subsection 12, apply to applications for condemnation filed pursuant to section 6B.3 and pending on the date of enactment of this Act if the appraisement report required under section 6B.14 has not been filed with the sheriff as of the date of enactment of this Act.

Passed on reconsideration over the Governor's veto on July 14, 2006.

Christopher C. Rants
Speaker of the House

John P. Kibbie
President of the Senate

Jeffrey M. Lamberti
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2351, Eighty-first General Assembly, and was passed on reconsideration over the Governor's veto on July 14, 2006.

Margaret Thomson
Chief Clerk of the House

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