State of Iowa

2007

ACTS AND JOINT RESOLUTIONS (Session Laws)

Enacted at the

2007 REGULAR SESSION

of the

Eighty-Second General Assembly

of the

State of Iowa

HELD AT DES MOINES, THE CAPITAL OF THE STATE IN THE ONE HUNDRED SIXTY-FIRST YEAR OF THE STATE

REGULAR SESSION BEGUN ON THE EIGHTH DAY OF JANUARY AND ENDED ON THE TWENTY-NINTH DAY OF APRIL, A.D. 2007



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

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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 2007 Regular Session of the Eighty-second 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 SUPPLEMENT IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 2007 Iowa Code Supplement.

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

Effective and enactment dates. The Acts of the 2007 Regular Session took effect on July 1, 2007, 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. 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. A dagger is placed at the beginning of the enacting clause and a footnote is included for each enrolled Act or Resolution for which a mandate notation is required.

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

 $Orders \ for \ legal \ publications \ should \ be \ addressed \ to \ the \ Legislative \ Services \ Agency, 1112 \ E. \ Grand \ Avenue, \ Miller \ Building, \ Des \ Moines, Iowa \ 50319. \ Telephone \ (515) \ 281-6766$

	I	
	T	

TABLE OF CONTENTS

	Page
Preface	
Certification	
Statutes as Evidence	
Explanatory Notes	
Elective Officers	vii
General Assembly	viii
Judicial Department	xxi
Congressional Delegation and District Offices	xxii
Condition of State Treasury	XXV
REGULAR SESSION	
Analysis by Chapters	xxvii
General and Special Acts	1
Tables	967
Index	

	1	

ELECTIVE OFFICERS

Name and Office County from originally	
GOVERNOR	
CHESTER J. CULVER Patrick Dillon, Chief of Staff Casey Sinnwell, Governor's Scheduler	Polk Polk Polk
LIEUTENANT GOVERNOR	
PATTY JUDGE	Monroe Polk Wayne
SECRETARY OF STATE	
MICHAEL A. MAURO Linda Langenberg, Deputy of Elections Harry Davis, Deputy of Business Services Frank Chiodo, Deputy of Administration/Legislative Liaison Pam Conner, Deputy of Administration/Capitol Manager	Polk Linn Polk Polk Polk
AUDITOR OF STATE	
DAVID A. VAUDT Warren G. Jenkins, Chief Deputy Auditor of State Tamera S. Kusian, Deputy, Performance Investigation Division Andrew E. Nielsen, Deputy, Financial Audit Division	Polk Polk Polk Polk
TREASURER OF STATE	
MICHAEL L. FITZGERALD Stefanie G. Devin, Deputy Treasurer Karen Austin, Deputy Treasurer Steve Larson, Deputy Treasurer	Polk Polk Polk Polk
SECRETARY OF AGRICULTURE	
WILLIAM NORTHEY Karey Claghorn, Deputy Secretary Kenneth Tow, Director, Soil Conservation Division John Whipple, Director, Consumer Protection and Industry Services	Dickinson Warren Dallas Warren
ATTORNEY GENERAL	
THOMAS J. MILLER Tam Ormiston, Deputy Attorney General Julie Pottorff, Deputy Attorney General Thomas H. Miller, Deputy Attorney General Jeffrey C. Peterzalek, Acting Deputy Attorney General Eric Tabor, Chief of Staff	Polk Polk Polk Polk Polk Jackson

GENERAL ASSEMBLY

 $\hbox{``X''' means First Extraordinary Session; ``XX''' means Second Extraordinary Session} \\ It a licized county in District column denotes home county$

SENATORS

Name and Residence	<u>Occupation</u>	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), 81(2nd), 81(2nd)X
Appel, Staci	Legislator	37th—Dallas, Madison, Warren	None
Beall, Daryl Fort Dodge	Journalist	25th—Calhoun, Greene, Webster	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Behn, Jerry Boone	Farmer/Agribusiness	24th—Boone, Dallas	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Black, Dennis H Grinnell	Retired/Conservationist	21st—Jasper, Polk	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 80(1st), 80(1st)X, 80(2nd), 80(2nd), 81(2nd), 81(2nd)X
Boettger, Nancy J Harlan	Farmer/Former Educator	29th—Adair, Audubon, Cass, Guthrie, Pottawattamie, <i>Shelby</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Bolkcom, Joe Iowa City		39th—Johnson	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), 81 (2nd), 81 (2nd) X
Connolly, Michael Dubuque	Legislator	14th—Dubuque	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(2nd), 79(2nd)X, 79(2nd)X, 80(1st)X, 80(1st)X, 80(2nd), 81(2nd), 81(2nd), 81(2nd)
Courtney, Thomas G. Burlington	Retired	44th—Des Moines, Louisa, Muscatine	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Danielson, Jeff Cedar Falls	Professional Firefighter	10th—Black Hawk	81(1st), 81(2nd), 81(2nd)X

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Dearden, Dick L Des Moines	Retired/Job Developer —5th Judicial District	34th— <i>Polk</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Dotzler, William A., Jr. Waterloo	Retired/John Deere	11th—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), 81(2nd), 81(2nd)X
Dvorsky, Robert E Coralville	Job Developer—6th Judicial District Department of Correctional Services	15th—Johnson, Linn	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Fraise, Gene Fort Madison	Farmer	46th—Henry, Lee	71(2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Gaskill, E. Thurman Corwith	Farmer	6th—Cerro Gordo, Franklin, <i>Hancock</i> , Winnebago, Worth	77(2nd), 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), 81(2nd), 81(2nd)X
Gronstal, Michael E Council Bluffs	Majority Leader	50th—Pottawattamie	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, 80(1st), 80(1st)X, 80(2nd), 80(2nd), 81(1st), 81(2nd), 81(2nd)X
Hahn, James F	Property Management	40th—Cedar, Johnson, Muscatine	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), 81(2nd), 81(2nd)X
Hancock, Tom Epworth	Retired/United States Postal Service	16th—Delaware, Dubuque, Jones	81(1st), 81(2nd), 81(2nd)X
Hartsuch, David Bettendorf	Physician	41st—Scott	None
Hatch, Jack Des Moines	Real Estate Developer	33rd—Polk	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(2nd)X, 81(2nd)X

Heckroth, William M Waverly	Financial Advisor	9th—Black Hawk,	None
Hogg, Robert M Cedar Rapids	Attorney	19th— <i>Linn</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Horn, Wally E Cedar Rapids	Legislator	17th—Linn	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(2nd), 79(2nd)X, 80(1st)X, 80(1st)X, 80(1st)X, 81(1st), 81(2nd), 81(2nd)X
Houser, Hubert Carson	Farmer	49th—Fremont, Mills, Page, Pottawattamie	75, 76, 77, 78, 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), 81(2nd), 81(2nd)X
Johnson, David Ocheyedan	Dairy Farming	3rd—Clay, Dickinson, O'Brien, Osceola, Sioux	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), 81(2nd), 81(2nd)X
Kettering, Steve Lake View	Community Banker	26th—Buena Vista, Carroll, Crawford, Sac	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), 81(2nd), 81(2nd)X
Kibbie, John P. (Jack) Emmetsburg	Farmer/President of the Senate	4th—Emmet, Humboldt, Kossuth, <i>Palo Alto</i> , Pocahontas, Webster	59, 60, 60X, 61, 62, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Kreiman, Keith A Bloomfield	Attorney	47th—Appanoose, <i>Davis</i> , 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), 81(2nd), 81(2nd)X
Lundby, Mary A Marion	Legislator/Minority Leader	18th—Linn	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
McCoy, Matt Des Moines	Vice President Community Development— Downtown Community Alliance	31st—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), 81(2nd), 81(2nd)X

Name and Residence	Occupation	Senatorial District	Former Legislative Service
McKibben, Larry Marshalltown	Lawyer	22nd—Hardin, Marshall	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
McKinley, Paul Chariton	Businessman	36th—Jasper, <i>Lucas</i> , Mahaska, Marion, Monroe	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Mulder, Dave Sioux Center	Retired/College Professor	2nd—Lyon, Plymouth, Sioux	81(1st), 81(2nd), 81(2nd)X
Noble, Larry L	Retired/State Trooper	35th— <i>Polk</i>	None
Olive, Rich Story City	Insurance Agent/Real Estate Broker	5th—Hamilton, Story, Webster, Wright	None
Putney, JohnGladbrook	Executive Director— Iowa State Fair Blue Ribbon Foundation	20th—Benton, Grundy, Iowa, <i>Tama</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Quirmbach, Herman C. Ames	Associate Professor of Economics—Iowa State University	23rd—Boone, Story	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Ragan, Amanda Mason City	Executive Director— Community Kitchen of North Iowa/ Executive Director —Meals on Wheels	7th— <i>Cerro Gordo</i> , Floyd, Howard, Mitchell	79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Rielly, Tom Oskaloosa	Insurance Sales	38th—Iowa, Keokuk, <i>Mahaska</i> , Poweshiek, Tama	81(1st), 81(2nd), 81(2nd)X
Schmitz, Becky Fairfield	Social Worker	45th—Jefferson, Johnson, Van Buren, Wapello, Washington	None
Schoenjahn, Brian Arlington	Legislator/Custom Wood Business	12th—Black Hawk, Buchanan, Clayton, Delaware, <i>Fayette</i>	81(1st), 81(2nd), 81(2nd)X
Seng, Joe M., Dr Davenport	Veterinarian	43rd—Scott	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Seymour, James A Woodbine	Hospital Administrator/ CEO	28th—Crawford, Harrison, Ida, Monona, Pottawattamie, Woodbury	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Stewart, Roger Preston	Banker/Farmer	13th—Clinton, Dubuque, Jackson	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Ward, Pat West Des Moines	Former Public and Government Relations Executive	30th—Polk	80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X

Name and Residence	<u>Occupation</u>	Senatorial District	Former Legislative Service
Warnstadt, Steve Sioux City	Legislator/National Guard	1st—Woodbury	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Wieck, Ron Sioux City	Insurance Agent	27th—Cherokee, Plymouth, Woodbury	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Wood, Frank B Eldridge	High School Associate Principal	42nd—Clinton, Scott	81(1st), 81(2nd), 81(2nd)X
Zaun, Brad Urbandale	Vice President—R & R Realty Marketing Group	32nd—Polk	81(1st), 81(2nd), 81(2nd)X
Zieman, Mark Postville	Farmer/Trucking Company Owner	8th—Allamakee, Chickasaw, Howard, Winneshiek	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X

REPRESENTATIVES

Name and Residence	<u>Occupation</u>	Representative District	Former Legislative Service
Abdul-Samad, Ako Des Moines	CEO—Creative Visions	66th—Polk	None
Alons, Dwayne A Hull	Farmer	4th—Lyon, Sioux	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Anderson, Richard T Clarinda	Attorney	97th—Fremont, Mills, Page	81(1st), 81(2nd), 81(2nd)X
Arnold, Richard D Russell	Farmer	72nd— <i>Lucas</i> , Mahaska, Marion, Monroe	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Bailey, McKinley Webster City	Student	9th—Franklin, Hamilton, Webster, Wright	None
Baudler, Clel Greenfield	Retired/State Trooper/ Farmer	58th—Adair, Audubon, Cass, Guthrie	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Bell, Paul A Newton	Retired/Newton Police Lieutenant	41st—Jasper	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), 81(2nd), 81(2nd)X
Berry, Deborah L Waterloo	Corporate Fundraising Director KBBG-FM	22nd—Black Hawk	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Boal, Carmine Ankeny	Legislator	70th—Polk	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Bukta, Polly Clinton	Retired/Educator	26th—Clinton	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Chambers, Royd E Sheldon	Educator/Iowa Air National Guard	5th—Clay, O'Brien, Osceola, Sioux	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Clute, Dan Clive	Vice President— Citigroup	59th—Polk	None

Cohoon, Dennis M Burlington	Special Education Teacher	88th—Des Moines	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Dandekar, Swati A Marion	Community Leader	36th— <i>Linn</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Davitt, Mark Indianola	Photographer/ Communications Consultant	74th—Warren	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
De Boef, Betty R What Cheer	Farming/Wood Grinding Operation	76th—Iowa, <i>Keokuk</i> , Poweshiek, Tama	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Deyoe, Dave Nevada	Farmer	10th—Hamilton, Story	None
Dolecheck, Cecil Mount Ayr	Farmer	96th—Adams, Montgomery, <i>Ringgold</i> , 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), 81(2nd), 81(2nd)X
Drake, Jack Lewis	Farmer	57th—Cass,	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), 81(2nd), 81(2nd)X
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), 81(2nd), 81(2nd)X
Ford, Wayne Des Moines	Executive Director— Urban Dreams	65th—Polk	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Forristall, Greg Macedonia	Retired/Farmer	98th—Mills,	None
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), 81(2nd), 81(2nd)X
Gaskill, Mary Ottumwa	Retired/County Auditor	93rd—Wapello	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Gayman, Elesha Davenport	Nonprofit Professional	84th—Scott	None

Name and Residence	Occupation	Representative District	Former Legislative Service
Gipp, Chuck Decorah	Farmer	16th—Allamakee,	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), 81(2nd), 81(2nd)X
Granzow, Polly A Eldora	Farmer	44th—Hardin, Marshall	$\begin{array}{c} 80(1st),80(1st)X,80(2nd),\\ 80(2nd)X,81(1st),81(2nd),\\ 81(2nd)X \end{array}$
Grassley, Pat New Hartford	Farmer	17th—Bremer, Butler	None
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), 81(2nd), 81(2nd)X
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), 81(2nd), 81(2nd)X
Heddens, Lisa K Ames	Family Support Coordinator	46th—Boone, Story	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Hoffman, Clarence C Denison	Insurance	55th—Crawford, Ida, Monona, Woodbury	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Horbach, Lance J Tama	Insurance Agent	40th—Grundy, Tama	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Hunter, Bruce Des Moines	Loan Counselor—Iowa Student Loan	62nd—Polk	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
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), 81(2nd), 81(2nd)X
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), 81(2nd), 81(2nd)X
Jacobs, Elizabeth (Libby) S. West Des Moines	Community Relations Director	60th—Polk	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X

Name and Residence	Occupation Occupation	Representative District	Former Legislative Service
Jacoby, David (Dave) Coralville	Program Director	30th—Johnson	80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
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), 81(2nd), 81(2nd)X
Kaufmann, Jeff Wilton	Teacher/Livestock Operator	79th—Cedar, Johnson, Muscatine	81(1st), 81(2nd), 81(2nd)X
Kelley, Doris Waterloo	Telecommunications Consultant	20th—Black Hawk	None
Kressig, Bob Cedar Falls	Retired/John Deere	19th—Black Hawk	81(1st), 81(2nd), 81(2nd)X
Kuhn, Mark A	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), 81(2nd), 81(2nd)X
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), 81(2nd), 81(2nd)X
Lukan, Steven F New Vienna	Tire Technician	32nd—Delaware, Dubuque	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Lykam, Jim Davenport		85th— <i>Scott</i>	73, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Mascher, Mary Iowa City	Teacher	77th—Johnson	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
May, Mike Spirit Lake	Retired/Teacher/Resort Owner	6th—Clay, Dickinson	81(1st), 81(2nd), 81(2nd)X
McCarthy, Kevin M Des Moines	Prosecutor—Polk County Attorney's Office/Majority Leader	67th—Polk	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Mertz, Dolores M Ottosen	Farmer/Legislator	8th—Humboldt, <i>Kossuth</i> , 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, 81(2nd), 81(2nd)X
Miller, Helen Fort Dodge	Attorney/Arts Educator	49th—Webster	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Miller, Linda J Bettendorf	Registered Nurse/Clinic Administrator/ Consultant	82nd—Scott	None

Name and Residence	Occupation	Representative District	Former Legislative Service
Murphy, Pat Dubuque	Speaker of the House	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(2nd)X
Oldson, Jo Des Moines		61st—Polk	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Olson, Donovan Boone	Distance Education Coordinator	48th—Boone, Dallas	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Olson, Rick Des Moines	Attorney	68th— <i>Polk</i>	81(1st), 81(2nd), 81(2nd)X
Olson, Steven N DeWitt	Farmer	83rd—Clinton, Scott	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Olson, Tyler Cedar Rapids	Attorney	38th—Linn	None
Palmer, Eric J Oskaloosa	Lawyer	75th—Mahaska, Poweshiek	None
Paulsen, Kraig Hiawatha	Attorney	35th—Linn	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Petersen, Janet Des Moines	Marketing Communications Consultant	64th—Polk	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Pettengill, Dawn E Mount Auburn	Retirement and Investor Services	39th—Benton, Iowa	81(1st), 81(2nd), 81(2nd)X
Quirk, Brian J New Hampton	Electrical Contractor	15th— <i>Chickasaw</i> , 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), 81(2nd), 81(2nd)X
Raecker, J. Scott Urbandale	Executive Director— Institute for Character Development	63rd—Polk	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Rants, Christopher C Sioux City	Minority Leader/ 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(2nd)X, 81(2nd)X
Rasmussen, Daniel J Independence	Executive Director— Land Improvement Contractor Association	23rd—Black Hawk, Buchanan	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X

Name and Residence	Occupation	Representative District	Former Legislative Service
Rayhons, Henry V Garner	Farmer	11th—Hancock, Winnebago, Worth	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Reasoner, Michael J Creston	Legislator	95th—Clarke, Decatur, Union	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Reichert, Nathan Muscatine	Allsteel Customer Support	80th—Muscatine	81(1st), 81(2nd), 81(2nd)X
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), 81(2nd), 81(2nd)X
Sands, Thomas R Columbus Junction	Banker/Real Estate Appraiser/Farmer	87th—Des Moines, Louisa, Muscatine	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Schickel, Bill Mason City	Radio Station Manager	13th—Cerro Gordo	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Schueller, Thomas J Maquoketa	Owner/Contractor Schueller & Sons	25th—Clinton, Dubuque, Jackson	81(1st), 81(2nd), 81(2nd)X
Shomshor, Paul C., Jr. Council Bluffs	Certified Public Accountant	100th—Pottawattamie	80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Smith, Mark Marshalltown	Licensed Independent Social Worker	43rd—Marshall	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Soderberg, Chuck LeMars	Vice President, Planning and Legislative Services—Northwest Iowa Power Cooperative	3rd—Plymouth, Sioux	81(1st), 81(2nd), 81(2nd)X
Staed, Art Cedar Rapids	Educator	37th—Linn	None
Struyk, Douglas L Council Bluffs	Small Business Owner/ Attorney	99th—Pottawattamie	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Swaim, R. Kurt Bloomfield	Attorney	94th—Appanoose, <i>Davis</i> , Wayne	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Taylor, Dick Cedar Rapids	Electrician/Project Manager	33rd— <i>Linn</i>	78(2nd), 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Taylor, Todd Cedar Rapids	Union Representative	34th— <i>Linn</i>	76(2nd), 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X

Name and Residence	<u>Occupation</u>	Representative District	Former Legislative Service
Thomas, Roger Elkader	Farmer/Paramedic	24th—Clayton, Delaware, Fayette	77, 78, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Tjepkes, David A Gowrie	Retired/State Trooper	50th—Calhoun, Greene, Webster	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Tomenga, Walt Johnston	Management Consultant	69th— <i>Polk</i>	81(1st), 81(2nd), 81(2nd)X
Tymeson, Jodi S Winterset	National Guard Brigadier General/ Licensed Teacher	73rd—Dallas, <i>Madison</i> , 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), 81(2nd), 81(2nd)X
Upmeyer, Linda L	Nurse Practitioner	12th—Cerro Gordo, Franklin, <i>Hancock</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
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), 81(2nd), 81(2nd)X
Van Fossen, Jamie Davenport	Economic Development Analyst— MidAmerican Energy	81st—Scott	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Watts, Ralph C Adel	Retired/Engineer	47th—Boone, Dallas	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Wendt, Roger F Sioux City	Retired/Educator	2nd—Woodbury	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Wenthe, Andrew Hawkeye	Director of External Affairs—Upper Iowa University	18th—Black Hawk, Bremer, Fayette	None
Wessel-Kroeschell, Beth Ames	Legislator	45th—Story	81(1st), 81(2nd), 81(2nd)X
Whitaker, John R Hillsboro	Family Farmer	90th—Jefferson, Van Buren, Wapello	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Whitead, Wes Sioux City	Retired	1st—Woodbury	77, 78, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Wiencek, Tami Jo Waterloo	Partner—Public Relations Firm	21st—Black Hawk	None
Winckler, Cindy Lou Davenport	Education—Quality Learning Consultant	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), 81(2nd), 81(2nd)X

Name and Residence	Occupation	Representative District	Former Legislative Service
Windschitl, Matt W Missouri Valley	Switchman/Brakeman— Union Pacific	56th—Harrison,	None
Wise, Philip Keokuk	Consultant/Legislator/ Retired Educator	92nd— <i>Lee</i>	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X
Worthan, Gary Storm Lake	Farmer	52nd—Buena Vista, Sac	None
Zirkelbach, Raymond Monticello	Correctional Officer/ Soldier	31st—Dubuque, Jones	81(1st), 81(2nd), 81(2nd)X

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
Jerry L. Larson	Harlan	December 31, 2012
Marsha K. Ternus, C.J	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
Daryl L. Hecht	Sioux City	December 31, 2008
Brent R. Appel	Des Moines	December 31, 2008

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, 2012
John C. Miller	Burlington	December 31, 2012
Anu Vaitheswaran	Des Moines	December 31, 2012
Larry J. Eisenhauer	Des Moines	December 31, 2008
David L. Baker	Cedar Rapids	December 31, 2008

CONGRESSIONAL DELEGATION AND DISTRICT OFFICES

UNITED STATES SENATORS

Senator Tom Harkin (D)

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

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

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

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

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

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

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

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

UNITED STATES REPRESENTATIVES

First District: Congressman Bruce Braley (D)

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(319) 287-3233

350 West 6th Street

Suite 222

Dubuque, Iowa 52001

(563) 557-7789

209 West 4th Street

Suite 104

Davenport, Iowa 52801

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Second District: Congressman David Loebsack (D)

1513 Longworth House Office Bldg.

Washington, D.C. 20515

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Website address:

http://www.loebsack.house.gov

E-mail address:

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125 South Dubuque Street Iowa City, Iowa 52240

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Cedar Rapids, Iowa 52401

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Third District: Congressman Leonard Boswell (D)

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Washington, D.C. 20515

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Fax (202) 225-5608

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http://boswell.house.gov

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

Website address:

http://www.house.gov/latham

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

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

Fax (515) 576-7141

Fifth District: Congressman Steve King (R)

1609 Longworth House Office Bldg. Washington, D.C. 20515 (202) 225-4426 Fax (202) 225-3193

Website address:

http://www.house.gov/steveking

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

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

P.O. Box 601 Creston, Iowa 50801 (641) 782-2495 Fax (641) 782-2497 526 Nebraska Street Sioux City, Iowa 51101 (712) 224-4692 Fax (712) 224-4693

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

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

CONDITION OF STATE TREASURY

June 30, 2006

		Total		Total	
		Receipts		Disbursements	
	Balance	and	Total	and	Balance
	July 1, 2005	Transfers	Available	Transfers	June 30, 2006
General Fund	\$ 549,113,982	\$ 9,655,397,504	\$10,204,511,486	\$ 9,472,160,963	\$ 732,350,523
Special Revenue Fund	995,984,789	3,487,125,708	4,483,110,497	3,548,923,245	934,187,252
Capitol Projects Fund	2,679,119	27,123,703	29,802,822	28,012,060	1,790,762
Debt Service Fund	6,238,061	11,700,020	17,938,081	11,700,000	6,238,081
Enterprise Fund	35,662,961	582,200,416	617,863,377	573,583,212	44,280,165
Internal Service Fund	52,094,416	365,293,310	417,387,726	363,916,490	53,471,236
Expendable Trust Fund	94,418,811	418,572,107	512,990,918	362,305,211	150,685,707
Nonexpendable Trust Fund	9,885,982	1,322,715	11,208,697	304,987	10,903,710
Pension Fund	15,827,749,806	1,973,536,644	17,801,286,450	1,025,689,762	16,775,596,688
Trust and Agency Fund	231,361,778	4,177,820,790	4,409,182,568	4,212,204,616	196,977,952
Totals	\$17,805,189,705	\$20,700,092,917	\$38,505,282,622	\$19,598,800,546	\$18,906,482,076

Balance July 1, 2005	\$17,805,189,705
Receipts and Transfers	20,700,092,917
Total Available	38,505,282,622
Disbursements and Transfers	19,598,800,546
Balance June 30, 2006	\$18,906,482,076

DEPARTMENT OF ADMINISTRATIVE SERVICES STATE ACCOUNTING ENTERPRISE

May 5, 2007

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ANALYSIS BY CHAPTERS

2007 REGULAR SESSION

For Conversion Tables of Senate and House Files and Joint Resolutions to chapters of the 2007 Acts, Regular Session, see page 968

СН.	FILE		TITLE
1	HF	1	State minimum hourly wage
2	HF	95	Urban renewal targeted jobs withholding tax credits — pilot project city designations
3	SF	109	School finance — allowable growth
4	SF	32	Local telecommunications services — extension of certification requirement
5	SF	40	Governmental ethics regulation
6	SF	162	Stem cell research and cures
7	SF	305	Disaster grants
8	HF	260	Controlled substances — regulation and classification
9	SF	61	School policies on harassment and bullying
10	SF	74	Occupational licensing and regulation — health care professions
11	HF	245	Invasive pneumococcal disease immunization
12	HF	319	Internal Revenue Code references update
13	HF	400	Real estate broker professional corporations or limited liability companies
14	SF	39	Regulation of political campaigns and contributions
15	HF	258	Directors of nonprofit corporations — duties
16	HF	369	Conveyance safety standards — elevators and similar mechanisms
17	SF	128	Taxation of cigarettes and tobacco products — health care trust fund
18	SF	58	Elections — nomination petition signatures requirement for mayor
19	SF	67	Pharmacy practice and regulation
20	SF	75	Registration of pharmacy interns and technicians
21	SF	130	Memorial building and monument commissions
22	SF	272	Nonsubstantive Code corrections
23	SF	319	Cooperative associations — miscellaneous provisions
24	HF	199	Attorney fees in custody, visitation, or paternity proceedings
25	HF	588	Elections — requirements for township officer candidacy
26	HF	5	Consumer loans secured by motor vehicle titles — finance charges
27	SF	70	Crime victim rights and remedies — notification and compensation
28	SF	78	Natural resources regulation and related public offenses
29	HF	367	Overdraft charges and direct deposit of wages
30	HF	716	Uniform commercial code — documents of title
31	SF	548	Hemophilia advisory committee
32	HF	468	Statewide student information system — study
33	HF	579	Judicial branch practices and procedures — electronic procedures
34	HF	618	Precinct election board membership — high school students
35	HF	653	Voter registration
36	SF	116	Regulation of fire fighter clothing and equipment
37	SF	202	Disposition of unclaimed property — procedures
38	SF	204	Public safety and law enforcement — crimes, practices, and procedure
39	SF	361	Public funds deposits and investments — Sudan
40	SF	450	Property tax collection — limitations of actions
41	SF	535	Uniform commercial code — miscellaneous changes
42	HF	317	School district accreditation and fiscal review
43	HF	647	Iowa great places projects — designation — state assistance
44	SF	509	Anatomical gifts
45	HF	617	Generation Iowa commission

СН.	FILE		TITLE
46	HF	650	Beer keg regulation and sales
47	SF	110	Reserve peace officers — training and certification
48	SF	129	Regulation of racing and gaming — horse racing
49	SF	169	State payment of mental health, mental retardation, and
			developmental disabilities services funding
50	SF	284	Unannounced employee drug or alcohol testing
51	SF	358	Used motor vehicle dealer education requirements
52	SF	400	Mortgage release certificates issued by Iowa finance authority — applicability
53	SF	405	National pollutant discharge elimination system permits — fees
54	SF	431	Iowa finance authority — miscellaneous changes
55	HF	591	City councils — number of members — procedure
56	HF	740	Administration of drugs to wildlife
57	HF	790	Association group health plans and wellness initiatives
58	HF	803	Civil service and deputy county sheriffs — appeals to district court
59	HF	848	Conduct of elections, absentee voting, and voter registration
60	SF	41	Disposition of unclaimed property — mineral proceeds
61	SF	42	Campaign finance — filing methods and political communications
62	SF	140	Law enforcement agency electronic mail and telephone billing records
63	SF	161	Confidential public records and meetings of governmental bodies —
C 4	CE	200	security and emergency preparedness information
64	SF	200	Habitual trespass by livestock — fence erection and maintenance
65 CC	SF	351	Reports by ballot issue political committees
66 67	SF	477	Special promotional nonresident deer hunting licenses
67	SF	480	Court-ordered out-of-home placement of children — sibling visitation or interaction
68	HF	298	Conveyance or encumbrance of homesteads — legal description
69	HF	314	Operating noncommercial motor vehicles while intoxicated — effect
70	HF	610	on commercial driver's license Acquired immune deficiency syndrome and human immunodeficiency virus — miscellaneous changes
71	HF	777	Court records and recordkeeping — procedure, fees, and costs
72	SF	137	Regulation of real estate appraisals and appraisers
73	SF	205	Iowa cultural trust — use of grant account moneys
74	SF	270	State military affairs — funds and facilities
75	SF	354	Overpayments of moneys to counties
76	SF	444	Councils of governments — additional area
77	SF	448	Unemployment insurance information — confidentiality — penalties
78	SF	479	Congressional and legislative redistricting process and plans
79	HF	158	Blood lead testing of young children
80	HF	413	Campaign finance — filing of statements and reports
81	HF	585	Area agency on aging board member selection procedures
82	HF	765	Enforcement of animal feeding operations regulations
83	HF	774	Mechanics' liens
84	HF	846	Iowa farmers' market nutrition program
85	SF	311	Satisfaction of mortgages
86	SF	381	Judicial branch personnel — appointment and compensation
87	SF	407	Home ownership assistance for armed forces members
88	SF	502	Regulation of savings and loan associations
89	SF	529	Secure criminal or juvenile facilities — possession of contraband
90	HF	353	Interoperable public safety and services communications system — board
91	HF	432	Abuse of human corpse — penalties
92	HF	451	Long-term living resources system — single point of entry
93	HF	528	Regulation of hospitals and health care facilities
94	HF	559	Midwest interstate passenger rail compact
95	HF	566	Volunteer health care provider program — field dental clinics

CH.	FILE		TITLE
96	HF	587	Emergency services agreement advisory boards — budgets
97	HF	590	State building code — application and enforcement
98	HF	611	Educational standards — human growth and development and health
			curricula
99	HF	826	Abraham Lincoln bicentennial — commemoration
100	SF	302	Regional tourism marketing appropriations — disbursement
101	SF	337	Recording and indexing of interests affecting property
102	SF	463	Ambulance, rescue vehicle, fire vehicle, or towing or recovery vehicle
			manufacturers and dealers — licensing
103	SF	528	Department of corrections — housing of inmates — restriction
104	HF	615	Board of educational examiners membership
105	HF	759	Clarinda correctional facility — purpose and use
106	HF	780	Temporary modification of child support orders
107	SF	175	Seized property in criminal proceedings — disposition
108	SF	277	Educational standards — practitioners and staff and student achievement
109	SF	339	County general obligation bonding
110	SF	384	Limitations of civil rights claims and civil lawsuits — minors, mentally
			ill persons, and state and local government
111	SF	406	Killing tagged dogs
112	SF	416	City elections — council vacancies and satellite absentee voting
113	HF	309	Uniform cost reporting for mental health or retardation,
114	H	744	developmental disability, and Medicaid services
114	HF	744	Debtors' exempt personal injury payments
115 116	HF	849 851	Department of administrative services — miscellaneous changes
110	HF	991	Iowa communications network telecommunications equipment or services purchases — approval
117	SF	155	Government innovation and excellence initiatives
118	SF	347	Consumer credit or credit union transactions
119	SF	414	Games of skill or chance and card games conducted by qualified
110	~1		organizations
120	SF	485	Greenhouse gas emissions — miscellaneous provisions
121	SF	489	Alzheimer's disease task force
122	HF	829	Targeted industry promotion, development, and education activities
123	SF	212	County offices — deputy officer salaries and recorded document
104	a E	05.4	content
124	SF	254	Family investment program requirements
125	SF	265	Asbestos removal and encapsulation
126	SF	333	Substantive Code corrections
127 128	SF	$\frac{336}{421}$	City civil service commissioners — number
	SF		Workers' compensation — insurance coverage and debt collection practices
129	SF	435	Deer hunting — youth licenses
130	SF	447	School district reorganization and sharing incentives
131	SF	469	Motor homes and manufacturers' club rallies
132	SF	538	Parent's cause of action for injury or death of child
133	SF	539	State obligations — uniform finance procedures
134	SF	540	Trusts and estates — miscellaneous changes
135	HF	368	Boiler and pressure vessel safety
136	HF	397	Medical assistance income trust expenditures
137 138	HF HE	499 546	Regulation of entities or services by the commissioner of insurance
138	HF HF	546 608	Election board membership Township trustee board meetings — notice
140	пг HF	651	Business corporations — miscellaneous changes
140	HF	742	Snowmobile and all-terrain vehicle regulation
142	HF	767	Injured veterans grant program eligibility
143	HF	793	Transportation regulation and land surveying standards
144	HF	830	Public improvement bids and contracts
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CH.	FILE		TITLE
145	HF	896	Disaster aid individual assistance grants
146	HF	906	Dental screenings of children
147	HF	910	Postnatal tissue and fluid banking study
148	HF	877	Statewide preschool programs for four-year-old children —
149	SF	90	appropriations
150	SF SF	278	Local emergency management commission communications Utility replacement taxes
151	SF	344	Solid waste disposal — regulation and enforcement
152	SF	518	Insurance regulation
153	SF	530	Real estate brokers or salespersons — prohibited practices
154	SF	546	Hospital liens
155	SF	579	Pharmaceutical collection and disposal pilot project
156	HF	671	Remote control or internet hunting of wild animals, game birds,
100	111	071	ungulates, or preserve whitetail
157	HF	773	Energy city designation program
158	HF	808	Joint exercise of government powers — documentation —
100		000	accountability
159	HF	925	Regulation of health-related activities — miscellaneous changes and
100		0_0	fees
160	SF	457	Complaints against peace officers and public safety and emergency
			personnel — administrative procedures
161	SF	590	State earned income tax credit — miscellaneous changes
162	HF	892	Film, television, and video project promotion program
163	SF	340	Dissolution of marriage — property division — inherited or gifted
			property
164	SF	472	Railway safety — close-clearance warning devices
165	SF	566	Historic preservation and cultural and entertainment district tax
			credits
166	HF	718	Cigarette fire safety standards — enforcement
167	HF	864	Statewide fire and police retirement system — fire fighter applicants
			— physical ability tests
168	HF	918	Energy independence, efficiency, and related research and
			development
169	SF	346	Uniform health insurance application form for small employers
170	SF	360	Commerce — banking, debt management, industrial loans, and
			professional licensing
171	SF	499	Underground storage tank regulation
172	SF	503	Regulation of services for children and families
173	SF	510	Electrical and mechanical amusement devices
174	SF	557	Credit unions
175	SF	559	Cemeteries, funerals, and related services and merchandise
176	SF	578	Veterans — Vietnam service bonus compensation
177	SF	580	2007 tax amnesty program
178	SF	586	Gold star motor vehicle registration plates
179	SF	592	Sales and use taxes — miscellaneous changes
180	SF	593	Miscellaneous court procedures and proceedings
181	HF	396	Community empowerment initiative appropriation — scope of
			preschool services
182	HF	556	Propane education and research council
183	HF	648	Enterprise zone distress criteria
184	HF	749	Special motor vehicle registration plates — military service and
105	110	004	emergency medical services
185	HF	904	Taxation — individual income withholding — loan agencies tax
186	HF	923	Taxes, tax policy, and administration
187	HF	924	Licensure of real estate brokers or salespersons — convictions of
100	CE	262	specified offenses
188 189	SF SF	$\frac{263}{304}$	Gambling games and gambling structures
109	ЭГ	3U4	Sac and Fox tribe settlement — natural resources regulation

CH.	FILE		TITLE
190	SF	369	Voting, voting machines, and optical scan voting systems
191	\mathbf{SF}	427	Civil rights — sexual orientation or gender identity
192	\mathbf{SF}	430	Recognition and enforcement of foreign or tribal judgments
193	\mathbf{SF}	512	Regulation of pharmacy benefits managers
194	SF	558	Game bird habitat development programs and funding
195	SF	564	Dangerous wild animals — possession, ownership, transportation — penalties
196	HF	641	Judicial branch practices and procedures — driver's licenses, installment payment agreements, and court revenue distribution
197	HF	897	Licensure and certification relating to electrical work and alarm systems
198	HF	908	Licensing and regulation of plumbers and mechanical professionals
199	HF	912	Computer-related service businesses — sales, use, and property tax exemptions and refunds
200	HF	932	Road construction and maintenance revenue
201	SF	554	Cable or video service franchises
202	HF	817	Veterans affairs and flag desecration
203	SF	95	Supplemental appropriations — veteran and armed forces member home ownership assistance and injured veterans grants
204	HF	787	Federal block grant appropriations
205	HF	920	State board of regents institutions — bonding — appropriations
206	SF	403	Miscellaneous supplemental appropriations and financial regulation
207	HF	890	Targeted small business assistance — programs and appropriations
208	HF	907	Healthy Iowans tobacco trust and tobacco settlement trust fund — appropriations
209	HF	927	Energy-related appropriations
210	SF	563	Appropriations — judicial branch
211	SF	551	Appropriations — agriculture and natural resources
212	SF	562	Appropriations — economic development
213	SF	575	Appropriations — justice system
214	SF	588	Appropriations — education
215	SF	601	State and local government financial and regulatory matters — appropriations and miscellaneous changes
216	HF	752	Appropriations — transportation
217	HF	874	Appropriations — administration and regulation
218	HF	909	Appropriations — health and human services
219	HF	911	Appropriations — infrastructure and capital projects
220	SJR	4	World Food Prize awards ceremony
221	SJR	5	Hy-Vee World Cup Triathlon awards ceremony
222	SJR	6	West Capitol Terrace and Capitol grounds improvements — acknowledgements of private contributors
223	HJR	3	Proposed constitutional amendment — qualification of electors

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2007 Regular Session

of the

Eighty-Second General Assembly

of the

State of Iowa

CHAPTER 1

STATE MINIMUM HOURLY WAGE

H.F. 1

†AN ACT relating to the state minimum hourly wage requirements and providing an effective date.

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

Section 1. Section 91D.1, subsection 1, paragraphs a, b, and d, Code 2007, are amended to read as follows:

- a. The <u>state</u> hourly wage stated in the federal minimum wage law, pursuant to 29 U.S.C. \$206, shall be increased to \$3.85 on January 1 of 1990, \$4.25 on January 1 of 1991, and \$4.65 on January 1 of 1992 at least \$6.20 as of April 1, 2007, and \$7.25 as of January 1, 2008.
- b. Every employer, as defined in the federal Fair Labor Standards Act of 1938, as amended to January 1, 2007, shall pay to each of the employer's employees, as defined in the federal Fair Labor Standards Act of 1938, as amended to January 1, 2007, wages of not less than the state hourly wage stated in paragraph "a", or the current federal minimum wage, pursuant to 29 U.S.C. § 206, or the wage rate stated in paragraph "a" as amended, whichever is greater.
- d. An employer is not required to pay an employee the applicable minimum state hourly wage provided in paragraph "a" until the employee has completed ninety calendar days of employment with the employer. An employee who has completed ninety calendar days of employment with the employer prior to January April 1 of 1990, 1991, or 1992, 2007, or January 1, 2008, shall earn the applicable state hourly minimum wage as of that date. An employer shall pay an employee who has not completed ninety calendar days of employment with the employer an hourly wage of at least \$3.35 as of January 1 of 1990, \$3.85 as of January 1 of 1991, and \$4.25 as of January 1 of 1992 \$5.30 as of April 1, 2007, and \$6.35 as of January 1, 2008.
- Sec. 2. LABOR COMMISSIONER DIRECTIVE. If the commissioner finds that an employer, as defined in the federal Fair Labor Standards Act of 1938, as amended to January 1, 2007, has failed to comply with the provisions of this Act prior to July 1, 2007, the commissioner shall

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

enforce the provisions of this Act pursuant to chapter 91A, but shall not impose liquidated damages.

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

Approved January 25, 2007

CHAPTER 2

URBAN RENEWAL TARGETED JOBS WITHHOLDING TAX CREDITS — PILOT PROJECT CITY DESIGNATIONS

H.F. 95

AN ACT relating to the designation of pilot project cities for a targeted jobs withholding tax credit to be used for funding improvements in certain urban renewal areas and including effective and retroactive applicability date provisions.

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

Section 1. Section 403.19A, subsection 2, paragraph b, Code 2007, is amended to read as follows:

b. The department of economic development shall approve four eligible cities as pilot project cities, one pursuant to paragraph "a", subparagraph (1), one pursuant to paragraph "a", subparagraph (2), and two pursuant to paragraph "a", subparagraph (3). If two eligible cities are approved which are located in the same county and the county has a population of less than forty-five thousand, the two approved eligible cities shall be considered one pilot project city. If more than two cities meeting the requirements of paragraph "a", subparagraph (3), 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. If two pilot project cities are located in the same county, the loss of status by one pilot project city shall not cause the second pilot project city in the county to 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.

Sec. 2. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 2006, and is applicable to pilot project city applications received prior to October 1, 2006.

Approved February 6, 2007

CHAPTER 3

SCHOOL FINANCE — ALLOWABLE GROWTH S.F. 109

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 2007, is amended to read as follows:

- 1. STATE PERCENT OF GROWTH. 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 the budget year beginning July 1, 2008, 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, 2008.

Approved February 22, 2007

CHAPTER 4

LOCAL TELECOMMUNICATIONS SERVICES — EXTENSION OF CERTIFICATION REQUIREMENT

S.F. 32

AN ACT extending the future repeal of a provision requiring the issuance of certificates for furnishing local telecommunications services, and providing an effective date.

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

- Section 1. 1992 Iowa Acts, chapter 1058, section 3, is amended to read as follows: SEC. 3. REPEAL. Section 476.29 is repealed effective July 1, 2007 2017.
- Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved February 28, 2007

CHAPTER 5

GOVERNMENTAL ETHICS REGULATION S.F. 40

AN ACT relating to the regulation of ethical conduct by governmental entities.

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

Section 1. Section 68B.3, Code 2007, is amended to read as follows:
68B.3 WHEN PUBLIC BIDS REQUIRED — DISCLOSURE OF INCOME FROM OTHER

- 1. An official, a state employee, a member of the general assembly, or a legislative employee shall not sell, in any one occurrence, any goods or services having a value in excess of two thousand dollars to any state agency unless the sale is made pursuant to an award or contract let after public notice and competitive bidding.
- 2. This subsection shall section does not apply to the publication of resolutions, advertisements, or other legal propositions or notices in newspapers designated pursuant to law for the publication of legal propositions or notices and for which rates are fixed pursuant to law. This subsection shall also not apply to sales of services by persons subject to the requirements of this section to state executive branch agencies or subunits of departments or independent agencies as defined under section 7E.4 that are not the subunit of the department or independent agency in which the person serves or is employed or are not a subunit of a department or independent agency with which the person has substantial and regular contact as part of the person's duties.

For purposes of this section, "services" does not include instruction at an accredited education institution if the person providing the instruction meets the minimum education and licensing requirements established for instructors at the education institution.

- 2. 3. An official or member of the general assembly who sells goods or services to a political subdivision of the state shall disclose whether income has been received from commissions from the sales in the manner provided under section 68B.35.
- 4. For purposes of this section, "services" does not include instruction at an accredited education institution if the person providing the instruction meets the minimum education and licensing requirements established for instructors at the education institution.
 - Sec. 2. Section 68B.22, subsection 3, Code 2007, is amended to read as follows:
- 3. A restricted donor may give, and a public official, public employee, or candidate, or the person's immediate family member, may accept an otherwise prohibited nonmonetary gift or a series of otherwise prohibited nonmonetary gifts and not be in violation of this section if the nonmonetary gift or series of nonmonetary gifts is donated within thirty days to a public body, the department of administrative services, or a bona fide educational or charitable organization, if no part of the net earnings of the educational or charitable organization, if no part of any private stockholder or other individual. All such items donated to the department of administrative services shall be disposed of by assignment to state agencies for official use or by public sale. A person subject to section 8.7 that receives a gift pursuant to this subsection shall file a report pursuant to section 8.7.
 - Sec. 3. Section 68B.32A, subsection 6, Code 2007, is amended to read as follows:
- 6. Assure that the statements and reports which have been filed in accordance with this chapter, 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.

Approved February 28, 2007

CHAPTER 6

STEM CELL RESEARCH AND CURES

S.F. 162

AN ACT creating the Iowa stem cell research and cures initiative, and providing penalties.

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

Section 1. NEW SECTION. 707C.1 TITLE.

This chapter shall be known and may be cited as the "Iowa Stem Cell Research and Cures Initiative".

Sec. 2. NEW SECTION. 707C.2 PURPOSE.

It is the purpose of this chapter to ensure that Iowa patients have access to stem cell therapies and cures and that Iowa researchers may conduct stem cell research and develop therapies and cures in the state, and to prohibit human reproductive cloning.

Sec. 3. NEW SECTION. 707C.3 DEFINITIONS.

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

- 1. "Human reproductive cloning" means human asexual reproduction, using somatic cell nuclear transfer, for implantation or attempted implantation into a woman's uterus or substitute for a woman's uterus. "Human reproductive cloning" does not include somatic cell nuclear transfer performed for the purpose of creating embryonic stem cells.
- 2. "Human somatic cell" means a diploid cell having a complete set of chromosomes obtained or derived from a living or deceased human body at any stage of development.
 - 3. "Oocyte" means a human ovum.
- 4. "Somatic cell nuclear transfer" means a technique in which the nucleus of a human somatic cell is injected or transplanted into a fertilized or unfertilized oocyte from which the nucleus has been removed.

Sec. 4. <u>NEW SECTION</u>. 707C.4 HUMAN REPRODUCTIVE CLONING — PROHIBITIONS — EXCEPTIONS — PENALTY.

- 1. A person shall not intentionally or knowingly do any of the following:
- a. Perform or attempt to perform human reproductive cloning.
- b. Participate in performing or in an attempt to perform human reproductive cloning.
- c. Transfer or receive, in whole or in part, for the purpose of shipping, receiving, or importing, the product of human reproductive cloning.
 - 2. a. A person who violates subsection 1, paragraph "a" or "b", is guilty of a class "C" felony.
- b. A person who violates subsection 1, paragraph "c", is guilty of an aggravated misdemeanor.

- 3. A person who violates this section in a manner that results in a pecuniary gain to the person is subject to a civil penalty in an amount that is twice the amount of the gross gain.
- 4. A person who violates this section and who is licensed pursuant to chapter 148, 150, or 150A is subject to revocation of the person's license.
- 5. A violation of this section is grounds for denial of an application for, denial of renewal of, or revocation of any license, permit, certification, or any other form of permission required to practice or engage in any trade, occupation, or profession regulated by the state.
 - Sec. 5. Chapter 707B, Code 2007, is repealed.

Approved February 28, 2007

CHAPTER 7

DISASTER GRANTS

S.F. 305

AN ACT authorizing funding for providing disaster grants to needy individuals and families and including effective and retroactive applicability date provisions.

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

Section 1. DISASTER GRANTS. For the period beginning on the effective date of this Act through June 30, 2007, if the governor issues a proclamation of a state of disaster emergency, the executive council may authorize under section 7D.29 expenditure of not more than \$1,000,000 for the department of human services to provide financial grants to meet disaster-related expenses, food-related costs, or serious needs of individuals or families adversely affected by the disaster emergency which cannot be met by other means of financial assistance. If additional needs exist in excess of the amount authorized in this section, the executive council may authorize additional funds under section 7D.29 to meet those needs. Administrative costs incurred in making the grants shall be paid from the amount authorized by the executive council. The grants shall be provided to needy individuals and families based upon substantially the same requirements used for distribution of federal disaster aid for a federally declared disaster.

Sec. 2. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to February 23, 2007, to proclamations issued by the governor on or after that date.

Approved February 28, 2007

CHAPTER 8

CONTROLLED SUBSTANCES — REGULATION AND CLASSIFICATION

H.F. 260

AN ACT relating to the classification and regulation of controlled substances and making penalties applicable.

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

- Section 1. Section 124.101, subsection 17, Code 2007, is amended to read as follows:
- 17. "Isomer" means the optical isomer, except as used in section 124.204, subsection 4, section 124.204, subsection 9, paragraph "b", and section 124.206, subsection 2, paragraph "d". As used in section 124.204, subsection 4, and section 124.204, subsection 9, paragraph "b", "isomer" means the optical, positional, or geometric isomer. As used in section 124.206, subsection 2, paragraph "d", "isomer" means the optical or geometric isomer.
- Sec. 2. Section 124.204, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of these such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- Sec. 3. Section 124.204, subsection 2, paragraph ax, Code 2007, is amended to read as follows:
- ax. 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanmide). For purposes of this opiate, "isomers" include optical and geometric isomers.
- Sec. 4. Section 124.204, subsection 4, paragraph u, Code 2007, is amended to read as follows:
- u. Tetrahydrocannabinols, except as otherwise provided by rules of the board of pharmacy examiners for medicinal purposes. Synthetic, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (Cannabis plant) as well as synthetic equivalents of the substances contained in the Cannabis plant, or in the resinous extractives of Cannabis sp. such plant, and synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:
- (1) 1 cis or trans tetrahydrocannabinol, and their optical isomers, excluding dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States food and drug administration.
 - (2) 6 cis or trans tetrahydrocannabinol, and their optical isomers.
- (3) 3,4 cis or trans tetrahydrocannabinol, and their optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)
- Sec. 5. Section 124.204, subsection 4, Code 2007, is amended by adding the following new paragraphs:

<u>NEW PARAGRAPH</u>. af. 2,5-dimethoxy-4-(n)-propylthiophenethylamine. Other name: 2C-T-7.

NEW PARAGRAPH. ag. Alpha-methyltryptamine. Other name: AMT.

<u>NEW PARAGRAPH</u>. ah. 5-methoxy-N,N-diisopropyltryptamine. Other name: 5-MeO-DIPT.

Sec. 6. Section 124.204, subsection 5, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Unless specifically exempted excepted or unless listed in another schedule, any material,

compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Sec. 7. Section 124.204, subsection 6, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. h. N-benzylpiperazine. Some other names: BZP, 1-benzylpiperazine.

- Sec. 8. Section 124.206, subsection 2, paragraphs a and d, Code 2007, are amended to read as follows:
- a. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:
 - (1) Raw opium.
 - (2) Opium extracts.
 - (3) Opium fluid extracts.
 - (4) Powdered opium.
 - (5) Granulated opium.
 - (6) Tincture of opium.
 - (7) Codeine.
 - (8) Ethylmorphine.
 - (9) Etorphine hydrochloride.
 - (10) Hydrocodone, also known as dihydrocodeinone.
 - (11) Hydromorphone, also known as dihydromorphinone.
 - (12) Metopon.
 - (13) Morphine.
 - (14) Oxycodone.
 - (15) Oxymorphone.
 - (16) Thebaine.
 - (17) Dihydroetorphine.
- d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves. Decocainized coca leaves or extractions of coca leaves, which extractions do not contain cocaine or ecgonine, are excluded from this paragraph. The following substances and their salts, optical and geometric isomers, derivatives, and salts of isomers and derivatives and optical and geometric isomers, if salts, isomers, derivatives, or salts of isomers and derivatives exist under the specific chemical designation and any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical to any of such substances, are included in this paragraph:
 - (1) Cocaine.
 - (2) Ecgonine.
- Sec. 9. Section 124.206, subsection 6, paragraph a, Code 2007, is amended to read as follows:
- a. Immediate Phenylacetone, an immediate precursor to amphetamine and methamphetamine:
- (1) Phenylacetone. Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.
- Sec. 10. Section 124.208, subsection 5, paragraph a, subparagraph (5), Code 2007, is amended to read as follows:
 - (5) Not more than one point eight grams of dihydrocodeine (another name: hydrocodone)

per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

- Sec. 11. Section 124.208, subsection 6, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
- 6. ANABOLIC STEROIDS. Unless specifically excepted in subsection 6A or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including their salts, esters, and ethers:
 - a. 3[beta],17-dihydroxy-5[alpha]-androstane.
 - b. 3[alpha],17[beta]-dihydroxy-5[alpha]-androstane.
 - c. 5[alpha]-androstan-3,17-dione.
 - d. 1-androstenediol(3[beta],17[beta]-dihydroxy-5[alpha]-androst-1-ene).
 - e. 1-androstenediol (3[alpha],17[beta]-dihydroxy-5[alpha]-androst-1-ene).
 - f. 4-androstenediol (3[beta],17[beta]-dihydroxy-androst-4-ene).
 - g. 5-androstenediol (3[beta],17[beta]-dihydroxy-androst-5-ene).
 - h. 1-androstenedione ([5[alpha]]-androst-1-en-3,17-dione).
 - i. 4-androstenedione (androst-4-en-3,17-dione).
 - j. 5-androstenedione (androst-5-en-3,17-dione).
 - k. Bolasterone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one).
 - 1. Boldenone (17[beta]-hydroxyandrost-1,4-diene-3-one).
 - m. Calusterone (7[beta],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one).
 - n. Clostebol (4-chloro-17[beta]-hydroxyandrost-4-en-3-one).
- o. Dehydrochloromethyltestosterone

(4-chloro-17[beta]-hydroxy-17[alpha]-methylandrost-1,4-dien-3-one).

p. [Delta] 1-dihydrotestosterone (a.k.a. 1-testosterone)

(17[beta]-hydroxy-5[alpha]-androst-1-en-3-one).

- q. 4-dihydrotestosterone (17[beta]-hydroxy-androstan-3-one).
- r. Drostanolone (17[beta]-hydroxy-2[alpha]-methyl-5[alpha]-androstan-3-one).
- s. Ethylestrenol (17[alpha]-ethyl-17[beta]-hydroxyestr-4-ene).
- t. Fluoxymesterone (9-fluoro-17[alpha]-methyl-11[beta],

17[beta]-dihydroxyandrost-4-en-3-one).

- u. Formebolone (2-formyl-17[alpha]-methyl-11[alpha],
- 17[beta]-dihydroxyandrost-1,4-dien-3-one).
 - v. Furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostano[2,3-c]-furazan).
 - w. 13[beta]-ethyl-17[beta]-hydroxygon-4-en-3-one.
 - x. 4-hydroxytestosterone (4,17[beta]-dihydroxy-androst-4-en-3-one).
 - y. 4-hydroxy-19-nortestosterone (4,17[beta]-dihydroxy-estr-4-en-3-one).
 - z. Mestanolone (17[alpha]-methyl-17[beta]-hydroxy-5[alpha]-androstan-3-one).
 - aa. Mesterolone (1[alpha]methyl-17[beta]-hydroxy-[5[alpha]]-androstan-3-one).
 - ab. Methandienone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,4-dien-3-one).
 - ac. Methandriol (17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-5-ene).
 - ad. Methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3-one). ae. 17[alpha]-methyl-3[beta],17[beta]-dihydroxy-5[alpha]-androstane.
 - af. 17[alpha]-methyl-3[alpha],17[beta]-dihydroxy-5[alpha]-androstane.
 - ag. 17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-4-ene.
 - ah. 17[alpha]-methyl-4-hydroxynandrolone
- (17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one).
 - ai. Methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9(10)-dien-3-one).
 - aj. Methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9-11-trien-3-one).
 - ak. Methyltestosterone (17[alpha]-methyl-17[beta]-hydroxyandrost-4-en-3-one).
 - al. Mibolerone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyestr-4-en-3-one).
 - am. 17[alpha]-methyl-[Delta]1-dihydrotestosterone
- (17b[beta]-hydroxy-17[alpha]-methyl-5[alpha]-androst-1-en-3-one)
- (a.k.a. 17-[alpha]-methyl-1-testosterone).
 - an. Nandrolone (17[beta]-hydroxyestr-4-en-3-one).

- ao. 19-nor-4-androstenediol (3[beta],17[beta]-dihydroxyestr-4-ene).
- ap. 19-nor-4-androstenediol (3[alpha],17[beta]-dihydroxyestr-4-ene).
- aq. 19-nor-5-androstenediol (3[beta],17[beta]-dihydroxyestr-5-ene).
- ar. 19-nor-5-androstenediol (3[alpha],17[beta]-dihydroxyestr-5-ene).
- as. 19-nor-4-androstenedione (estr-4-en-3,17-dione).
- at. 19-nor-5-androstenedione (estr-5-en-3,17-dione).
- au. Norbolethone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4-en-3-one).
- av. Norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one).
- aw. Norethandrolone (17[alpha]-ethyl-17[beta]-hydroxyestr-4-en-3-one).
- ax. Normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one).
- ay. Oxandrolone
- (17[alpha]-methyl-17[beta]-hydroxy-2-oxa-[5[alpha]]-androstan-3-one).
 - az. Oxymesterone (17[alpha]-methyl-4,17[beta]-dihydroxyandrost-4-en-3-one).
- ba. Oxymetholone
- (17[alpha]-methyl-2-hydroxymethylene-17[beta]-hydroxy-[5[alpha]]-androstan-3-one).
- bb. Stanozolol
- (17[alpha]-methyl-17[beta]-hydroxy-[5[alpha]]-androst-2-eno[3,2-c]-pyrazole).
 - bc. Stenbolone (17[beta]-hydroxy-2-methyl-[5[alpha]]-androst-1-en-3-one).
 - bd. Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone).
 - be. Testosterone (17[beta]-hydroxyandrost-4-en-3-one).
- bf. Tetrahydrogestrinone (13[beta],
- 17[alpha]-diethyl-17[beta]-hydroxygon-4,9,11-trien-3-one).
 - bg. Trenbolone (17[beta]-hydroxyestr-4,9,11-trien-3-one).
- Sec. 12. Section 124.208, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 6A. EXCLUSIONS ANABOLIC STEROIDS. This section shall not apply to an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved for such administration. A person who prescribes, dispenses, or distributes such steroid for human use shall be considered to have prescribed, dispensed, or distributed an anabolic steroid subject to this section. This section shall not apply to estrogens, progestins, corticosteroids, or dehydroepiandrosterone.
- Sec. 13. Section 124.210, subsection 3, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. ay. Zopiclone.

- Sec. 14. Section 124.210, subsection 4, Code 2007, is amended to read as follows:
- 4. FENFLURAMINE. Any material, compound, mixture, or preparation which contains any quantity of the following substances fenfluramine, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:
 - a. Fenfluramine.
 - Sec. 15. Section 124.212, subsection 3, Code 2007, is amended to read as follows:
- 3. STIMULANTS. Unless specifically excepted exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of pyrovalerone, including its salts, isomers, and salts of isomers.
- Sec. 16. Section 124.212, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 5. DEPRESSANTS. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts: pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].

- Sec. 17. Section 124.308, subsection 3, Code 2007, is amended to read as follows:
- 3. In emergency situations, as defined by rule of the board, schedule II drugs may be dispensed upon <u>electronic</u>, <u>facsimile</u>, <u>or</u> oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of section 124.306. No prescription for a schedule II substance may be refilled.
- Sec. 18. Section 124.401, subsection 1, paragraph b, subparagraph (2), subparagraph subdivisions (a), (b), and (c), Code 2007, are amended to read as follows:
- (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.
 - Sec. 19. Section 124.553, subsection 3, Code 2007, is amended to read as follows:
- 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 confidential public record pursuant to chapter 22 section 22.7, 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.
 - Sec. 20. Section 126.2, subsection 2, Code 2007, is amended to read as follows:
- 2. "Anabolic steroid" means any anabolic steroid, including, but not limited to oxymetholone, oxandrolone, ethylestrenol, methandrostenolone, stanozolol, nandrolone phenpropionate, nandrolone decanoate, drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, or dehydroepiandrosterone, which substance is identified as an anabolic steroid in section 124.208, subsection 6, and includes any other substance designated by the board as an anabolic steroid through the adoption of rules pursuant to chapter 17A.

Approved February 28, 2007

CHAPTER 9

SCHOOL POLICIES ON HARASSMENT AND BULLYING

S.F. 61

AN ACT relating to the establishment of state and school antiharassment and antibullying policies, providing data collection and reporting requirements, and providing for immunity and other related matters.

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

Section 1. Section 280.12, subsection 2, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. f. Harassment or bullying prevention goals, programs, training, and other initiatives.

Sec. 2. <u>NEW SECTION</u>. 280.28 HARASSMENT AND BULLYING PROHIBITED — POLICY — IMMUNITY.

- 1. PURPOSE FINDINGS POLICY. The state of Iowa is committed to providing all students with a safe and civil school environment in which all members of the school community are treated with dignity and respect. The general assembly finds that a safe and civil school environment is necessary for students to learn and achieve at high academic levels. Harassing and bullying behavior can seriously disrupt the ability of school employees to maintain a safe and civil environment, and the ability of students to learn and succeed. Therefore, it is the policy of the state of Iowa that school employees, volunteers, and students in Iowa schools shall not engage in harassing or bullying behavior.
 - 2. DEFINITIONS. For purposes of this section, unless the context otherwise requires:
- a. "Electronic" means any communication involving the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. "Electronic" includes but is not limited to communication via electronic mail, internet-based communications, pager service, cell phones, and electronic text messaging.
- b. "Harassment" and "bullying" shall be construed to mean any electronic, written, verbal, or physical act or conduct toward a student which is based on any actual or perceived trait or characteristic of the student and which creates an objectively hostile school environment that meets one or more of the following conditions:
 - (1) Places the student in reasonable fear of harm to the student's person or property.
 - (2) Has a substantially detrimental effect on the student's physical or mental health.
 - (3) Has the effect of substantially interfering with a student's academic performance.
- (4) Has the effect of substantially interfering with the student's ability to participate in or benefit from the services, activities, or privileges provided by a school.
- c. "Trait or characteristic of the student" includes but is not limited to age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status.
 - d. "Volunteer" means an individual who has regular, significant contact with students.
- 3. POLICY. On or before September 1, 2007, the board of directors of a school district and the authorities in charge of each accredited nonpublic school shall adopt a policy declaring harassment and bullying in schools, on school property, and at any school function, or school-sponsored activity regardless of its location, in a manner consistent with this section, as against state and school policy. The board and the authorities shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:
- a. A statement declaring harassment and bullying to be against state and school policy. The statement shall include but not be limited to the following provisions:
- (1) School employees, volunteers, and students in school, on school property, or at any school function or school-sponsored activity shall not engage in harassing and bullying behavior.
- (2) School employees, volunteers, and students shall not engage in reprisal, retaliation, or false accusation against a victim, witness, or an individual who has reliable information about such an act of harassment or bullying.
 - b. A definition of harassment and bullying as set forth in this section.
- c. A description of the type of behavior expected from school employees, volunteers, parents or guardians, and students relative to prevention measures, reporting, and investigation of harassment or bullying.
- d. The consequences and appropriate remedial action for a person who violates the antiharassment and antibullying policy.
 - e. A procedure for reporting an act of harassment or bullying, including the identification

by job title of the school official responsible for ensuring that the policy is implemented, and the identification of the person or persons responsible for receiving reports of harassment or bullying.

- f. A procedure for the prompt investigation of complaints, either identifying the school superintendent or the superintendent's designee as the individual responsible for conducting the investigation, including a statement that investigators will consider the totality of circumstances presented in determining whether conduct objectively constitutes harassment or bullying under this section.
 - g. A statement of the manner in which the policy will be publicized.
- 4. PROGRAMS ENCOURAGED. The board of directors of a school district and the authorities in charge of each accredited nonpublic school are encouraged to establish programs designed to eliminate harassment and bullying in schools. To the extent that funds are available for these purposes, school districts and accredited nonpublic schools shall do the following:
- a. Provide training on antiharassment and antibullying policies to school employees and volunteers who have significant contact with students.
- b. Develop a process to provide school employees, volunteers, and students with the skills and knowledge to help reduce incidents of harassment and bullying.
- 5. IMMUNITY. A school employee, volunteer, or student, or a student's parent or guardian who promptly, reasonably, and in good faith reports an incident of harassment or bullying, in compliance with the procedures in the policy adopted pursuant to this section, to the appropriate school official designated by the school district or accredited nonpublic school, shall be immune from civil or criminal liability relating to such report and to participation in any administrative or judicial proceeding resulting from or relating to the report.
- 6. COLLECTION REQUIREMENT. The board of directors of a school district and the authorities in charge of each nonpublic school shall develop and maintain a system to collect harassment and bullying incidence data.
- 7. INTEGRATION OF POLICY AND REPORTING. The board of directors of a school district and the authorities in charge of each nonpublic school shall integrate its antiharassment and antibullying policy into the comprehensive school improvement plan required under section 256.7, subsection 21, and shall report data collected under subsection 6, as specified by the department, to the local community.
- 8. EXISTING REMEDIES NOT AFFECTED. This section shall not be construed to preclude a victim from seeking administrative or legal remedies under any applicable provision of law.

Approved March 5, 2007

CHAPTER 10

OCCUPATIONAL LICENSING AND REGULATION
— HEALTH CARE PROFESSIONS

S.F. 74

AN ACT renaming health-related examining boards as licensing boards.

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

Section 1. Section 3.20, subsection 2, Code 2007, is amended to read as follows:

2. The <u>examining licensing</u> board shall pursue a meaningful examination and enforcement procedure which upholds the level of competency of the licensee to insure that the public interest is protected.

- Sec. 2. Section 7E.4, subsection 2, Code 2007, is amended to read as follows:
- 2. a. "Board" means a policymaking <u>or rulemaking</u> body that has the power to hear contested cases.
- b. A policymaking body that has powers for both rulemaking and hearing contested cases shall be termed a "board". "Board" includes a professional licensing board which sets standards of professional competence and conduct for the profession or occupation under its supervision, which may prepare and grade the examinations of prospective new practitioners when authorized by law, which may issue licenses when authorized by law, which investigates complaints of alleged unprofessional conduct, and which performs other functions assigned to it by law.
 - Sec. 3. Section 7E.4, subsection 8, Code 2007, is amended by striking the subsection.
- Sec. 4. Section 8A.101, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

"Agency" or "state agency" means a unit of state government, which is an authority, board, commission, committee, council, department, examining <u>or licensing</u> board, or independent agency as defined in section 7E.4, including but not limited to each principal central department enumerated in section 7E.5. However, "agency" or "state agency" does not mean any of the following:

- Sec. 5. Section 8F.2, subsection 1, Code 2007, is amended to read as follows:
- 1. "Agency" means a unit of state government, which is an authority, board, commission, committee, council, department, examining or licensing 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.
 - Sec. 6. Section 10A.402, subsection 1, Code 2007, is amended to read as follows:
- 1. Investigations relative to the practice of regulated professions and occupations, except those within the jurisdiction of the board of medical examiners medicine, the board of pharmacy examiners, the board of dental examiners dentistry, 1 and the board of nursing.
 - Sec. 7. Section 80.33, Code 2007, 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, 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. 8. Section 124.101, subsection 3, Code 2007, is amended to read as follows:
- 3. "Board" means the state board of pharmacy examiners.

¹ See chapter 218, §191 herein

- Sec. 9. Section 124.204, subsection 4, paragraph m, Code 2007, is amended to read as follows:
- m. Marijuana, except as otherwise provided by rules of the board of pharmacy examiners for medicinal purposes.
- Sec. 10. Section 124.204, subsection 4, paragraph u, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Tetrahydrocannabinols, except as otherwise provided by rules of the board of pharmacy examiners for medicinal purposes. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis sp., and synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

- Sec. 11. Section 124.204, subsection 7, Code 2007, is amended to read as follows:
- 7. EXCLUSIONS. This section does not apply to marijuana, tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol when utilized for medicinal purposes pursuant to rules of the state board of pharmacy examiners.
- Sec. 12. Section 124.206, subsection 7, paragraph a, Code 2007, is amended to read as follows:
- a. Marijuana when used for medicinal purposes pursuant to rules of the board of pharmacy examiners.
 - Sec. 13. Section 124.206, subsection 8, Code 2007, is amended to read as follows:
- 8. The board of pharmacy examiners, by rule, may except any compound, mixture, or preparation containing any stimulant listed in subsection 4 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant effect on the central nervous system, and if the admixtures are included in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.
 - Sec. 14. Section 124A.2, subsection 4, Code 2007, is amended to read as follows:
- 4. "Imitation controlled substance" means a substance which is not a controlled substance but which by color, shape, size, markings, and other aspects of dosage unit appearance, and packaging or other factors, appears to be or resembles a controlled substance.

The state board of pharmacy examiners may designate a substance as an imitation controlled substance pursuant to the board's rulemaking authority and in accordance with chapter 17A.

Sec. 15. Section 124A.3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

When a substance has not been designated as an imitation controlled substance by the state board of pharmacy examiners and when dosage unit appearance alone does not establish that a substance is an imitation controlled substance the following factors may be considered in determining whether the substance is an imitation controlled substance:

- Sec. 16. Section 124B.1, Code 2007, subsection 1, is amended to read as follows:
- 1. "Board" means the board of pharmacy examiners.
- Sec. 17. Section 126.2, subsection 3, Code 2007, is amended to read as follows:
- 3. "Board" means the board of pharmacy examiners.
- Sec. 18. Section 135.11, subsection 9, Code 2007, is amended to read as follows:
- 9. Exercise sole jurisdiction over the disposal and transportation of the dead bodies of hu-

man beings and prescribe the methods to be used in preparing such bodies for disposal and transportation. However, the department may approve a request for an exception to the application of specific embalming and disposition rules adopted pursuant to this subsection if such rules would otherwise conflict with tenets and practices of a recognized religious denomination to which the deceased individual adhered or of which denomination the deceased individual was a member. The department shall inform the board of mortuary science examiners of any such approved exception which may affect services provided by a funeral director licensed pursuant to chapter 156.

Sec. 19. Section 135.11A, Code 2007, is amended to read as follows:

135.11A PROFESSIONAL LICENSURE DIVISION — OTHER LICENSING BOARDS — EXPENSES — FEES.

There shall be a professional licensure division within the department of public health. Each board of examiners specified under chapter 147 or under the administrative authority of the department, except the state board of nursing, state board of medical examiners medicine, state board of dental examiners dentistry,² and state board of pharmacy examiners, shall receive administrative and clerical support from the division and may not employ its own support staff for administrative and clerical duties.

The professional licensure division and the licensing boards may expend funds in addition to amounts budgeted, if those additional expenditures are directly the result of actual examination and exceed funds budgeted for examinations. Before the division or a licensing board 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 department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division or board and the division or board does not have other funds from which examination expenses can be paid. Upon approval of the department of management, the division or licensing board may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected as fees from additional examination applicants and shall be treated as repayment receipts as defined in section 8.2.

Sec. 20. Section 135.24, subsection 2, paragraph a, Code 2007, is amended to read as follows:

a. Procedures for registration of health care providers deemed qualified by the board of medical examiners medicine, the board of physician assistant examiners assistants, the board of dental examiners dentistry, the board of nursing, the board of chiropractic examiners, the board of psychology examiners, the board of social work examiners, the board of behavioral science examiners, the board of pharmacy examiners, the board of podiatry examiners, the board of physical and occupational therapy examiners, the state board for respiratory care, and the Iowa department of public health, as applicable.

Sec. 21. Section 135.31, Code 2007, is amended to read as follows:

135.31 LOCATION OF BOARDS — RULEMAKING.

The offices for the state board of medical examiners medicine, the state board of pharmacy examiners, the state board of nursing, and the state board of dental examiners dentistry⁴ shall be located within the department of public health. The individual boards shall have policy-making and rulemaking authority.

Sec. 22. Section 135M.3, subsection 1, Code 2007, is amended to read as follows:

1. The department, in cooperation with the board of pharmacy examiners, may establish and maintain a prescription drug donation repository program under which any person may donate prescription drugs and supplies for use by an individual who meets eligibility criteria specified by the department by rule. The department may contract with a third party to implement and administer the program.

² See chapter 218, §192 herein

³ See chapter 218, §193 herein

⁴ See chapter 218, §194 herein

Sec. 23. Section 136C.3, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Establish minimum training standards including continuing education requirements, and administer examinations and disciplinary procedures for operators of radiation machines and users of radioactive materials. A state of Iowa license to practice medicine, osteopathy, chiropractic, podiatry, dentistry, dental hygiene, or veterinary medicine, or licensure as a physician assistant pursuant to chapter 148C, or certification by the board of dental examiners dentistry in dental radiography, or by the board of podiatry examiners in podiatric radiography, or enrollment in a program or course of study approved by the Iowa department of public health which includes the application of radiation to humans satisfies the minimum training standards for operation of radiation machines only.

Sec. 24. Section 139A.8, subsection 4, paragraph a, Code 2007, is amended to read as follows:

a. The applicant, or if the applicant is a minor, the applicant's parent or legal guardian, submits to the admitting official a statement signed by a physician, advanced registered nurse practitioner, or physician assistant who is licensed by the board of medical examiners medicine, board of nursing, or board of physician assistant examiners assistants that the immunizations required would be injurious to the health and well-being of the applicant or any member of the applicant's family.

Sec. 25. Section 139A.22, subsections 1, 3, 6, and 7, Code 2007, are amended to read as follows:

- 1. A hospital shall adopt procedures requiring the establishment of protocols applicable on a case-by-case basis to a health care provider determined to be infected with HIV or HBV who ordinarily performs exposure-prone procedures as determined by an expert review panel, within the hospital setting. The protocols established shall be in accordance with the recommendations issued by the centers for disease control and prevention of the United States department of health and human services. The expert review panel may be an established committee of the hospital. The procedures may provide for referral of the health care provider to the expert review panel established by the department pursuant to subsection 3 for establishment of the protocols. The procedures shall require reporting noncompliance with the protocols by a health care provider to the examining licensing board with jurisdiction over the relevant health care providers.
- 3. The department shall establish an expert review panel to determine on a case-by-case basis under what circumstances, if any, a health care provider determined to be infected with HIV or HBV practicing outside the hospital setting or referred to the panel by a hospital or health care facility may perform exposure-prone procedures. If a health care provider determined to be infected with HIV or HBV does not comply with the determination of the expert review panel, the panel shall report the noncompliance to the examining licensing board with jurisdiction over the health care provider. A determination of an expert review panel pursuant to this section is a final agency action appealable pursuant to section 17A.19.
- 6. The board of medical examiners medicine, the board of physician assistant examiners assistants, the board of podiatry examiners, the board of nursing, the board of dental examiners dentistry, and the board of optometry examiners shall require that licensees comply with the recommendations issued by the centers for disease control and prevention of the United States department of health and human services for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures, with the recommendations of the expert review panel established pursuant to subsection 3, with hospital protocols established pursuant to subsection 1, and with health care facility procedures established pursuant to subsection 2, as applicable.
- 7. Information relating to the HIV status of a health care provider is confidential and subject to the provisions of section 141A.9. A person who intentionally or recklessly makes an unauthorized disclosure of such information is subject to a civil penalty of one thousand dollars.

⁵ See chapter 218, §195 herein

⁶ See chapter 218, §196 herein

The attorney general or the attorney general's designee may maintain a civil action to enforce this section. Proceedings maintained under this section shall provide for the anonymity of the health care provider and all documentation shall be maintained in a confidential manner. Information relating to the HBV status of a health care provider is confidential and shall not be accessible to the public. Information regulated by this section, however, may be disclosed to members of the expert review panel established by the department or a panel established by hospital protocol under this section. The information may also be disclosed to the appropriate examining licensing board by filing a report as required by this section. The examining licensing board shall consider the report a complaint subject to the confidentiality provisions of section 272C.6. A licensee, upon the filing of a formal charge or notice of hearing by the examining licensing board based on such a complaint, may seek a protective order from the board.

- Sec. 26. Section 147.1, subsection 2, paragraphs b, c, and f, Code 2007, are amended to read as follows:
- b. <u>"Examining board"</u> <u>"Board"</u> shall mean one of the boards <u>enumerated in section 147.13</u> <u>or any other board established in this subtitle which is</u> appointed by the governor to <u>give examinations to license</u> applicants <u>for licenses</u> and impose licensee discipline as authorized by law.
- c. "Licensed" or "certified" when applied to a physician and surgeon, podiatric physician, osteopath, osteopathic physician and surgeon, physician assistant, psychologist or associate psychologist, chiropractor, nurse, dentist, dental hygienist, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, occupational therapist, respiratory care practitioner, practitioner of cosmetology arts and sciences, practitioner of barbering, funeral director, dietitian, marital and family therapist, mental health counselor, social worker, massage therapist, athletic trainer, acupuncturist, or interpreter for the hearing impaired sign language interpreter or transliterator means a person licensed under this subtitle.
- f. "Profession" means medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, practice as a physician assistant, psychology, chiropractic, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, respiratory care, cosmetology arts and sciences, barbering, mortuary science, marital and family therapy, mental health counseling, social work, dietetics, massage therapy, athletic training, acupuncture, or interpreting for the hearing impaired sign language interpreting or transliterating.
- Sec. 27. Section 147.1, subsection 2, paragraph e, subparagraph (4), Code 2007, is amended to read as follows:
- (4) An examining A board enumerated in section 147.13 or any other board established in this subtitle which is appointed by the governor to license applicants and impose licensee discipline as authorized by law.
- Sec. 28. Section 147.2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A person shall not engage in the practice of medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, occupational therapy, respiratory care, pharmacy, cosmetology, barbering, social work, dietetics, marital and family therapy or mental health counseling, massage therapy, mortuary science, athletic training, acupuncture, or interpreting for the hearing impaired sign language interpreting or transliterating, or shall not practice as a physician assistant as defined in the following chapters of this subtitle, unless the person has obtained from the department a license for that purpose.

Sec. 29. Section 147.5, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Every license to practice a profession shall be in the form of a certificate under the seal of the department, signed by the director of public health. Such license shall be issued in the name of the examining <u>licensing</u> board which conducts examinations for that particular profession.

Sec. 30. Section 147.11, Code 2007, is amended to read as follows:

147.11 REINSTATEMENT.

Any licensee who allows the license to lapse by failing to renew the same, as provided in section 147.10, may be reinstated without examination upon recommendation of the examining licensing board for the licensee's profession and upon payment of the renewal fees then due.

Sec. 31. Section 147.12, Code 2007, is amended to read as follows:

147.12 EXAMINING HEALTH PROFESSION BOARDS.

For the purpose of giving examinations to applicants for licenses to practice the professions for which licenses are required by this subtitle, the governor shall appoint, subject to confirmation by the senate, a board of examiners for each of the professions. The board members shall not be required to be members of professional societies or associations composed of members of their professions.

If a person who has been appointed by the governor to serve on an examining \underline{a} board has ever been disciplined in a contested case by the board to which the person has been appointed, all board complaints and statements of charges, settlement agreements, findings of fact, and orders pertaining to the disciplinary action shall be made available to the senate committee to which the appointment is referred at the committee's request before the full senate votes on the person's appointment.

Sec. 32. Section 147.13, Code 2007, is amended to read as follows:

147.13 DESIGNATION OF BOARDS.

The examining boards provided in section 147.12 shall be designated as follows:

- 1. For medicine and surgery, osteopathy, osteopathic medicine and surgery, and acupuncture, medical examiners the board of medicine.
 - 2. For physician assistants, the board of physician assistant examiners assistants.
 - 3. For psychology, the board of psychology examiners.
 - 4. For podiatry, the board of podiatry examiners.
 - 5. For chiropractic, the board of chiropractic examiners.
- 6. For physical therapists and occupational therapists, the board of physical and occupational therapy examiners.
 - 7. For nursing, the board of nursing.
- 8. For dentistry, dental hygiene, and dental assisting, dental examiners the board of dentistry.
- 9. For optometry, the board of optometry examiners.
- 10. For speech pathology and audiology, the board of speech pathology and audiology examiners.
- For cosmetology arts and sciences, the board of cosmetology arts and sciences examiners.
 - 12. For barbering, barber examiners the board of barbering.
 - 13. For pharmacy, the board of pharmacy examiners.
 - 14. For mortuary science, the board of mortuary science examiners.
 - 15. For social workers, the board of social work examiners.
- 16. For marital and family therapists and mental health counselors, <u>the board of</u> behavioral science examiners.
 - 17. For dietetics, dietetic examiners the board of dietetics.
 - 18. For respiratory care therapists, the board of respiratory care examiners.
 - 19. For massage therapists, the board of massage therapy examiners.
 - 20. For athletic trainers, the board of athletic training examiners.
- 21. For interpreters, interpreter for the hearing impaired examiners the board of sign language interpreters and transliterators.

⁷ See chapter 218, §197 herein

- 22. For hearing aids, the board of hearing aid dispenser examiners dispensers.
- 23. For nursing home administrators, the board of nursing home administrators examiners.

Sec. 33. Section 147.14, Code 2007, is amended to read as follows:

147.14 COMPOSITION OF BOARDS.

The boards of examiners board members shall consist of the following:

- 1. For barbering, three members licensed to practice barbering, and two members who are not licensed to practice barbering and who shall represent the general public. A quorum shall consist of a majority of the members of the board.
- 2. For medical examiners medicine, five members licensed to practice medicine and surgery, two members licensed to practice osteopathic medicine and surgery, and three members not licensed to practice either medicine and surgery or osteopathic medicine and surgery, and who shall represent the general public. A majority of members of the board constitutes a quorum.
- 3. For the board of nursing, four registered nurses, two of whom shall be actively engaged in practice, two of whom shall be nurse educators from nursing education programs; of these, one in higher education and one in area community and vocational-technical registered nurse education; one licensed practical nurse actively engaged in practice; and two members not registered nurses or licensed practical nurses and who shall represent the general public. The representatives of the general public shall not be members of health care delivery systems. A majority of the members of the board constitutes a quorum.
- 4. For dental examiners dentistry, five members shall be licensed to practice dentistry, two members shall be licensed to practice dental hygiene, and two members not licensed to practice dentistry or dental hygiene and who shall represent the general public. A majority of the members of the board shall constitute a quorum. No member of the dental faculty of the school of dentistry at the state university of Iowa shall be eligible to be appointed. Beginning January 1,2000, persons appointed to the board as dental hygienist members shall not be employed by or receive any form of remuneration from a dental or dental hygiene educational institution. The two dental hygienist board members and one dentist board member shall constitute a dental hygiene committee of the board as provided in section 153.33A.
- 5. For pharmacy examiners, five members licensed to practice pharmacy and two members who are not licensed to practice pharmacy and who shall represent the general public. A majority of the members of the board shall constitute a quorum.
- 6. For optometry examiners, five members licensed to practice optometry and two members who are not licensed to practice optometry and who shall represent the general public. A majority of the members of the board shall constitute a quorum.
- 7. For psychology examiners, five members who are licensed to practice psychology and two members not licensed to practice psychology and who shall represent the general public. Of the five members who are licensed to practice psychology, one member shall be primarily engaged in graduate teaching in psychology, two members shall be persons who render services in psychology, one member shall represent areas of applied psychology and may be affiliated with training institutions and shall devote a major part of the member's time to rendering service in psychology, and one member shall be primarily engaged in research psychology. A majority of the members of the board constitutes a quorum.
- 8. For chiropractic examiners, five members licensed to practice chiropractic and two members who are not licensed to practice chiropractic and who shall represent the general public. A majority of the members of the board shall constitute a quorum.
- 9. For speech pathology and audiology examiners, five members licensed to practice speech pathology or audiology at least two of which shall be licensed to practice speech pathology and at least two of which shall be licensed to practice audiology, and two members who are not licensed to practice speech pathology or audiology and who shall represent the general public. A majority of the members of the board shall constitute a quorum.
- 10. For physical therapy and occupational therapy, three members licensed to practice physical therapy, two members licensed to practice occupational therapy, and two members

who are not licensed to practice physical therapy or occupational therapy and who shall represent the general public. A quorum shall consist of a majority of the members of the board.

- 11. For dietetic examiners dietetics, one licensed dietitian representing the approved or accredited dietetic education programs, one licensed dietitian representing clinical dietetics in hospitals, one licensed dietitian representing community nutrition services and two members who are not licensed dietitians and who shall represent the general public. A majority of the members of the board constitutes a quorum.
- 12. For the board of physician assistant examiners assistants, three members licensed to practice as physician assistants, at least two of whom practice in counties with a population of less than fifty thousand, one member licensed to practice medicine and surgery who supervises a physician assistant, one member licensed to practice osteopathic medicine and surgery who supervises a physician assistant, and two members who are not licensed to practice either medicine and surgery or osteopathic medicine and surgery or licensed as a physician assistant and who shall represent the general public. At least one of the physician members shall be in practice in a county with a population of less than fifty thousand. A majority of members of the board constitutes a quorum.
- 13. For behavioral science examiners, three members licensed to practice marital and family therapy, one of whom shall be employed in graduate teaching, training, or research in marital and family therapy and two of whom shall be practicing marital and family therapists; three members licensed to practice mental health counseling, one of whom shall be employed in graduate teaching, training, or research in mental health counseling and two of whom shall be practicing mental health counselors; and three members who are not licensed to practice marital and family therapy or mental health counseling and who shall represent the general public. A majority of the members of the board constitutes a quorum.
- 14. For cosmetology arts and sciences examiners, a total of seven members, three who are licensed cosmetologists, one who is a licensed electrologist, esthetician, or nail technologist, one who is a licensed instructor of cosmetology arts and sciences at a public or private school and who does not own a school of cosmetology arts and sciences, and two who are not licensed in a practice of cosmetology arts and sciences and who shall represent the general public.
- 15. For respiratory care, one licensed physician with training in respiratory care, three respiratory care practitioners who have practiced respiratory care for a minimum of six years immediately preceding their appointment to the board and who are recommended by the society for respiratory care, and one member not licensed to practice medicine or respiratory care who shall represent the general public. A majority of members of the board constitutes a quorum.
- 16. For mortuary science examiners, four members licensed to practice mortuary science, one member owning, operating, or employed by a crematory, and two members not licensed to practice mortuary science and not a crematory owner, operator, or employee who shall represent the general public. A majority of the members of the board constitutes a quorum.
- 17. For massage therapists, four members licensed to practice massage therapy and three members who are not licensed to practice massage therapy and who shall represent the general public. A majority of the members of the board constitutes a quorum.
- 18. For athletic trainers, three members licensed to practice athletic training, three members licensed to practice medicine and surgery, and one member not licensed to practice athletic training or medicine and surgery and who shall represent the general public. A majority of the members of the board constitutes a quorum.
- 19. For podiatry examiners, five members licensed to practice podiatry and two members who are not licensed to practice podiatry and who shall represent the general public. A majority of the members of the board shall constitute a quorum.
- 20. For social work examiners, a total of seven members, five who are licensed to practice social work, with at least one from each of three levels of licensure described in section 154C.3, subsection 1, two employed by a licensee under chapter 237, and two who are not licensed social workers and who shall represent the general public.
- 21. For <u>sign language</u> interpreting <u>for the hearing impaired</u> <u>and transliterating</u>, four members licensed to practice interpreting <u>and transliterating</u>, three of whom shall be practicing in-

terpreters <u>and transliterators</u> at the time of appointment to the board and at least one of whom is employed in an educational setting; and three members who are consumers of interpreting <u>or transliterating</u> services as defined in section 154E.1, each of whom shall be deaf. A majority of members of the board constitutes a quorum.

22. For hearing aid dispensers, three licensed hearing aid dispensers and two members who are not licensed hearing aid dispensers who shall represent the general public. A majority of the members of the board constitutes a quorum.

23. For nursing home administrators, a total of nine members: Four licensed nursing home administrators, one of whom is the administrator of a nonproprietary nursing home; three licensed members of any profession concerned with the care and treatment of chronically ill or elderly patients who are not nursing home administrators or nursing home owners; and two members of the general public who are not licensed under chapter 147, have no financial interest in any nursing home, and who shall represent the general public. A majority of the members of the board constitutes a quorum.

Sec. 34. Section 147.16, Code 2007, is amended to read as follows:

147.16 EXAMINERS BOARD MEMBERS.

Each licensed examiner <u>board member</u> shall be actively engaged in the practice or the instruction of the examiner's <u>board member's</u> profession and shall have been so engaged for a period of five years just preceding the <u>examiner's board member's</u> appointment, the last two of which shall be in this state.

However, each licensed physician assistant member of the board of physician assistant examiners assistants shall be actively engaged in practice as a physician assistant and shall have been so engaged for a period of three years just preceding the member's appointment, the last year of which shall be in this state.

Sec. 35. Section 147.18, Code 2007, is amended to read as follows:

147.18 DISQUALIFICATIONS.

No examiner A board member shall <u>not</u> be connected in any manner with any wholesale or jobbing house dealing in supplies or have a financial interest in or be an instructor at a proprietary school.

Sec. 36. Section 147.19, Code 2007, is amended to read as follows:

147.19 TERMS OF OFFICE.

The board members shall serve three-year terms, which shall commence and end as provided by section 69.19. Any vacancy in the membership of an examining \underline{a} board shall be filled by appointment of the governor subject to senate confirmation. A member shall serve no more than three terms or nine years.

Sec. 37. Section 147.20, Code 2007, is amended to read as follows:

147.20 NOMINATION OF EXAMINERS BOARD MEMBERS.

The regular state association or society for each profession may recommend the names of potential board members to the governor, but the governor shall not be bound by the recommendations.

Sec. 38. Section 147.22, Code 2007, is amended to read as follows:

147.22 OFFICERS.

Each examining board shall organize annually and shall select a chairperson and a secretary from its own membership.

Sec. 39. Section 147.24, Code 2007, is amended to read as follows:

147.24 COMPENSATION.

Members of an examining a board shall receive actual expenses for their duties as a member of the examining board. Each member of each board may also be eligible to receive compensa-

tion as provided in section 7E.6. The funds shall be appropriated to the department and allocated to each examining board within the limits of funds.

Sec. 40. Section 147.25, unnumbered paragraphs 3 and 4, Code 2007, are amended to read as follows:

Examining boards Boards collecting information necessary for the division for records and statistics to carry out the provisions of this section shall provide the department with the information which may be gathered by means including, but not limited to, questionnaires forwarded to applicants for a license or renewal of a license.

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.

Sec. 41. Section 147.26, Code 2007, is amended to read as follows: 147.26 SUPPLIES AND EXAMINATION QUARTERS.

The department shall furnish each examining board with all articles and supplies required for the public use and necessary to enable said the board to perform the duties imposed upon it by law. Such articles and supplies shall be obtained by the department in the same manner in which the regular supplies for the department are obtained and the cost shall be assessed to the examining board. The director of the department of administrative services shall furnish each examining board with suitable quarters in which to conduct the examination and the cost of the quarters shall be assessed to the examining board.

Sec. 42. Section 147.28, Code 2007, is amended to read as follows: 147.28 NATIONAL ORGANIZATION.

Each examining board may maintain a membership in the national organization of the state examining regulatory boards of its profession to be paid from funds appropriated to the board.

Sec. 43. Section 147.28A, Code 2007, is amended to read as follows:

147.28A SCOPE OF PRACTICE REVIEW COMMITTEES — FUTURE REPEAL.

- 1. The department shall utilize scope of practice review committees to evaluate and make recommendations to the general assembly and to the appropriate examining boards regarding all of the following issues:
- a. Requests from practitioners seeking to become newly licensed health professionals or to establish their own examining boards.
- b. Requests from health professionals seeking to expand or narrow the scope of practice of a health profession.
 - c. Unresolved administrative rulemaking disputes between examining boards.
- 2. A scope of practice review committee established under this section shall evaluate the issues specified in subsection 1 and make recommendations regarding proposed changes to the general assembly based on the following standards and guidelines:
 - a. The proposed change does not pose a significant new danger to the public.
 - b. Enacting the proposed change will benefit the health, safety, or welfare of the public.
 - c. The public cannot be effectively protected by other more cost-effective means.
 - 3. A scope of practice review committee shall be limited to five members as follows:
- a. One member representing the profession seeking licensure, a new examining board, or a change in scope of practice.
- b. One member of the health profession directly impacted by, or opposed to, the proposed change.

- c. One impartial health professional who is not directly or indirectly affected by the proposed change.
 - d. Two impartial members of the general public.
- 4. The department may contract with a school or college of public health to assist in implementing administering this section.
- 5. The department shall submit an annual progress report to the governor and the general assembly by January 15 and shall include any recommendations for legislative action as a result of review committee activities.
- 6. The department shall adopt rules in accordance with chapter 17A to implement administer this section.
 - 7. This section is repealed July 1, 2007.8

Sec. 44. Section 147.33, Code 2007, is amended to read as follows:

147.33 PROFESSIONAL SCHOOLS.

As a basis for such action on the part of the examining board, the registrar of the state university of Iowa and the dean of the professional school of said institution which teaches the profession for which said the board gives license examinations, shall supply such data relative to any such professional school as said the board may request.

Sec. 45. Section 147.34, Code 2007, is amended to read as follows: 147.34 EXAMINATIONS.

Examinations for each profession licensed under this subtitle shall be conducted at least one time per year at such time as the department may fix in cooperation with each examining board. Examinations may be given at the state university of Iowa at the close of each school year for professions regulated by this subtitle and examinations may be given at other schools located in the state at which any of the professions regulated by this subtitle are taught. At least one session of each examining board shall be held annually at the seat of government and the locations of other sessions shall be determined by the examining board, unless otherwise ordered by the department. Applicants who fail to pass the examination once shall be allowed to take the examination at the next scheduled time. Thereafter, applicants shall be allowed to take the examination at the discretion of the board. Examinations may be given by an examining a board which are prepared and scored by persons outside the state, and examining boards may contract for such services. An examining \underline{A} board may make an agreement with examining boards in other states for administering a uniform examination. An applicant who has failed an examination may request in writing information from the examining board concerning the examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the examining board administers a uniform, standardized examination, the examining board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the examining board.

Sec. 46. Section 147.35. Code 2007, is amended to read as follows:

147.35 NAMES OF ELIGIBLE CANDIDATES.

Prior to each examination the department shall transmit to each examining board the list of candidates who are eligible to take the examination given by such board. In making up such list the department may call upon any examining board, or any member thereof, for information relative to the eligibility of any applicant.

Sec. 47. Section 147.36, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Each examining board shall establish rules for:

Sec. 48. Section 147.37, Code 2007, is amended to read as follows:

147.37 IDENTITY OF CANDIDATE CONCEALED.

All examinations in theory shall be in writing, and the identity of the person taking the same

⁸ See chapter 215, §260 herein

shall not be disclosed upon the examination papers in such a way as to enable the members of the examining board to know by whom written until after the papers have been passed upon. In examinations in practice the identity of the candidate shall also be concealed as far as possible.

Sec. 49. Section 147.39, Code 2007, is amended to read as follows: 147.39 CLERK.

Upon the request of any examining board, the department shall detail some employee to act as clerk of any examination given by said examining the board. Such clerk shall have charge of the candidates during the examination and perform such other duties as the examining board may direct. If the duties of such clerk are performed away from the seat of government, the clerk shall receive necessary travel and expenses, which shall be paid from the appropriations to the examining board in the same manner in which other similar expenses are paid. The department shall be reimbursed by the examining board for costs incurred.

Sec. 50. Section 147.40, Code 2007, is amended to read as follows: 147.40 CERTIFICATION OF APPLICANTS.

Every examination shall be passed upon in accordance with the established rules of the examining board and shall be satisfactory to at least a majority of the professional members of the board. In the case of the board of dental examiners dentistry, only licensed dentist members of the board shall determine whether an applicant has passed the examination to practice as a licensed dentist. After each examination, the examining board shall certify the names of the successful applicants to the department in the manner prescribed by it. The department shall then issue the proper license.

Sec. 51. Section 147.41, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Any examining board may provide for a partial examination for a license to practice a profession to any applicant who has completed a portion of the professional course. For such purpose said the board shall establish by rule:

Sec. 52. Section 147.42, Code 2007, is amended to read as follows:

147.42 RULES RELATIVE TO PARTIAL EXAMINATIONS.

In case any examining If a board shall provide provides for partial examinations under section 147.41, the department shall adopt rules establishing:

- The portion of the license fee fixed in this chapter which shall be paid for a partial examination.
- 2. The credentials which shall be presented to the department by an applicant showing the applicant's qualifications to take such examination.
- 3. The method of certifying the list of the eligible applicants for such examination to the proper examining appropriate board.
- 4. The method of certifying back to the department the list of applicants who successfully pass such examination.
- 5. The method of keeping the records of such applicants for use at the time of completing the examination for a license.
- 6. The credentials which shall be presented to the department by such an applicant upon the completion of the professional course.
- 7. The method of certifying such applicant to the proper examining board for the remainder of the examination.
 - 8. Such other matters of procedure as are necessary to carry into effect section 147.41.

Sec. 53. Section 147.44, Code 2007, is amended to read as follows: 147.44 AGREEMENTS.

For the purpose of recognizing licenses which have been issued in other states to practice

⁹ See chapter 218, §198 herein

any profession for which a license is required by this subtitle, the department shall enter into a reciprocal agreement with every state which is certified to it the department by the proper examining appropriate board under the provisions of section 147.45 and with which this state does not have an existing agreement at the time of such certification.

Sec. 54. Section 147.45, Code 2007, is amended to read as follows:

147.45 STATES ENTITLED TO RECIPROCAL RELATIONS.

The department shall at least once each year lay before the proper examining appropriate board the requirements of the several states for a license to practice the profession for which such examining the board conducts examinations for licenses in this state. Said examining The board shall immediately examine such requirements and after making such other inquiries as it deems necessary, shall certify to the department the states having substantially equivalent requirements to those existing in this state for that particular profession and with which said examining the board desires this state to enter into reciprocal relations.

Sec. 55. Section 147.46, subsection 2, Code 2007, is amended to read as follows:

2. SPECIAL CONDITIONS. When any examining board has established by rule any special condition upon which reciprocal agreements shall be entered into, as provided in section 147.47, such condition shall be incorporated into the reciprocal agreements negotiated with reference to licenses to practice the professions for which such examining the board conducts examinations.

Sec. 56. Section 147.47, Code 2007, is amended to read as follows: 147.47 SPECIAL CONDITIONS.

An examining \underline{A} board shall have power to provide by rule that no reciprocal relation shall be entered into by the department with any state with reference to licenses to practice the profession for which such examining the board conducts examinations, unless every person licensed in another state when applying for a license to practice in this state shall comply with one or both of the following conditions:

- 1. Furnish satisfactory proof to the department that the person has been actively engaged in the practice of the profession for a certain period of years to be fixed by such examining the board.
- 2. Pass a practical examination in the practice of the person's particular profession as prescribed by such examining the board.

Sec. 57. Section 147.48, Code 2007, is amended to read as follows: 147.48 TERMINATION OF AGREEMENTS.

When If the requirements for a license in any state with which this state has a reciprocal agreement are changed by any law or rule of the authorities therein in that state so that such requirements are no longer substantially as high as those existing in this state, then such the agreement shall be deemed terminated and licenses issued in such that state shall not be recognized as a basis of granting a license in this state until a new agreement has been negotiated. The fact of such change shall be determined by the proper examining appropriate board and certified to the department for its guidance in enforcing the provisions of this section.

Sec. 58. Section 147.49, Code 2007, is amended to read as follows: 147.49 LICENSE OF ANOTHER STATE.

The department shall, upon presentation of a license to practice a profession issued by the duly constituted authority of another state, with which this state has established reciprocal relations, and subject to the rules of the examining board for such profession, license said the applicant to practice in this state, unless under the rules of said examining the board a practical examination is required in such cases. The department may, upon the recommendation of the medical examiners board of medicine, accept in lieu of the examination prescribed in section 148.3 or section 150A.3 a license to practice medicine and surgery or osteopathic medicine and

surgery, issued by the duly constituted authority of another state, territory, or foreign country. Endorsement may be accepted by the department in lieu of further written examination without regard to the existence or nonexistence of a reciprocal agreement, but shall not be in lieu of the standards and qualifications prescribed by section 148.3 or section 150A.3.

Sec. 59. Section 147.50, Code 2007, is amended to read as follows: 147.50 PRACTICAL EXAMINATIONS.

If the rules of any examining board require an applicant for a license under a reciprocal agreement to pass a practical examination in the practice of the applicant's profession, then such the applicant shall make application therefore for the license to the department upon a form provided by it the department.

Sec. 60. Section 147.53, Code 2007, is amended to read as follows: 147.53 POWER TO ADOPT RULES.

The department and each examining board shall have power to establish the adopt necessary rules, not inconsistent with law, for carrying out the reciprocal relations with other states which are authorized by this chapter.

- Sec. 61. Section 147.74, subsections 7, 15, and 22, Code 2007, are amended to read as follows:
- 7. A graduate of a school accredited on by the board of optometric examiners optometry may use the prefix "Doctor", but shall add after the person's name the letters "O. D."
- 15. A pharmacist who possesses a doctoral degree recognized by the American council of pharmaceutical education from a college of pharmacy approved by the board of pharmacy examiners or a doctor of philosophy degree in an area related to pharmacy may use the prefix "Doctor" or "Dr." but shall add after the person's name the word "pharmacist" or "Pharm. D."
- 22. An A sign language interpreter licensed under chapter 154E and this chapter may use the title "licensed sign language" interpreter" or the letters "L. I." after the person's name.

Sec. 62. Section 147.76, Code 2007, is amended to read as follows: 147.76 RULES.

The examining boards for the various professions shall adopt all necessary and proper rules to implement administer and interpret this chapter and chapters 147A through 158, except chapter 148D.

Sec. 63. Section 147.80, Code 2007, is amended to read as follows: 147.80 LICENSE — EXAMINATION — FEES.

An examining Each board shall set the fees for the examination of applicants, which fees shall be based upon the cost of administering the examinations. An examining \underline{A} board shall set the license fees and renewal fees required for any of the following based upon the cost of sustaining the board and the actual costs of licensing:

- 1. License to practice dentistry issued upon the basis of an examination given by the board of dental examiners dentistry, 11 license to practice dentistry issued under a reciprocal agreement, resident dentist's license, renewal of a license to practice dentistry.
- 2. License to practice pharmacy issued upon the basis of an examination given by the board of pharmacy examiners, license to practice pharmacy issued under a reciprocal agreement, renewal of a license to practice pharmacy.
- 3. License to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy and renewal of a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy.
- 4. Certificate to practice psychology or associate psychology issued on the basis of an examination given by the board of psychology examiners, or certificate to practice psychology or associate psychology issued under a reciprocity agreement or by endorsement, renewal of a certificate to practice psychology or associate psychology.

¹⁰ See chapter 215, §246 herein

¹¹ See chapter 218, §199 herein

- 5. Application for a license to practice as a physician assistant, issuance of a license to practice as a physician assistant issued upon the basis of an examination given or approved by the board of physician assistant examiners assistants, issuance of a license to practice as a physician assistant issued under a reciprocal agreement, renewal of a license to practice as a physician assistant, temporary license to practice as a physician assistant.
- 6. License to practice chiropractic issued on the basis of an examination given by the board of chiropractic examiners. License to practice chiropractic issued by endorsement or under a reciprocal agreement, renewal of a license to practice chiropractic.
- 7. License to practice podiatry issued upon the basis of an examination given by the board of podiatry examiners, license to practice podiatry issued under a reciprocal agreement, renewal of a license to practice podiatry.
- 8. License to practice physical therapy issued upon the basis of an examination given by the board of physical and occupational therapy examiners, license to practice physical therapy issued under a reciprocal agreement, renewal of a license to practice physical therapy.
- 9. License to practice as a physical therapist assistant issued on the basis of an examination given by the board of physical and occupational therapy examiners, license to practice as a physical therapist assistant issued under a reciprocal agreement, renewal of a license to practice as a physical therapist assistant.
- 10. For a license to practice optometry issued upon the basis of an examination given by the board of optometry examiners, license to practice optometry issued under a reciprocal agreement, renewal of a license to practice optometry.
- 11. License to practice dental hygiene issued upon the basis of an examination given by the board of dental examiners dentistry, ¹² license to practice dental hygiene issued under a reciprocal agreement, renewal of a license to practice dental hygiene.
- 12. License to practice mortuary science issued upon the basis of an examination given by the board of mortuary science examiners, license to practice mortuary science issued under a reciprocal agreement, renewal of a license to practice mortuary science.
- 13. License to practice nursing issued upon the basis of an examination given by the board of nursing; license to practice nursing based on an endorsement from another state, territory, or foreign country; renewal of a license to practice nursing.
- 14. A nurse who does not engage in nursing during the year succeeding the expiration of the license shall notify the board to place the nurse upon the inactive list and the nurse shall not be required to pay the renewal fee so long as the nurse remains inactive and so notifies the board. To resume nursing, the nurse shall notify the board and remit the renewal fee for the current period.
- 15. License to practice cosmetology arts and sciences issued upon the basis of an examination given by the board of cosmetology arts and sciences examiners, license to practice cosmetology arts and sciences under a reciprocal agreement, renewal of a license to practice cosmetology arts and sciences, temporary permit to practice as a cosmetology arts and sciences trainee, original license to conduct a school of cosmetology arts and sciences, renewal of license to conduct a school of cosmetology arts and sciences, original license to operate a salon, renewal of a license to operate a salon, original license to practice manicuring and pedicuring, renewal of a license to practice manicuring and pedicuring, annual inspection of a school of cosmetology arts and sciences, annual inspection of a salon, original cosmetology arts and sciences school instructor's license, and renewal of cosmetology arts and sciences school instructor's license.
- 16. License to practice barbering on the basis of an examination given by the board of barber examiners barbering, license to practice barbering under a reciprocal agreement, renewal of a license to practice barbering, annual inspection by the department of inspections and appeals of barber school and annual inspection of barber shop, an original barber school license, renewal of a barber school license, transfer of license upon change of ownership of a barber shop or barber school, inspection by the department of inspections and appeals and an original barber shop license, renewal of a barber shop license, original barber school instructor's license, renewal of a barber school instructor's license.

 $^{^{12}}$ See chapter 218, §199 herein

- 17. License to practice speech pathology or audiology issued on the basis of an examination given by the board of speech pathology and audiology, or license to practice speech pathology or audiology issued under a reciprocity agreement, renewal of a license to practice speech pathology or audiology.
- 18. License to practice occupational therapy issued upon the basis of an examination given by the board of physical and occupational therapy examiners, license to practice occupational therapy issued under a reciprocal agreement, renewal of a license to practice occupational therapy.
- 19. License to assist in the practice of occupational therapy issued upon the basis of an examination given by the board of physical and occupational therapy examiners, license to assist in the practice of occupational therapy issued under a reciprocal agreement, renewal of a license to assist in the practice of occupational therapy.
- 20. License to practice social work issued on the basis of an examination by the board of social work examiners, or license to practice social work issued under a reciprocity agreement, or renewal of a license to practice social work.
- 21. License to practice marital and family therapy issued upon the basis of an examination given by the board of behavioral science examiners, license to practice marital and family therapy issued under a reciprocal agreement, or renewal of a license to practice marital and family therapy.
- 22. License to practice mental health counseling issued upon the basis of an examination given by the board of behavioral science examiners, license to practice mental health counseling issued under a reciprocal agreement, or renewal of a license to practice mental health counseling.
- 23. License to practice dietetics issued upon the basis of an examination given by the board of <u>dietetic examiners dietetics</u>, license to practice dietetics issued under a reciprocal agreement, or renewal of a license to practice dietetics.
- 24. License to practice acupuncture, license to practice acupuncture under a reciprocal agreement, or renewal of a license to practice acupuncture.
- 25. License to practice respiratory care, license to practice respiratory care under a reciprocal license, or renewal of a license to practice respiratory care.
- 26. License to practice massage therapy, license to practice massage therapy under a reciprocal license, or renewal of a license to practice massage therapy.
- 27. License to practice athletic training, license to practice athletic training under a reciprocal license, or renewal of a license to practice athletic training.
- 28. Registration to practice as a dental assistant, registration to practice as a dental assistant under a reciprocal agreement, or renewal of registration to practice as a dental assistant.
- 29. License to practice <u>sign language</u> interpreting <u>and transliterating</u>, license to practice <u>sign language</u> interpreting <u>and transliterating</u> under a reciprocal license, or renewal of a license to practice <u>sign language</u> interpreting <u>and transliterating</u>.
- 30. 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.
- 31. 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.
 - 32. For a certified statement that a licensee is licensed in this state.
- 33. Duplicate license, which shall be so designated on its face, upon satisfactory proof the original license issued by the department has been destroyed or lost.

The licensing and certification division shall prepare estimates of projected revenues to be generated by the licensing, certification, and examination fees of each board as well as a projection of the fairly apportioned administrative costs and rental expenses attributable to each board. Each board shall annually review and adjust its schedule of fees so that, as nearly as possible, projected revenues equal projected costs and any imbalance in revenues and costs in a fiscal year is offset in a subsequent fiscal year.

The board of medical examiners medicine, the board of pharmacy examiners, the board of

dental examiners dentistry, 13 and the board of nursing shall retain individual executive officers, but shall make every effort to share administrative, clerical, and investigative staffs to the greatest extent possible. The department shall annually submit a status report to the general assembly in December regarding the sharing of staff during the previous fiscal year.

Sec. 64. Section 147.87, Code 2007, is amended to read as follows: 147.87 ENFORCEMENT.

The department shall enforce the provisions of this and the following chapters of this subtitle and for that purpose may request the department of inspections and appeals to make necessary investigations. Every licensee and member of an examining a board shall furnish the department or the department of inspections and appeals such evidence as the member or licensee may have relative to any alleged violation which is being investigated.

Sec. 65. Section 147.88, Code 2007, is amended to read as follows: 147.88 INSPECTIONS.

The department of inspections and appeals may perform inspections as required by this subtitle, except for the board of medical examiners medicine, board of pharmacy examiners, board of nursing, and the board of dental examiners dentistry. 14 The department of inspections and appeals shall employ personnel related to the inspection functions.

Sec. 66. Section 147.89, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Every licensee and member of an examining <u>a</u> board shall report, also, to the department the name of every person, without a license, that the member or licensee has reason to believe is engaged in:

- Sec. 67. Section 147.91, subsection 3, Code 2007, is amended to read as follows:
- 3. The rules of the examining board relative to examinations.
- Sec. 68. Section 147.94, subsections 1, 2, 3, and 4, Code 2007, are amended to read as follows:
- 1. Every application for a license to practice pharmacy shall be made to the secretary executive director of the board of pharmacy examiners.
- 2. A license and all renewals of a license shall be issued by the board of pharmacy examiners.
- 3. Every reciprocal agreement for the recognition of any license issued in another state shall be negotiated by the board of pharmacy examiners.
- 4. All records in connection with the licensing of pharmacists shall be kept by the secretary executive director of the board of pharmacy examiners.
 - Sec. 69. Section 147.95, Code 2007, is amended to read as follows:

147.95 ENFORCEMENT — AGENTS AS PEACE OFFICERS.

The provisions of this subtitle insofar as they affect the practice of pharmacy shall be enforced by the <u>board of pharmacy examiners</u> and the provisions of sections 147.87, 147.88, and 147.89 shall not apply to said profession. Officers, agents, inspectors, and representatives of the board of pharmacy <u>examiners</u> shall have the powers and status of peace officers when enforcing the provisions of this subtitle.

Sec. 70. Section 147.96, Code 2007, is amended to read as follows: 147.96 BOARD OF PHARMACY EXAMINERS.

In discharging the duties and exercising the powers provided for in sections 147.94 and 147.95, the <u>board of</u> pharmacy examiners and their secretary the executive director of the <u>board</u> shall be governed by all the provisions of this chapter which govern the department when discharging a similar duty or exercising a similar power with reference to any of the professions regulated by this subtitle.

 $^{^{13}\,}$ See chapter 218, §200 herein

¹⁴ See chapter 218, §201 herein

Sec. 71. Section 147.98, Code 2007, is amended to read as follows:

147.98 SECRETARY OF PHARMACY EXAMINERS EXECUTIVE DIRECTOR OF THE BOARD OF PHARMACY.

The <u>board of</u> pharmacy <u>examiners shall have the right to may</u> employ a full-time <u>secretary executive director</u>, who shall not be a member of the examining board, at such compensation as may be fixed pursuant to chapter 8A, subchapter IV, but the provisions of section 147.22 providing for a secretary for each examining 15 board shall not apply to the <u>board of</u> pharmacy examiners.

Sec. 72. Section 147.99, Code 2007, is amended to read as follows:

147.99 DUTIES OF SECRETARY EXECUTIVE DIRECTOR.

The secretary executive director of the board of pharmacy examiners shall, upon the direction of the board, make inspections of alleged violations of the provisions of this subtitle relative to the practice of pharmacy and of chapters 124, 126, and 205. The secretary executive director shall be allowed necessary traveling and hotel expenses in making such inspections.

Sec. 73. Section 147.100, Code 2007, is amended to read as follows:

147.100 EXPIRATIONS AND RENEWALS.

Licenses shall expire in multiyear intervals as determined by the examining <u>each</u> board. A person who fails to renew a license by the expiration date shall be allowed to do so within thirty days following its expiration, but the <u>examining</u> board may assess a reasonable penalty.

Sec. 74. Section 147.102, Code 2007, is amended to read as follows:

147.102 PSYCHOLOGISTS, CHIROPRACTORS, AND DENTISTS.

Notwithstanding the provisions of this subtitle, every application for a license to practice psychology, chiropractic, or dentistry shall be made directly to the chairperson, executive director, or secretary of the examining board of such profession, and every reciprocal agreement for the recognition of any such license issued in another state shall be negotiated by the examining board for such profession. All examination, license, and renewal fees received from persons licensed to practice any of such professions shall be paid to and collected by the chairperson, executive director, or secretary of the examining board of such profession. The salary of the secretary shall be established by the governor with the approval of the executive council pursuant to section 8A.413, subsection 2, under the pay plan for exempt positions in the executive branch of government.

Sec. 75. Section 147.103. Code 2007. is amended to read as follows:

147.103 INVESTIGATORS FOR PHYSICIAN ASSISTANTS.

The board of physician assistant examiners assistants may appoint investigators, who shall not be members of the examining board, to administer and aid in the enforcement of the provisions of law relating to physician assistants. The amount of compensation for the investigators shall be determined pursuant to chapter 8A, subchapter IV.

Investigators authorized by the board of physician assistant examiners assistants have the powers and status of peace officers when enforcing this chapter and chapters 148C and 272C.

Sec. 76. Section 147.103A, unnumbered paragraph 1, Code 2007, is amended to read as follows:

This chapter shall apply to the licensing of persons to practice as physicians and surgeons, osteopaths, and osteopathic physicians and surgeons by the board of medical examiners medicine subject to the following provisions:

Sec. 77. Section 147.103A, subsection 3, Code 2007, is amended to read as follows:

3. The board may appoint investigators, who shall not be members of the examining board, and whose compensation shall be determined pursuant to chapter 8A, subchapter IV. Investigators appointed by the board have the powers and status of peace officers when enforcing this chapter and chapters 148, 150, 150A, and 272C.

¹⁵ See chapter 215, §247 herein

Sec. 78. Section 147.107, subsections 2, 4, 5, and 8, Code 2007, are amended to read as follows:

2. A pharmacist, physician, dentist, or podiatric physician who dispenses prescription drugs, including but not limited to controlled substances, for human use, may delegate non-judgmental dispensing functions to staff assistants only when verification of the accuracy and completeness of the prescription is determined by the pharmacist or practitioner in the pharmacist's or practitioner's physical presence. However, the physical presence requirement does not apply when a pharmacist or practitioner is utilizing an automated dispensing system. When using an automated dispensing system the pharmacist or practitioner shall utilize an internal quality control assurance plan that ensures accuracy for dispensing. Verification of automated dispensing accuracy and completeness remains the responsibility of the pharmacist or practitioner and shall be determined in accordance with rules adopted by the state board of pharmacy examiners, the state board of medical examiners medicine, the state board of dental examiners dentistry, ¹⁶ and the state board of podiatry examiners for their respective licensees.

A dentist, physician, or podiatric physician who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall register the fact that they dispense prescription drugs with the practitioner's respective examining board at least biennially.

A physician, dentist, or podiatric physician who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall offer to provide the patient with a written prescription that may be dispensed from a pharmacy of the patient's choice or offer to transmit the prescription orally, electronically, or by facsimile in accordance with section 155A.27 to a pharmacy of the patient's choice.

- 4. Notwithstanding subsection 3, a physician assistant shall not dispense prescription drugs as an incident to the practice of the supervising physician or the physician assistant, but may supply, when pharmacist services are not reasonably available, or when it is in the best interests of the patient, a quantity of properly packaged and labeled prescription drugs, controlled substances, or medical devices necessary to complete a course of therapy. However, a remote clinic, staffed by a physician assistant, where pharmacy services are not reasonably available, shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage, and appropriate use of such drugs, substances, and devices. Prescription drugs supplied under the provisions of this subsection shall be supplied for the purpose of accommodating the patient and shall not be sold for more than the cost of the drug and reasonable overhead costs, as they relate to supplying prescription drugs to the patient, and not at a profit to the physician or the physician assistant. If prescription drug supplying authority is delegated by a supervising physician to a physician assistant, a nurse or staff assistant may assist the physician assistant in providing that service. Rules shall be adopted by the board of physician assistant examiners assistants, after consultation with the board of pharmacy examiners, to implement this subsection.
- 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 assistants, after consultation with the board of medical examiners medicine and the board of pharmacy examiners. However, the rules shall prohibit the prescribing of schedule II controlled substances which are listed as depressants pursuant to chapter 124.
- 8. Notwithstanding subsection 1, but subject to the limitations contained in subsections 2 and 3, a registered nurse who is licensed and registered as an advanced registered nurse practitioner and who qualifies for and is registered in a recognized nursing specialty may prescribe

¹⁶ See chapter 218, §202 herein

substances or devices, including controlled substances or devices, if the nurse is engaged in the practice of a nursing specialty regulated under rules adopted by the board of nursing in consultation with the board of medical examiners medicine and the board of pharmacy examiners.

- Sec. 79. Section 147.108, subsection 1, Code 2007, is amended to read as follows:
- 1. A person shall not dispense or adapt contact lenses without first receiving authorization to do so by a written, electronic, or facsimile prescription, except when authorized orally under subsection 2, from a person licensed under chapter 148, 150, 150A, or 154. The board of optometry examiners shall adopt rules relating to electronic or facsimile transmission of a prescription under this section.
 - Sec. 80. Section 147.109, subsection 1, Code 2007, is amended to read as follows:
- 1. A person shall not dispense or adapt an ophthalmic spectacle lens or lenses without first receiving authorization to do so by a written, electronic, or facsimile prescription from a person licensed under chapter 148, 150, 150A, or 154. For the purpose of this section, "ophthalmic spectacle lens" means one which has been fabricated to fill the requirements of a particular spectacle lens prescription. The board of optometry examiners shall adopt rules relating to electronic or facsimile transmission of a prescription under this section.
- Sec. 81. Section 147.114, Code 2007, is amended to read as follows: 147.114 INSPECTOR.

An inspector may be appointed by the board of dental examiners dentistry¹⁷ pursuant to the provisions of chapter 8A, subchapter IV.

Sec. 82. Section 147.135, subsections 2 and 3, Code 2007, are amended to read as follows: 2. As used in this subsection, "peer review records" means all complaint files, investigation files, reports, and other investigative information relating to licensee discipline or professional competence in the possession of a peer review committee or an employee of a peer review committee. As used in this subsection, "peer review committee" does not include examining licensing boards. Peer review records are privileged and confidential, are not subject to discovery, subpoena, or other means of legal compulsion for release to a person other than an affected licensee or a peer review committee and are not admissible in evidence in a judicial or administrative proceeding other than a proceeding involving licensee discipline or a proceeding brought by a licensee who is the subject of a peer review record and whose competence is at issue. A person shall not be liable as a result of filing a report or complaint with a peer review committee or providing information to such a committee, or for disclosure of privileged matter to a peer review committee. A person present at a meeting of a peer review committee shall not be permitted to testify as to the findings, recommendations, evaluations, or opinions of the peer review committee in any judicial or administrative proceeding other than a proceeding involving licensee discipline or a proceeding brought by a licensee who is the subject of a peer review committee meeting and whose competence is at issue. Information or documents discoverable from sources other than the peer review committee do not become nondiscoverable from the other sources merely because they are made available to or are in the possession of a peer review committee. However, such information relating to licensee discipline may be disclosed to an appropriate licensing authority in any jurisdiction in which the licensee is licensed or has applied for a license. If such information indicates a crime has been committed, the information shall be reported to the proper law enforcement agency. This subsection shall not preclude the discovery of the identification of witnesses or documents known to a peer review committee. Any final written decision and finding of fact by a licensing board in a disciplinary proceeding is a public record. Upon appeal by a licensee of a decision of a licensing board, the entire case record shall be submitted to the reviewing court. In all cases where privileged and confidential information under this subsection becomes discoverable, admissible, or part of a court record the identity of an individual whose privilege has been involuntarily waived shall be withheld.

¹⁷ See chapter 218, §203 herein

3. A full and confidential report concerning any final hospital disciplinary action approved by a hospital board of trustees that results in a limitation, suspension, or revocation of a physician's privilege to practice for reasons relating to the physician's professional competence or concerning any voluntary surrender or limitation of privileges for reasons relating to professional competence shall be made to the board of medical examiners medicine by the hospital administrator or chief of medical staff within ten days of such action. The board of medical examiners medicine shall investigate the report and take appropriate action. These reports shall be privileged and confidential as though included in and subject to the requirements for peer review committee information in subsection 2. Persons making these reports and persons participating in resulting proceedings related to these reports shall be immune from civil liability with respect to the making of the report or participation in resulting proceedings. As used in this subsection, "physician" means a person licensed pursuant to chapter 148, chapter 150, or chapter 150A.

Notwithstanding subsection 2, if the board of medical examiners medicine conducts an investigation based on a complaint received or upon its own motion, a hospital pursuant to subpoena shall make available information and documents requested by the board, specifically including reports or descriptions of any complaints or incidents concerning an individual who is the subject of the board's investigation, even though the information and documents are also kept for, are the subject of, or are being used in peer review by the hospital. However, the deliberations, testimony, decisions, conclusions, findings, recommendations, evaluations, work product, or opinions of a peer review committee or its members and those portions of any documents or records containing or revealing information relating thereto shall not be subject to the board's request for information, subpoena, or other legal compulsion. All information and documents received by the board from a hospital under this section shall be confidential pursuant to section 272C.6, subsection 4.

- Sec. 83. Section 147.151, subsection 2, Code 2007, is amended to read as follows:
- 2. "Board" means the Iowa board of speech pathology and audiology examiners established pursuant to section 147.14, subsection 9.
 - Sec. 84. Section 147.152, subsection 1, Code 2007, is amended to read as follows:
- 1. Licensed physicians and surgeons, licensed osteopathic physicians and surgeons, licensed osteopaths, approved physician assistants and registered nurses acting under the supervision of a physician, persons conducting hearing tests under the direct supervision of a licensed physician and surgeon, licensed osteopathic physician and surgeon, or licensed osteopath, or students of medicine or surgery or osteopathic medicine and surgery pursuing a course of study in a medical school or college of osteopathic medicine and surgery approved by the medical examiners board of medicine while performing functions incidental to their course of study.
 - Sec. 85. Section 147A.13, subsection 1, Code 2007, is amended to read as follows:
- 1. Documentation has been reviewed and approved at the local level by the medical director of the ambulance, rescue, or first response service in accordance with the rules of the board of physician assistant examiners assistants developed after consultation with the department.
 - Sec. 86. Section 148.2, subsections 3 and 6, Code 2007, are amended to read as follows:
- 3. Students of medicine or surgery who have completed at least two years' study in a medical school, approved by the medical examiners board, and who prescribe medicine under the supervision of a licensed physician and surgeon, or who render gratuitous service to persons in case of emergency.
- 6. A graduate of a medical school who is continuing training and performing the duties of an intern, or who is engaged in postgraduate training deemed the equivalent of an internship in a hospital approved for training by the medical examiners board.

Sec. 87. Section 148.2A, Code 2007, is amended to read as follows:

148.2A BOARD OF MEDICAL EXAMINERS MEDICINE.

As used in this chapter, "board" and "medical examiners" mean means the board of medical examiners medicine established in chapter 147.

Sec. 88. Section 148.3, Code 2007, is amended to read as follows:

148.3 REQUIREMENTS FOR LICENSE.

An applicant for a license to practice medicine and surgery shall:

- 1. Present a diploma issued by a medical college approved by the <u>medical examiners board</u>, or present other evidence of equivalent medical education approved by the <u>medical examiners board</u>. The <u>medical examiners board</u> may accept, in lieu of a diploma from a medical college approved by them, all of the following:
- a. A diploma issued by a medical college which has been neither approved nor disapproved by the medical examiners; and board.
- b. A valid standard certificate issued by the educational commission for foreign medical graduates or similar accrediting agency.
- 2. Pass an examination prescribed by the <u>medical examiners board</u> which shall include subjects which determine the applicant's qualifications to practice medicine and surgery and which shall be given according to the methods deemed by the <u>medical examiners board</u> to be the most appropriate and practicable. However, the federation licensing examination (<u>FLEX</u>) or any other national standardized examination which the <u>medical examiners shall approve board approves</u> may be administered to any or all applicants in lieu of or in conjunction with other examinations which the <u>medical examiners shall prescribe board prescribes</u>. The <u>medical examiners board</u> may establish necessary achievement levels on all examinations for a passing grade and adopt rules relating to examinations.
- 3. Present to the medical examiners board satisfactory evidence that the applicant has successfully completed one year of postgraduate internship or resident training in a hospital approved for such training by the medical examiners board. Beginning July 1, 2006, an applicant who holds a valid certificate issued by the educational commission for foreign medical graduates shall submit satisfactory evidence of successful completion of two years of such training.

Sec. 89. Section 148.4, Code 2007, is amended to read as follows:

148.4 CERTIFICATES OF NATIONAL BOARD.

The <u>medical examiners board of medicine</u> may accept in lieu of the examination prescribed in section 148.3 a certificate of examination issued by the national board of medical examiners of the United States of America, but every applicant for a license upon the basis of such certificate shall be required to pay the fee prescribed by the <u>medical examiners</u> <u>board of medicine</u> for licenses.

Sec. 90. Section 148.5, Code 2007, is amended to read as follows:

148.5 RESIDENT PHYSICIAN LICENSE.

A physician, who is a graduate of a medical school and is serving as a resident physician who is not otherwise licensed to practice medicine and surgery in this state, shall be required to obtain from the medical examiners board a license to practice as a resident physician. The license shall be designated "Resident Physician License" and shall authorize the licensee to serve as a resident physician only, under the supervision of a licensed practitioner of medicine and surgery or osteopathic medicine and surgery, in an institution approved for such training by the medical examiners board. A license shall be valid for a duration as determined by the board. The fee for each license shall be set by the medical examiners board to cover the administrative costs of issuing the license. The medical examiners board shall determine in each instance those eligible for a license, whether or not examinations shall be given, and the type of examinations. Requirements of the law pertaining to regular permanent licensure shall not be mandatory for a resident physician license except as specifically designated by the medical

examiners <u>board</u>. The granting of a resident physician license does not in any way indicate that the person licensed is necessarily eligible for regular permanent licensure, nor are the medical examiners or that the <u>board</u> in any way <u>is</u> obligated to license the individual.

Sec. 91. Section 148.6, Code 2007, is amended to read as follows: 148.6 REVOCATION.

- 1. The medical examiners board, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection. Notwithstanding section 272C.3, licensee discipline may include a civil penalty not to exceed ten thousand dollars.
- 2. Pursuant to this section, the board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:
- a. Knowingly making misleading, deceptive, untrue or fraudulent representation in the practice of the physician's profession.
- b. Being convicted of a felony in the courts of this state or another state, territory, or country. Conviction as used in this paragraph shall include a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding in which a finding or verdict of guilt is made or returned, but the adjudication of guilt is either withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state shall be conclusive evidence.
- c. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of medicine.
- d. Having the license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is prima facie evidence.
- e. Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice medicine and surgery, osteopathic medicine and surgery, or osteopathy.
- f. Being adjudged mentally incompetent by a court of competent jurisdiction. Such adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.
- g. Being guilty of a willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery, osteopathic medicine and surgery, or osteopathy in which proceeding actual injury to a patient need not be established; or the committing by a physician of an act contrary to honesty, justice, or good morals, whether the same is committed in the course of the physician's practice or otherwise, and whether committed within or without this state.
- h. Inability to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition. The medical examiners board may, upon probable cause, compel a physician to submit to a mental or physical examination by designated physicians or to submit to alcohol or drug screening within a time specified by the medical examiners board. Failure of a physician to submit to an examination or to submit to alcohol or drug screening shall constitute admission to the allegations made against the physician and the finding of fact and decision of the medical examiners board may be entered without the taking of testimony or presentation of evidence. At reasonable intervals, a physician shall be afforded an opportunity to demonstrate that the physician can resume the competent practice of medicine with reasonable skill and safety to patients.

A person licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy who makes application for the renewal of a license, as required by section 147.10, gives consent to submit to a mental or physical examination as provided by this paragraph when directed in writing by the medical examiners board. All objections shall be waived as

to the admissibility of the examining physicians' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against a physician in another proceeding and shall be confidential, except for other actions filed against a physician to revoke or suspend a license.

i. Willful or repeated violation of lawful rule or regulation adopted by the board or violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

Sec. 92. Section 148.7, subsections 1, 2, 3, 7, and 9, Code 2007, are amended to read as follows:

- 1. The medical examiners board may, upon their its own motion or upon verified complaint in writing, and shall, if such complaint is filed by the director of public health, issue an order fixing the time and place for hearing. A written notice of the time and place of the hearing together with a statement of the charges shall be served upon the licensee at least ten days before the hearing in the manner required for the service of notice of the commencement of an ordinary action or by restricted certified mail.
- 2. If the licensee has left the state, the notice and statement of the charges shall be so served at least twenty days before the date of the hearing, wherever the licensee may be found. If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by said the rules. In case the licensee fails to appear, either in person or by counsel at the time and place designated in said the notice, the medical examiners board shall proceed with the hearing as hereinafter provided.
- 3. The hearing shall be before a member or members designated by the board or before an administrative law judge appointed by the board according to the requirements of section 17A.11, subsection 1. The presiding board member or administrative law judge may issue subpoenas, administer oaths, and take or cause depositions to be taken in connection with the hearing. The presiding board member or administrative law judge shall issue subpoenas at the request and on behalf of the licensee. The hearing shall be open to the public.

The administrative law judge shall be an attorney vested with full authority of the board to schedule and conduct hearings. The administrative law judge shall prepare and file with the medical examiners board the administrative law judge's findings of fact and conclusions of law, together with a complete written transcript of all testimony and evidence introduced at the hearing and all exhibits, pleas, motions, objections, and rulings of the administrative law judge.

- 7. If a majority of the members of the board vote in favor of finding the licensee guilty of an act or offense specified in section 147.55 or 148.6, the board shall prepare written findings of fact and its decision imposing one or more of the following disciplinary measures:
- Suspend the licensee's license to practice the profession for a period to be determined by the board.
 - b. Revoke the licensee's license to practice the profession.
- c. Suspend imposition of judgment and penalty or impose the judgment and penalty, but suspend enforcement and place the physician on probation. The probation ordered may be vacated upon noncompliance. The medical-examiners board may restore and reissue a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, but may impose a disciplinary or corrective measure which the board might originally have imposed. A copy of the medical-examiners board's order, findings of fact, and decision, shall be served on the licensee in the manner of service of an original notice or by certified mail return receipt requested.
- 9. The <u>medical examiners' board's</u> order revoking or suspending a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy or to discipline a licensee shall remain in force and effect until the appeal is finally determined and disposed of upon its merit.

Sec. 93. Section 148.8, Code 2007, is amended to read as follows:

148.8 VOLUNTARY SURRENDER OF LICENSE.

The <u>medical examiners</u> <u>board</u> may accept the voluntary surrender of a license if accompanied by a written statement of intention. A voluntary surrender, when accepted, has the same force and effect as an order of revocation.

Sec. 94. Section 148.9, Code 2007, is amended to read as follows: 148.9 REINSTATEMENT.

Any person whose license has been suspended, revoked, or placed on probation may apply to the board of medical examiners for reinstatement at any time and the board may hold hearings on any such petition and may order reinstatement and impose terms and conditions thereof and issue a certificate of reinstatement to the director of public health who shall thereupon issue a license as directed by the board.

Sec. 95. Section 148.10, Code 2007, is amended to read as follows:

148.10 TEMPORARY CERTIFICATE.

The medical examiners board may, in their 18 discretion, issue a temporary certificate authorizing the licensee to practice medicine and surgery or osteopathic medicine and surgery in a specific location or locations and for a specified period of time if, in the opinion of the medical examiners board, a need exists and the person possesses the qualifications prescribed by the medical examiners board for the license, which shall be substantially equivalent to those required for licensure under this chapter or chapter 150A, as the case may be. The medical examiners board shall determine in each instance those eligible for this license, whether or not examinations shall be given, and the type of examinations. No requirements of the law pertaining to regular permanent licensure are mandatory for this temporary license except as specifically designated by the medical examiners board. The granting of a temporary license does not in any way indicate that the person so licensed is necessarily eligible for regular licensure, nor are the medical examiners or that the board in any way is obligated to so license the person.

The temporary certificate shall be issued for a period not to exceed one year and may be renewed, but a person shall not practice medicine and surgery or osteopathic medicine and surgery in excess of three years while holding a temporary certificate. The fee for this license and the fee for renewal of this license shall be set by the medical examiners board. The fees shall be based on the administrative costs of issuing and renewing the licenses.

Sec. 96. Section 148.11, subsection 1, Code 2007, is amended to read as follows:

1. Whenever the need exists, the board of medical examiners may issue a special license. The special license shall authorize the licensee to practice medicine and surgery under the policies and standards applicable to the health care services of a medical school academic staff member or as otherwise specified in the special license.

Sec. 97. Section 148.12, Code 2007, is amended to read as follows:

148.12 VOLUNTARY AGREEMENTS.

The medical examiners board, after due notice and hearing, may issue an order to revoke, suspend, or restrict a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, or to issue a restricted license on application if the medical examiners determine board determines that a physician licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, or an applicant for licensure has entered into a voluntary agreement to restrict the practice of medicine and surgery, osteopathic medicine and surgery, or osteopathy in another state, district, territory, country, or an agency of the federal government. A certified copy of the voluntary agreement shall be considered prima facie evidence.

Sec. 98. Section 148.13, Code 2007, is amended to read as follows:

148.13 AUTHORITY OF BOARD AS TO SUPERVISING PHYSICIANS AND REVIEW OF CONTESTED CASES UNDER CHAPTER 148C — RULES.

¹⁸ See chapter 215, §248 herein

- 1. The board of <u>medical examiners medicine</u> shall adopt rules setting forth in detail its criteria and procedures for determining the ineligibility of a physician to serve as a supervising physician under chapter 148C. The rules shall provide that a physician may serve as a supervising physician under chapter 148C until such time as the board <u>of medicine</u> determines, following normal disciplinary procedures, that the physician is ineligible to serve in that capacity.
- 2. The board of medical examiners medicine shall establish by rule specific procedures for consulting with and considering the advice of the board of physician assistant examiners assistants in determining whether to initiate a disciplinary proceeding under chapter 17A against a licensed physician in a matter involving the supervision of a physician assistant.
- 3. In exercising their respective authorities, the board of <u>medical examiners medicine</u> and the board of physician <u>assistant examiners assistants</u> shall cooperate with the goal of encouraging the utilization of physician assistants in a manner that is consistent with the provision of quality health care and medical services for the citizens of Iowa.
- 4. The board of medical examiners medicine shall adopt rules requiring a physician serving as a supervising physician to notify the board of medicine of the identity of a physician assistant the physician is supervising, and of any change in the status of the supervisory relationship.
- Sec. 99. Section 148A.1, Code 2007, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. As used in this chapter, "board" means the board of physical and occupational therapy, created under chapter 147.

Sec. 100. Section 148A.4, Code 2007, is amended to read as follows: 148A.4 REQUIREMENTS TO PRACTICE.

Each applicant for a license to practice physical therapy shall:

- 1. Complete a course of study in, and hold a diploma or certificate issued by, a school of physical therapy accredited by the American physical therapy association or another appropriate accrediting body, and meet requirements as established by rules of the board of physical and occupational therapy examiners.
- 2. Have passed an examination administered by the board of physical and occupational therapy examiners.

Sec. 101. Section 148A.6, Code 2007, is amended to read as follows: 148A.6 PHYSICAL THERAPIST ASSISTANT.

- 1. A licensed physical therapist assistant is required to function under the direction and supervision of a licensed physical therapist to perform physical therapy procedures delegated and supervised by the licensed physical therapist in a manner consistent with the rules adopted by the board of physical and occupational therapy examiners. Selected and delegated tasks of physical therapist assistants may include, but are not limited to, therapeutic procedures and related tasks, routine operational functions, documentation of treatment progress, and the use of selected physical agents. The ability of the licensed physical therapist assistant to perform the selected and delegated tasks shall be assessed on an ongoing basis by the supervising physical therapist. The licensed physical therapist assistant shall not interpret referrals, perform initial evaluation or reevaluations, initiate physical therapy treatment programs, change specified treatment programs, or discharge a patient from physical therapy services.
 - 2. Each applicant for a license to practice as a physical therapist assistant shall:
- a. Successfully complete a course of study for the physical therapist assistant accredited by the commission on accreditation in education of the American physical therapy association, or another appropriate accrediting body, and meet other requirements established by the rules of the board of physical and occupational therapy examiners.
- b. Have passed an examination administered by the board of physical and occupational therapy examiners.
- 3. This section does not prevent a person not licensed as a physical therapist assistant from performing services ordinarily performed by a physical therapy aide, assistant, or technician,

provided that the person does not represent to the public that the person is a licensed physical therapist assistant, or use the title "physical therapist assistant" or the letters "P.T.A.", and provided that the person performs services consistent with the supervision requirements of the board of physical and occupational therapy examiners for persons not licensed as physical therapist assistants.

- Sec. 102. Section 148B.2, subsection 1, Code 2007, is amended to read as follows:
- 1. "Board" means the board of physical and occupational therapy examiners, created under chapter 147.
 - Sec. 103. Section 148B.7, Code 2007, is amended to read as follows:

 $148\mathrm{B.7}\,$ BOARD OF PHYSICAL AND OCCUPATIONAL THERAPY <code>EXAMINERS</code> — POWERS AND DUTIES.

The board shall adopt rules relating to professional conduct to carry out the policy of this chapter, including but not limited to rules relating to professional licensing and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy in this state.

Sec. 104. Section 148B.8, Code 2007, is amended to read as follows:

148B.8 BOARD OF PHYSICAL AND OCCUPATIONAL THERAPY EXAMINERS — ADMINISTRATIVE PROVISIONS.

The board may employ an executive secretary and officers and employees as necessary, and shall determine their duties and fix their compensation.

- Sec. 105. Section 148C.1, subsection 2, Code 2007, is amended to read as follows:
- 2. "Board" means the board of physician assistant examiners assistants, created under chapter 147.
 - Sec. 106. Section 148C.3, subsection 6, Code 2007, is amended to read as follows:
- 6. The board shall adopt rules pursuant to this section after consultation with the board of medical examiners medicine.
 - Sec. 107. Section 148E.1, subsection 3, Code 2007, is amended to read as follows:
 - 3. "Board" means the board of medical examiners medicine, established in chapter 147.
- Sec. 108. Section 149.1, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 1A. As used in this chapter, "board" means the board of podiatry, created under chapter 147.
 - Sec. 109. Section 149.3, subsection 2, Code 2007, is amended to read as follows:
- 2. Present an official transcript issued by a school of podiatry approved by the board of podiatry examiners.
 - Sec. 110. Section 149.4, Code 2007, is amended to read as follows:

149.4 APPROVED SCHOOL.

A school of podiatry shall not be approved by the board of podiatry examiners as a school of recognized standing unless the school:

- 1. Requires for graduation or the receipt of any podiatric degree the completion of a course of study covering a period of at least eight months in each of four calendar years.
- 2. After January 1, 1962, a A school of podiatry shall not be approved by the board of podiatry examiners which does not have as an additional entrance requirement two years study in a recognized college, university, or academy.
 - Sec. 111. Section 149.7, Code 2007, is amended to read as follows:

149.7 TEMPORARY CERTIFICATE.

The podiatry examiners board may issue a temporary certificate authorizing the licensee

named in the certificate to practice podiatry if, in the opinion of the podiatry examiners board, a need exists and the person possesses the qualifications prescribed by the podiatry examiners board for the certificate, which shall be substantially equivalent to those required for regular licensure under this chapter. The podiatry examiners board shall determine in each instance the applicant's eligibility for the certificate, whether or not an examination shall be given, and the type of examination. The requirements of the law pertaining to regular permanent licensure shall not be mandatory for this temporary certificate except as specifically designated by the podiatry examiners board. The granting of a temporary certificate does not in any way indicate that the person licensed is necessarily eligible for regular licensure, and the podiatry examiners are board is not obligated to license the person.

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 board, and if extended beyond one year, a renewal fee per year shall be set by the podiatry examiners board. The fees shall be based on the administrative costs of issuing and renewing the certificates.

Sec. 112. Section 150.11, Code 2007, is amended to read as follows: 150.11 OSTEOPATHY DISCONTINUED.

After May 10, 1963, no license to practice osteopathy shall be issued, provided that the Iowa department of public health shall issue renewal licenses to practice osteopathy as provided in chapter 147 and the department, upon recommendation of the medical examiners board of medicine, may grant a license to practice osteopathy by reciprocity or endorsement if the applicant holds a valid license to practice osteopathy or osteopathic medicine and surgery issued by another state prior to May 10, 1963.

Sec. 113. NEW SECTION. 150A.1A DEFINITION.

As used in this chapter, "board" means the board of medicine, created under chapter 147.

Sec. 114. Section 150A.2, subsection 3, Code 2007, is amended to read as follows:

3. Students of medicine or surgery or osteopathic medicine and surgery, who have completed at least two years study in a medical school or college of osteopathic medicine and surgery approved by the medical examiners board, and who prescribe medicine under the supervision of a licensed physician and surgeon or osteopathic physician and surgeon, or who render gratuitous service to persons in case of emergency.

Sec. 115. Section 150A.3, Code 2007, is amended to read as follows:

150A.3 REQUIREMENTS TO PRACTICE.

Each applicant for a license to practice osteopathic medicine and surgery shall:

- 1. Either comply with all of the following:
- a. Present a diploma issued, after May 10, 1963, by a college of osteopathic medicine and surgery approved by the <u>medical examiners board</u> or present other evidence of equivalent medical education approved by the <u>medical examiners board</u>.
- b. Pass an examination prescribed by the <u>medical examiners</u> <u>board</u> in subjects including anatomy, chemistry, physiology, materia medica and therapeutics, obstetrics, pathology, medicine, public health and hygiene, and surgery. The board <u>of medical examiners</u> may require written, oral, and practical examinations of the applicant.
- c. Present to the Iowa department of public health satisfactory evidence that the applicant has completed one year of internship or resident training in a hospital approved for such training by the medical examiners.¹⁹
 - 2. Or comply with the following:
- a. Present a valid license to practice osteopathy in this state together with satisfactory evidence that the applicant has completed either: (1) a two-year postgraduate course, of nine months each, in an accredited college of osteopathy, osteopathic medicine and surgery or medicine approved by the board of medical examiners of Iowa, involving a thorough and inten-

¹⁹ See chapter 215, §249 herein

sive study of the subject of surgery as prescribed by such medical examiners the board, or (2) a one-year postgraduate course of nine months in such accredited college, and in addition thereto, has completed a one-year course of training as a surgical assistant in a hospital having at least twenty-five beds for patients and equipped for doing surgical work.

b. Pass an examination as prescribed by the <u>medical examiners board</u> in the subject of surgery, which shall be of such character as to thoroughly test the qualifications of the applicant as a practitioner of major surgery.

Sec. 116. Section 150A.4, Code 2007, is amended to read as follows: 150A.4 APPROVED COLLEGES.

Any college of osteopathic medicine and surgery which does not permit the medical examiners board to make such reasonable annual inspection as they desire the board desires shall not be approved by the medical examiners board. Until July 1, 1968, any college of osteopathic medicine and surgery which is accredited by the American Osteopathic Association osteopathic association shall, by virtue thereof, stand as provisionally approved by the medical examiners board unless the medical examiners board, by majority action including the osteopathic physician and surgeon member, shall disapprove.

Sec. 117. Section 150A.7, Code 2007, is amended to read as follows: 150A.7 NATIONAL BOARD CERTIFICATE.

The Iowa department of public health may, with the approval of the <u>medical examiners</u> <u>board</u>, accept in lieu of the examination prescribed in section 150A.3 a certificate of examination issued by the <u>National Board national board</u> of <u>Osteopathic Examiners osteopathic examiners</u> of the United States of America, but every applicant for a license upon the basis of such certificate shall be required to pay the fee prescribed for license issued under reciprocal agreements.

Sec. 118. Section 150A.9, Code 2007, is amended to read as follows: 150A.9 RESIDENT LICENSE.

An osteopathic physician and surgeon, who is a graduate of a college of osteopathic medicine and surgery and is serving as a resident physician and who is not licensed to practice osteopathic medicine and surgery in this state, shall be required to obtain from the medical examiners board a license to practice as a resident osteopathic physician and surgeon. The license shall be designated "Resident Osteopathic Physician and Surgeon License", and shall authorize the licensee to serve as a resident physician only, under the supervision of a licensed practitioner of osteopathic medicine and surgery or licensed practitioner of medicine and surgery, in an institution approved for such training by the medical examiners board. A license shall be valid for a duration as determined by the board. The fee for each license shall be set by the medical examiners board and based on the administrative cost of issuing the license. The medical examiners board shall determine in each instance those eligible for a license, whether or not examinations shall be given, and the type of examinations. Requirements of the law pertaining to regular permanent licensure shall not be mandatory for a resident osteopathic physician and surgeon's license except as specifically designated by the medical examiners board. The granting of a resident osteopathic physician and surgeon's license does not in any way indicate that the person licensed is necessarily eligible for regular permanent licensure, nor are or that the medical examiners in any way board is obligated to license the individual person.

Sec. 119. NEW SECTION. 151.1A BOARD DEFINED.

As used in this chapter, "board" means the board of chiropractic, created under chapter 147.

Sec. 120. Section 151.2, subsection 3, Code 2007, is amended to read as follows:

3. Students of chiropractic who have entered upon a regular course of study in a chiropractic college approved by the chiropractic examiners board, who practice chiropractic under the

aminers board.

direction of a licensed chiropractor and in accordance with the rules of said examiners the board.

- Sec. 121. Section 151.3, subsections 2 and 3, Code 2007, are amended to read as follows: 2. Present a diploma issued by a college of chiropractic approved by the chiropractic ex-
- 3. Pass an examination prescribed by the chiropractic examiners <u>board</u> in the subjects of anatomy, physiology, nutrition and dietetics, symptomatology and diagnosis, hygiene and sanitation, chemistry, histology, pathology, and principles and practice of chiropractic, including a clinical demonstration of vertebral palpation, nerve tracing, and adjusting.
- Sec. 122. Section 151.4, unnumbered paragraph 1, Code 2007, is amended to read as follows:

No \underline{A} college of chiropractic shall <u>not</u> be approved by the <u>chiropractic examiners</u> <u>board</u> as a college of recognized standing unless <u>said</u> <u>the</u> college:

Sec. 123. Section 151.8, Code 2007, is amended to read as follows:

151.8 TRAINING IN PROCEDURES USED IN PRACTICE.

A chiropractor shall not use in the chiropractor's practice the procedures otherwise authorized by law unless the chiropractor has received training in their use by a college of chiropractic offering courses of instructions approved by the board of chiropractic examiners.

Any chiropractor licensed as of July 1, 1974, may use the procedures authorized by law if the chiropractor files with the board of chiropractic examiners an affidavit that the chiropractor has completed the necessary training and is fully qualified in these procedures and possesses that degree of proficiency and will exercise that care which is common to physicians in this state.

A chiropractor using the additional procedures and practices authorized by this Act chapter shall be held to the standard of care applicable to any other health care practitioner in this state.

Sec. 124. Section 151.11, Code 2007, is amended to read as follows: 151.11 RULES.

The board of chiropractic examiners shall adopt rules necessary to administer section 151.1, to protect the health, safety, and welfare of the public, including rules governing the practice of chiropractic and defining any terms, whether or not specified in section 151.1, subsection 3. Such rules shall not be inconsistent with the practice of chiropractic and shall not expand the scope of practice of chiropractic or authorize the use of procedures not authorized by this chapter. These rules shall conform with chapter 17A.

Sec. 125. Section 151.12, Code 2007, is amended to read as follows:

151.12 TEMPORARY CERTIFICATE.

The chiropractic examiners board may, in their its discretion, issue a temporary certificate authorizing the licensee to practice chiropractic if, in the opinion of the chiropractic examiners, ²⁰ a need exists and the person possesses the qualifications prescribed by the chiropractic examiners board for the license, which shall be substantially equivalent to those required for licensure under this chapter. The chiropractic examiners board shall determine in each instance those eligible for this license, whether or not examinations shall be given, 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 board. The granting of a temporary license does not in any way indicate that the person so licensed is eligible for regular licensure, nor are or that the chiropractic examiners in any way board is obligated to so license the person.

The temporary certificate shall be issued for one year and at the discretion of the chiropractic examiners board 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

²⁰ See chapter 215, §250 herein

chiropractic examiners <u>board</u>, and if extended beyond one year, a renewal fee per year shall be set by the <u>chiropractic examiners</u> <u>board</u>. The fee for the temporary license shall be based on the administrative costs of issuing the licenses.

Sec. 126. Section 152.1, subsection 3, Code 2007, is amended to read as follows:

3. "Physician" means a person licensed in this state to practice medicine and surgery, osteopathy and surgery, or osteopathy, or a person licensed in this state to practice dentistry or podiatry when acting within the scope of the license. A physician licensed to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy in a state bordering this state shall be considered a physician for purposes of this chapter unless previously determined to be ineligible for such consideration by the Iowa board of medical examiners medicine.

Sec. 127. Section 152A.1, subsection 1, Code 2007, is amended to read as follows: 1. "Board" means the board of dietetic examiners dietetics, created under chapter 147.

Sec. 128. Section 152B.1, subsection 1, Code 2007, is amended to read as follows: 1. "Board" means the state board for²¹ respiratory care, created under chapter 147.

Sec. 129. Section 152B.13, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A state <u>The</u> board for²² respiratory care is established to administer this chapter. Membership of the board shall be established pursuant to section 147.14, subsection 15.

Sec. 130. Section 152C.1, subsection 1, Code 2007, is amended to read as follows:

1. "Board" means the board of examiners for massage therapy, created under chapter 147.

Sec. 131. Section 152D.1, subsection 5, Code 2007, is amended to read as follows: 5. "Board" means the board of examiners for athletic training, created under chapter 147.

Sec. 132. <u>NEW SECTION</u>. 153.12 BOARD DEFINED. As used in this chapter, "board" means the board of dentistry,²³ created under chapter 147.

Sec. 133. Section 153.14, subsection 1, Code 2007, is amended to read as follows:

1. Students of dentistry who practice dentistry upon patients at clinics in connection with their regular course of instruction at the state dental college, students of dental hygiene who practice upon patients at clinics in connection with their regular course of instruction at state-approved schools, and students of dental assisting who practice upon patients at clinics in connection with a regular course of instruction determined by the board of dentistry pursuant to section 153.39.

Sec. 134. Section 153.15, Code 2007, is amended to read as follows: 153.15 DENTAL HYGIENISTS — SCOPE OF TERM.

A licensed dental hygienist may perform those services which are educational, therapeutic, and preventive in nature which attain or maintain optimal oral health as determined by the board of dentistry and may include but are not necessarily limited to complete oral prophylaxis, application of preventive agents to oral structures, exposure and processing of radiographs, administration of medicaments prescribed by a licensed dentist, obtaining and preparing nonsurgical, clinical and oral diagnostic tests for interpretation by the dentist, and preparation of preliminary written records of oral conditions for interpretation by the dentist. Such services shall be performed under supervision of a licensed dentist and in a dental office, a public or private school, public health agencies, hospitals, and the armed forces, but nothing herein shall be construed to authorize a dental hygienist to practice dentistry.

 $^{^{21}}$ The word "of" probably intended

²² The word "of" probably intended

²³ See chapter 218, §204 herein

Sec. 135. Section 153.22, Code 2007, is amended to read as follows: 153.22 RESIDENT LICENSE.

A dentist or dental hygienist who is serving only as a resident, intern, or graduate student and who is not licensed to practice in this state is required to obtain from the board of dentistry a temporary or special license to practice as a resident, intern, or graduate student. The license shall be designated "Resident License" and shall authorize the licensee to serve as a resident, intern, or graduate student only, under the supervision of a licensed practitioner, in an institution approved for this purpose by the board. Such license shall be renewed at the discretion of the board. The fee for a resident license and the renewal fee shall be set by the board based upon the cost of issuance of the license. The board shall determine in each instance those eligible for a resident license, whether or not examinations shall be given, and the type of examination. None of the requirements for regular permanent licensure are mandatory for resident licensure except as specifically designated by the board. The issuance of a resident license shall not in any way indicate that the person so licensed is necessarily eligible for regular licensure, nor is or that the board in any way is obligated to so license such individual the person. The board may revoke a resident license at any time it shall determine either that the caliber of work done by a licensee or the type of supervision being given such licensee does not conform to reasonable standards established by the board.

Sec. 136. Section 153.33, subsection 2, Code 2007, is amended to read as follows:

2. To appoint investigators, who shall not be members of the examining board, to administer and aid in the enforcement of the provisions of law relating to those persons licensed to practice dentistry and dental hygiene, and persons registered as dental assistants. The amount of compensation for the investigators shall be determined pursuant to chapter 8A, subchapter IV. Investigators authorized by the board of dental examiners have the powers and status of peace officers when enforcing this chapter and chapters 147 and 272C.

Sec. 137. Section 153.33A, subsection 1, Code 2007, is amended to read as follows:

1. A three-member dental hygiene committee of the board of dental examiners is created, consisting of the two dental hygienist members of the board and one dentist member of the board. The dentist member of the committee must have supervised and worked in collaboration with a dental hygienist for a period of at least three years immediately preceding election to the committee. The dentist member shall be elected to the committee annually by a majority vote of board members.

Sec. 138. Section 153.34, subsection 4, Code 2007, is amended to read as follows:

- 4. For willful or repeated violations of this chapter, this subtitle, or the rules of the state board of dentistry.
- Sec. 139. Section 153.36, subsections 2 and 3, Code 2007, are amended to read as follows: 2. In addition to the provisions of section 272C.2, subsection 4, a person licensed by the board of dental examiners shall also be deemed to have complied with continuing education requirements of this state if, during periods that the person practiced the profession in another state or district, the person met all of the continuing education and other requirements of that
- 3. Notwithstanding the panel composition provisions in section 272C.6, subsection 1, the board of dental examiners' board's disciplinary hearing panels shall be comprised of three board members, at least two of which are licensed in the profession.
 - Sec. 140. Section 153.37, Code 2007, is amended to read as follows:

state or district for the practice of the occupation or profession.

153.37 DENTAL COLLEGE AND DENTAL HYGIENE PROGRAM FACULTY PERMITS.

The state board of dental examiners may issue a faculty permit entitling the holder to practice dentistry or dental hygiene within a college of dentistry or a dental hygiene program and affiliated teaching facilities as an adjunct to the faculty member's teaching position, associated responsibilities, and functions. The dean of the college of dentistry or chairperson of a dental hygiene program shall certify to the state board of dental examiners those bona fide members

of the college's or a dental hygiene program's faculty who are not licensed and registered to practice dentistry or dental hygiene in Iowa. Any faculty member so certified shall, prior to commencing the member's duties in the college of dentistry or a dental hygiene program, make written application to the state board of dental examiners for a permit. The permit shall be for a period determined by the board and may be renewed at the discretion of the state board of dental examiners. The fee for the faculty permit and the renewal shall be set by the state board of dental examiners based upon the administrative cost of issuance of the permit. The fee shall be deposited in the same manner as fees provided for in section 147.82. The faculty permit shall be valid during the time the holder remains a member of the faculty and shall subject the holder to all provisions of this chapter.

Sec. 141. Section 153.38, Code 2007, is amended to read as follows: 153.38 DENTAL ASSISTANTS — SCOPE OF PRACTICE.

A registered dental assistant may perform those services of assistance to a licensed dentist as determined by the board of dentistry by rule. Such services shall be performed under supervision of a licensed dentist in a dental office, a public or private school, public health agencies, hospitals, and the armed forces, but shall not be construed to authorize a dental assistant to practice dentistry or dental hygiene. Every licensed dentist who utilizes the services of a registered dental assistant for the purpose of assistance in the practice of dentistry shall be responsible for acts delegated to the registered dental assistant. A dentist shall delegate to a registered dental assistant only those acts which are authorized to be delegated to registered dental assistants by the board of dentistry.

- Sec. 142. Section 154.1, Code 2007, is amended to read as follows:
- 154.1 <u>BOARD DEFINED</u> OPTOMETRY—CERTIFIED LICENSED OPTOMETRISTS—THERAPEUTICALLY CERTIFIED OPTOMETRISTS.
- 1. As used in this chapter, "board" means the board of optometry, created under chapter 147.
- <u>2.</u> For the purpose of this subtitle, the following classes of persons shall be deemed to be engaged in the practice of optometry:
- 1. a. Persons employing any means other than the use of drugs, medicine, or surgery for the measurement of the visual power and visual efficiency of the human eye; the prescribing and adapting of lenses, prisms and contact lenses, and the using or employing of visual training or ocular exercise, for the aid, relief, or correction of vision.
 - 2. b. Persons who allow the public to use any mechanical device for such purpose.
- 3- c. Persons who publicly profess to be optometrists and to assume the duties incident to said profession.
- 3. Certified licensed optometrists may employ cycloplegics, mydriatics, and topical anesthetics as diagnostic agents topically applied to determine the condition of the human eye for proper optometric practice or referral for treatment to a person licensed under chapter 148 or 150A. A certified licensed optometrist is an optometrist who is licensed to practice optometry in this state and who is certified by the board of optometry examiners to use diagnostic agents. A certified licensed optometrist shall be provided with a distinctive certificate by the board which shall be displayed for viewing by the patients of the optometrist.
- 4. Therapeutically certified optometrists may employ all diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of conditions of the human eye and adnexa pursuant to this paragraph,²⁴ excluding the use of injections other than to counteract an anaphylactic reaction, and notwithstanding section 147.107, may without charge supply any of the above pharmaceuticals to commence a course of therapy. Therapeutically certified optometrists may prescribe oral steroids for a period not to exceed fourteen days without consultation with a primary care physician. Therapeutically certified optometrists shall not prescribe oral Imuran or oral Methotrexate. Therapeutically certified optometrists may be authorized, where reasonable and appropriate, by rule of the board, to employ new diagnostic and therapeutic pharmaceutical agents approved by the United States food and drug administration on or after July 1, 2002, for the diagnosis and treatment of the human eye and adnexa.

²⁴ See chapter 215, §251 herein

The board shall not be required to adopt rules relating to topical pharmaceutical agents, oral antimicrobial agents, oral antihistamines, oral antiglaucoma agents, and oral analgesic agents. Superficial foreign bodies may be removed from the human eye and adnexa. The therapeutic efforts of a therapeutically certified optometrist are intended for the purpose of examination, diagnosis, and treatment of visual defects, abnormal conditions, and diseases of the human eye and adnexa, for proper optometric practice or referral for consultation or treatment to persons licensed under chapter 148 or 150A. A therapeutically certified optometrist is an optometrist who is licensed to practice optometry in this state and who is certified by the board of optometry examiners to use the agents and procedures authorized pursuant to this paragraph.²⁵ A therapeutically certified optometrist shall be provided with a distinctive certificate by the board which shall be displayed for viewing by the patients of the optometrist.

Sec. 143. Section 154.3, subsections 3, 4, 5, 6, and 8, Code 2007, are amended to read as follows:

- 3. A person licensed as an optometrist prior to January 1, 1980, who applies to be a certified licensed optometrist shall first satisfactorily complete a course consisting of at least one hundred contact hours in pharmacology as it applies to optometry including clinical training as it applies to optometry with particular emphasis on the topical application of diagnostic agents to the human eye and possible adverse reactions thereto, for the purpose of examination of the human eye and the diagnosis of conditions of the human eye, provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or the United States office of education, and approved by the board of optometry examiners.
- 4. In addition to the examination required by subsection 1, paragraph "c", a person applying to be a certified licensed optometrist shall also pass an examination prescribed by the optometry examiners board in the subjects of physiology and pathology appropriate to the use of diagnostic pharmaceutical agents and diagnosis of conditions of the human eye, and pharmacology including systemic effects of ophthalmic diagnostic pharmaceutical agents and the possible adverse reactions thereto, authorized for use by optometrists by section 154.1.
- 5. A person applying to be licensed as an optometrist after January 1, 1986, shall also apply to be a therapeutically certified optometrist and shall, in addition to satisfactorily completing all requirements for a license to practice optometry, satisfactorily complete a course as defined by rule of the state board of optometry examiners with particular emphasis on the examination, diagnosis²⁶ and treatment of conditions of the human eye and adnexa provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States office of education, and approved by the board of optometry examiners. The rule rules of the board shall require a course including a minimum of forty hours of didactic education and sixty hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa. The board may also, by rule, provide a procedure by which an applicant who has received didactic education meeting the requirements of rules adopted pursuant to this subsection at an approved school of optometry may apply to the board for a waiver of the didactic education requirements of this subsection.
- 6. A person licensed in any state as an optometrist prior to January 1, 1986, who applies to be a therapeutically certified optometrist shall first satisfactorily complete a course as defined by rule of the board of optometry examiners with particular emphasis on the examination, diagnosis, and treatment of conditions of the human eye and adnexa provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States office of education, and approved by the board of optometry examiners. The rule of the board shall require a course including a minimum of forty hours of didactic education and sixty hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa. Effective July 1, 1987, the board shall require that therapeutically cer-

²⁵ See chapter 215, §251 herein

²⁶ See chapter 215, §252 herein

tified optometrists prior to the utilization of topical and oral antiglaucoma agents, oral antimicrobial agents, and oral analgesic agents shall complete an additional forty-four hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases, provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States office of education, and approved by the board of optometry examiners. Upon completion of the additional forty-four hours of education, a therapeutically certified optometrist shall also pass an oral or written examination prescribed by the board. The board shall suspend the optometrist's therapeutic certificate for failure to comply with this subsection by July 1, 1988.

The board shall adopt rules requiring an additional twenty hours per biennium of continuing education in the treatment and management of ocular disease for all therapeutically certified optometrists. The department of ophthalmology of the school of medicine of the state university of Iowa shall be one of the providers of this continuing education.

- 8. In addition to the examination required by subsection 1, paragraph "c", a person applying to be a therapeutically certified optometrist shall also pass an examination prescribed by the board of optometry examiners in the examination, diagnosis, and treatment of diseases of the human eye and adnexa.
- Sec. 144. Section 154.5, unnumbered paragraph 1, Code 2007, is amended to read as follows:

No \underline{A} school of optometry shall <u>not</u> be approved by the <u>optometry examiners board</u> as a school of recognized standing unless <u>said</u> the school:

- Sec. 145. Section 154A.1, subsection 1, Code 2007, is amended to read as follows:
- 1. "Board" means the board of examiners for the licensing and regulation of hearing aid dispensers.
- Sec. 146. Section 154A.24, subsection 3, paragraph e, Code 2007, is amended to read as follows:
- e. Representing that the service or advice of a person licensed to practice medicine, or one who is certificated as a clinical audiologist by the board of examiners of speech pathology and audiology or its equivalent, will be used or made available in the fitting or selection, adjustment, maintenance, or repair of hearing aids when that is not true, or using the words "doctor", "clinic", "clinical audiologist", "state approved", or similar words, abbreviations, or symbols which tend to connote the medical or other professions, except where the title "certified hearing aid audiologist" has been granted by the national hearing aid society, or that the hearing aid dispenser has been recommended by this state or the board when such is not accurate.
 - Sec. 147. Section 154C.1, subsection 1, Code 2007, is amended to read as follows:
 - 1. "Board" means the board of social work, examiners established in chapter 147.
- Sec. 148. Section 154C.3, subsection 1, paragraph c, subparagraph (5), Code 2007, is amended to read as follows:
 - (5) Supervision shall be provided in any of the following manners:
- (a) By a social worker licensed at least at the level of the social worker being supervised and qualified under this section to practice without supervision.
- (b) By another qualified professional, if the board of social work examiners determines that supervision by a social worker as defined in subparagraph subdivision (a) is unobtainable or in other situations considered appropriate by the board.

Additional standards for supervision shall be determined by the board of social work examiners.

- Sec. 149. Section 154D.1, subsection 1, Code 2007, is amended to read as follows:
- 1. "Board" means the board of behavioral science examiners, established in section 147.13 chapter 147.

- Sec. 150. Section 154E.1, subsection 1, Code 2007, is amended to read as follows:
- 1. "Board" means the board of interpreter for the hearing impaired examiners sign language interpreters and transliterators, established in chapter 147.
 - Sec. 151. Section 155.1, subsection 1, Code 2007, is amended to read as follows:
- 1. "Board" means the Iowa state board of examiners for nursing home administrators hereinafter created, established in chapter 147.
- Sec. 152. Section 155.2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

There is established a state board of examiners for nursing home administrators which shall consist of nine members appointed by the governor subject to confirmation by the senate as follows:

- Sec. 153. Section 155A.3, subsection 3, Code 2007, is amended to read as follows:
- 3. "Board" means the board of pharmacy examiners.
- Sec. 154. Section 155A.21, subsection 2, Code 2007, is amended to read as follows:
- 2. Subsection 1 does not apply to a licensed pharmacy, licensed wholesaler, physician, veterinarian, dentist, podiatric physician, therapeutically certified optometrist, advanced registered nurse practitioner, physician assistant, a nurse acting under the direction of a physician, or the board of pharmacy examiners, its officers, agents, inspectors, and representatives, nor or to a common carrier, manufacturer's representative, or messenger when transporting the drug or device in the same unbroken package in which the drug or device was delivered to that person for transportation.
 - Sec. 155. Section 155A.26, Code 2007, is amended to read as follows: 155A.26 ENFORCEMENT AGENTS AS PEACE OFFICERS.

The board of pharmacy examiners, its officers, agents, inspectors, and representatives, and all peace officers within the state, and all county attorneys shall enforce all provisions of this chapter, except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to prescription drugs. Officers, agents, inspectors, and representatives of the board of pharmacy examiners shall have the powers and status of peace officers when enforcing the provisions of this chapter.

- Sec. 156. Section 156.1, subsection 1, Code 2007, is amended to read as follows:
- 1. "Board" means the board of mortuary science examiners.
- Sec. 157. Section 157.1, subsection 1, Code 2007, is amended to read as follows:
- 1. "Board" means the board of cosmetology arts and sciences examiners.
- Sec. 158. Section 157.1, subsection 6, paragraph e, Code 2007, is amended to read as follows:
 - e. Manicuring and pedicuring.
 - Sec. 159. Section 158.1, subsection 5, Code 2007, is amended to read as follows:
 - 5. "Board" means the board of barber examiners barbering.
 - Sec. 160. Section 205.6, Code 2007, is amended to read as follows: 205.6 POISON REGISTER.

It shall be unlawful for any pharmacist to sell at retail any of the poisons enumerated in section 205.5 unless the pharmacist ascertains that the purchaser is aware of the character of the drug and the purchaser represents that it is to be used for a proper purpose and every sale of any poison enumerated in section 205.5 shall be entered in a book kept for that purpose, to be

known as a "Poison Register" and the same shall show the date of the sale, the name and address of the purchaser, the name of the poison, the purpose for which it was represented to be purchased, and the name of the natural person making the sale, which book or books shall be open for inspection by the <u>board of</u> pharmacy <u>examiners</u>, or any magistrate or peace officer of this state, and preserved for at least five years after the date of the last sale therein recorded.

Sec. 161. Section 205.11, Code 2007, is amended to read as follows: 205.11 ENFORCEMENT.

The provisions of this chapter and chapters 124 and 126 shall be administered and enforced by the board of pharmacy examiners. In discharging any duty or exercising any power under those chapters, the board of pharmacy examiners shall be governed by all the provisions of chapter 189, which govern the department of agriculture and land stewardship when discharging a similar duty or exercising a similar power with reference to any of the articles dealt with in this subtitle, to the extent that chapter 189 is not inconsistent with this chapter and chapters 124 and 126.

Sec. 162. Section 205.12, Code 2007, is amended to read as follows:

205.12 CHEMICAL ANALYSIS OF DRUGS.

Any chemical analysis deemed necessary by the board of pharmacy examiners in the enforcement of this chapter and chapters 124 and 126 shall be made by the department of agriculture and land stewardship when requested by the board of pharmacy examiners.

Sec. 163. Section 205.13, Code 2007, is amended to read as follows:

205.13 APPLICABILITY OF OTHER STATUTES.

Insofar as applicable the provisions of chapter 189 shall apply to the articles dealt with in this chapter and chapters 124 and 126. The powers vested in the department of agriculture and land stewardship by chapter 189 shall be deemed for the purpose of this chapter and chapters 124 and 126 to be vested in the board of pharmacy examiners.

- Sec. 164. Section 232.69, subsection 3, paragraph a, Code 2007, is amended to read as follows:
- a. For the purposes of this subsection, "licensing board" means an examining \underline{a} board designated in section 147.13, the board of educational examiners created in section 272.2, or a licensing board as defined in section 272C.1.
- Sec. 165. Section 232.69, subsection 3, paragraph d, subparagraph (1), Code 2007, is amended to read as follows:
- (1) A continuing education program required under chapter 272C and approved by the appropriate licensing or examining board.
- Sec. 166. Section 235A.15, subsection 2, paragraph d, subparagraph (7), Code 2007, is amended to read as follows:
- (7) Each <u>licensing</u> board <u>of examiners</u> specified under chapter 147 and the Iowa department of public health for the purpose of licensure, certification or registration, disciplinary investigation, or the renewal of licensure, certification or registration, or disciplinary proceedings of health care professionals.
- Sec. 167. Section 235B.6, subsection 2, paragraph b, subparagraph (7), Code 2007, is amended to read as follows:
- (7) Each board of examiners specified under chapter 147 and the Iowa department of public health for the purpose of licensure, certification or registration, disciplinary investigation, or the renewal of licensure, certification or registration, or disciplinary proceedings of health care professionals.
- Sec. 168. Section 235B.16, subsection 5, paragraph a, Code 2007, is amended to read as follows:
 - a. For the purposes of this subsection, "licensing board" means an examining a board desig-

nated in section 147.13, the board of educational examiners created in section 272.2, or a licensing board as defined in section 272C.1.

- Sec. 169. Section 235B.16, subsection 5, paragraph d, subparagraph (1), Code 2007, is amended to read as follows:
- (1) A continuing education program required under chapter 272C and approved by the appropriate licensing or examining board.
- Sec. 170. Section 235B.16, subsection 5, paragraph e, Code 2007, is amended to read as follows:
- e. A person required to complete both child abuse and dependent adult abuse mandatory reporter training may complete the training through a program which combines child abuse and dependent adult abuse curricula and thereby meet the training requirements of both this subsection and section 232.69 simultaneously. A person who is a mandatory reporter for both child abuse and dependent adult abuse may satisfy the combined training requirements of this subsection and section 232.69 through completion of a two-hour training program, if the training program curriculum is approved by the appropriate licensing or examining board or the abuse education review panel established by the director of public health pursuant to section 135.11.
 - Sec. 171. Section 272C.1, subsection 6, Code 2007, is amended to read as follows:
 - 6. "Licensing board" or "board" includes the following boards:
- a. The state board of engineering and land surveying examiners, created pursuant to chapter 542B.
- b. The board of examiners of shorthand reporters created pursuant to article 3 of chapter 602.
 - c. The Iowa accountancy examining board, created pursuant to chapter 542.
 - d. The Iowa real estate commission, created pursuant to chapter 543B.
 - e. The board of architectural examiners, created pursuant to chapter 544A.
- f. The Iowa board of landscape architectural examiners, created pursuant to chapter 544B.
 - g. The board of barber examiners barbering, created pursuant to chapter 147.
 - h. The board of chiropractic examiners, created pursuant to chapter 147.
 - i. The board of cosmetology arts and sciences examiners, created pursuant to chapter 147.
 - j. The board of dental examiners dentistry, 27 created pursuant to chapter 147.
 - k. The board of mortuary science examiners, created pursuant to chapter 147.
 - l. The board of medical examiners medicine, created pursuant to chapter 147.
- m. The board of physician assistant examiners assistants, created pursuant to chapter 148C.
 - n. The board of nursing, created pursuant to chapter 147.
- o. The board of examiners for nursing home administrators, created pursuant to chapter 155.
 - p. The board of optometry examiners, created pursuant to chapter 147.
 - q. The board of pharmacy examiners, created pursuant to chapter 147.
- r. The board of physical and occupational therapy examiners, created pursuant to chapter 147.
 - s. The board of podiatry examiners, created pursuant to chapter 147.
 - t. The board of psychology examiners, created pursuant to chapter 147.
- u. The board of speech pathology and audiology examiners, created pursuant to chapter 147.
- v. The board for the licensing and regulation of hearing aid dispensers, created pursuant to chapter 154A.
 - w. The board of veterinary medicine, created pursuant to chapter 169.
- x. The director of the department of natural resources in certifying water treatment operators as provided in sections 455B.211 through 455B.224.

²⁷ See chapter 218, §205 herein

- y. Any professional or occupational licensing board created after January 1, 1978.
- z. The state board of respiratory care in licensing respiratory care practitioners pursuant to chapter 152B.
- aa. The board of examiners for athletic training in licensing athletic trainers pursuant to chapter 152D.
- ab. The board of examiners for massage therapy in licensing massage therapists pursuant to chapter 152C.
- ac. The board of interpreter for the hearing impaired examiners sign language interpreters and transliterators, created pursuant to chapter 154E.
- ad. The director of public health in certifying emergency medical care providers and emergency medical care services pursuant to chapter 147A.
 - Sec. 172. Section 272C.2, subsections 4 and 5, Code 2007, are amended to read as follows:
- 4. A person licensed to practice an occupation or profession in this state shall be deemed to have complied with the continuing education requirements of this state during periods that the person serves honorably on active duty in the military services, or for periods that the person is a resident of another state or district having a continuing education requirement for the occupation or profession and meets all requirements of that state or district for practice therein, or for periods that the person is a government employee working in the person's licensed specialty and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the appropriate <u>licensing</u> board <u>of examiners</u>.
- 5. A person licensed to sell real estate in this state shall be deemed to have complied with the continuing education requirements of this state during periods that the person serves honorably on active duty in the military services, or for periods that the person is a resident of another state or district having a continuing education requirement for the occupation or profession and meets all requirements of that state or district for practice therein, if the state or district accords the same privilege to Iowa residents, or for periods that the person is a government employee working in the person's licensed specialty and assigned to duty outside of the United States, or for other periods of active practice and absence from the state approved by the appropriate licensing board of examiners.
- Sec. 173. Section 272C.2A, Code 2007, is amended to read as follows: 272C.2A CONTINUING EDUCATION MINIMUM REQUIREMENTS BARBERING AND COSMETOLOGY ARTS AND SCIENCES.

The board of barber examiners <u>barbering</u> and the board of cosmetology arts and sciences <u>examiners</u>, created pursuant to chapter 147, shall each require, as a condition of license renewal, a minimum of six hours of continuing education in the two years immediately prior to a licensee's license renewal. The board of cosmetology arts and sciences <u>examiners</u> may notify cosmetology arts and sciences licensees on a quarterly basis regarding continuing education opportunities.

- Sec. 174. Section 321J.2, subsection 7, paragraph a, Code 2007, is amended to read as follows:
- a. This section does not apply to a person operating a motor vehicle while under the influence of a drug if the substance was prescribed for the person and was taken under the prescription and in accordance with the directions of a medical practitioner as defined in chapter 155A or if the substance was dispensed by a pharmacist without a prescription pursuant to the rules of the board of pharmacy examiners, if there is no evidence of the consumption of alcohol and the medical practitioner or pharmacist had not directed the person to refrain from operating a motor vehicle.
 - Sec. 175. Section 331.756, subsection 40, Code 2007, is amended to read as follows:
- 40. Prosecute violations of the Iowa drug, device, and cosmetic Act as requested by the board of pharmacy examiners as provided in section 126.7.

Sec. 176. Section 462A.14, subsection 7, paragraph a, Code 2007, is amended to read as follows:

a. This section does not apply to a person operating a motorboat or sailboat while under the influence of a drug if the substance was prescribed for the person and was taken under the prescription and in accordance with the directions of a medical practitioner as defined in chapter 155A or if the substance was dispensed by a pharmacist without a prescription pursuant to the rules of the board of pharmacy examiners, if there is no evidence of the consumption of alcohol and the medical practitioner or pharmacist had not directed the person to refrain from operating a motor vehicle, or motorboat or sailboat.

Sec. 177. Section 514F.1, Code 2007, is amended to read as follows: 514F.1 UTILIZATION AND COST CONTROL REVIEW COMMITTEES.

The licensing boards of examiners under chapters 148, 149, 150, 150A, 151, and 152 shall establish utilization and cost control review committees of licensees under the respective chapters, selected from licensees who have practiced in Iowa for at least the previous five years, or shall accredit and designate other utilization and cost control organizations as utilization and cost control committees under this section, for the purposes of utilization review of the appropriateness of levels of treatment and of giving opinions as to the reasonableness of charges for diagnostic or treatment services of licensees. Persons governed by the various chapters of Title XIII, subtitle 1, of the Code and self-insurers for health care benefits to employees may utilize the services of the utilization and cost control review committees upon the payment of a reasonable fee for the services, to be determined by the respective boards of examiners. The respective boards of examiners under chapters 148, 149, 150, 150A, 151, and 152 shall adopt rules necessary and proper for the implementation administration of this section pursuant to chapter 17A. It is the intent of this general assembly that conduct of the utilization and cost control review committees authorized under this section shall be exempt from challenge under federal or state antitrust laws or other similar laws in regulation of trade or commerce.

Sec. 178. Section 523A.813, Code 2007, is amended to read as follows: 523A.813 LICENSE REVOCATION — RECOMMENDATION BY COMMISSIONER TO

523A.813 LICENSE REVOCATION — RECOMMENDATION BY COMMISSIONER TO BOARD OF MORTUARY SCIENCE EXAMINERS.

Upon a determination by the commissioner that grounds exist for an administrative license revocation or suspension action by the board of mortuary science examiners under chapter 156, the commissioner may forward to the board the grounds for the determination, including all evidence in the possession of the commissioner, so that the board may proceed with the matter as deemed appropriate.

Sec. 179. Section 622.10, subsection 5, Code 2007, is amended to read as follows:

5. For the purposes of this section, "mental health professional" means a psychologist licensed under chapter 154B, a registered nurse licensed under chapter 152, a social worker licensed under chapter 154C, a marital and family therapist licensed under chapter 154D, a mental health counselor licensed under chapter 154D, or an individual holding at least a master's degree in a related field as deemed appropriate by the board of behavioral science examiners.

Sec. 180. Section 622.31, Code 2007, is amended to read as follows: 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.

- Sec. 181. Section 707.8A, subsection 7, Code 2007, is amended to read as follows:
- 7. a. A licensed physician subject to the authority of the state board of medical examiners medicine who is accused of a violation of subsection 2 may seek a hearing before the board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury.
- b. The board's findings concerning the physician's conduct are admissible at the criminal trial of the physician. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty days to permit the hearing before the board of medical examiners medicine to take place.
- Sec. 182. Section 714.25, unnumbered paragraph 2, Code 2007, is amended to read as follows:

A proprietary school shall, prior to the time a student is obligated for payment of any moneys, inform the student, the college student aid commission, and in the case of a school licensed under section 157.8, the board of cosmetology examiners arts and sciences or in the case of a school licensed under section 158.7, the board of barber examiners barbering, of all of the following:

- Sec. 183. Section 729.6, subsection 1, paragraph e, Code 2007, is amended to read as follows:
- e. "Licensing agency" means a board, commission, committee, council, department, examining board, or officer, except a judicial officer, in the state, or in a city, county, township, or local government, authorized to grant, deny, renew, revoke, suspend, annul, withdraw, or amend a license or certificate of registration.
- Sec. 184. CODE EDITOR DIRECTIVE. Wherever the term "examiners" or "examining board" appears in the Code or in the Acts pending codification, in reference to one of the boards enumerated in section 147.13, the Code editor is directed to change the term to the appropriate board designation as enumerated in section 147.13.

Approved March 9, 2007

CHAPTER 11

INVASIVE PNEUMOCOCCAL DISEASE IMMUNIZATION H.F. 245

AN ACT requiring invasive pneumococcal disease immunization for children enrolling in licensed child care centers.

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

Section 1. Section 139A.8, subsection 2, paragraph b, Code 2007, is amended to read as follows:

b. Evidence of adequate immunization against haemophilus influenza B <u>and invasive pneumococcal disease</u> shall be required prior to enrollment in any licensed child care center.

Approved March 9, 2007

CHAPTER 12

INTERNAL REVENUE CODE REFERENCES UPDATE

H.F. 319

AN ACT updating the Code references to the Internal Revenue Code and including effective date and retroactive applicability provisions.

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

Section 1. Section 15.335, subsection 4, unnumbered paragraph 2, Code 2007, is amended to read as follows:

For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, 2006 2007.

Sec. 2. Section 15A.9, subsection 8, paragraph e, unnumbered paragraph 2, Code 2007, is amended to read as follows:

For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, $\frac{2006}{2007}$.

- Sec. 3. Section 422.3, subsection 5, Code 2007, is amended to read as follows:
- 5. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, 2006 2007.
- Sec. 4. Section 422.10, subsection 3, unnumbered paragraph 2, Code 2007, is amended to read as follows:

For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, 2006 2007.

- Sec. 5. Section 422.32, subsection 7, Code 2007, is amended to read as follows:
- 7. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of

its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, 2006 2007.

Sec. 6. Section 422.33, subsection 5, paragraph d, unnumbered paragraph 2, Code 2007, is amended to read as follows:

For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, 2006 2007.

- Sec. 7. RETROACTIVE APPLICABILITY. This Act applies retroactively to January 1, 2006, for tax years beginning on or after that date.
- Sec. 8. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 9, 2007

CHAPTER 13

REAL ESTATE BROKER PROFESSIONAL CORPORATIONS OR LIMITED LIABILITY COMPANIES

H.F. 400

AN ACT authorizing the formation of a professional corporation or a professional limited liability company by licensed real estate brokers.

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

- Section 1. Section 490A.1501, subsection 4, Code 2007, is amended to read as follows:
- 4. "Profession" means the profession of certified public accountancy, architecture, chiropractic, dentistry, physical therapy, psychology, professional engineering, land surveying, landscape architecture, law, medicine and surgery, optometry, osteopathy, osteopathic medicine and surgery, accounting practitioner, podiatry, real estate brokerage, speech pathology, audiology, veterinary medicine, pharmacy, nursing, and marriage and family therapy, provided that the marriage and family therapist is licensed under chapters 147 and 154D.
 - Sec. 2. Section 496C.2, subsection 4, Code 2007, is amended to read as follows:
- 4. "Profession" means the profession of certified public accountancy, architecture, chiropractic, dentistry, physical therapy, psychology, professional engineering, land surveying, landscape architecture, law, medicine and surgery, optometry, osteopathy, osteopathic medicine and surgery, accounting practitioner, podiatry, real estate brokerage, speech pathology, audiology, veterinary medicine, pharmacy and the practice of nursing.
 - Sec. 3. Section 543B.2, Code 2007, is amended to read as follows: 543B.2 INDIVIDUAL LICENSES NECESSARY.

A partnership, association, or corporation, professional corporation, or professional limited liability company shall not be granted a license, unless every member or officer of the partnership, association, or corporation, professional corporation, or professional limited liability company who actively participates in the brokerage business of the partnership, association, or corporation, professional corporation, or professional limited liability company holds a li-

cense as a real estate broker or salesperson, and unless every employee who acts as a salesperson for the partnership, association, or corporation, professional corporation, or professional limited liability company holds a license as a real estate broker or salesperson. At least one member or officer of each partnership, association, or corporation, professional corporation, or professional limited liability company shall be a real estate broker.

- Sec. 4. Section 543B.5, subsection 18, Code 2007, is amended to read as follows:
- 18. "Person" means an individual, partnership, association, or corporation, professional corporation, or professional limited liability company.
 - Sec. 5. Section 543B.31, Code 2007, is amended to read as follows: 543B.31 PLACE OF BUSINESS.

Every real estate broker, except as provided in section 543B.22, shall maintain a place of business in this state. If the real estate broker maintains more than one place of business within the state, a duplicate license shall be issued to such broker for each branch office maintained. Provided, that if such broker be a copartnership, association, or corporation, professional corporation, or professional limited liability company a duplicate shall be issued to the members or officers thereof, and a fee determined by the real estate commission in each case shall be paid for each duplicate license.

- Sec. 6. Section 543B.46, subsection 6, Code 2007, is amended to read as follows:
- 6. The commission shall verify on a test basis, a random sampling of the brokers, corporations, <u>professional corporations</u>, <u>professional limited liability companies</u>, and partnerships for their trust account compliance. The commission may upon reasonable cause, or as a part of or after an investigation, request or order a special report.

Approved March 9, 2007

CHAPTER 14

REGULATION OF POLITICAL CAMPAIGNS AND CONTRIBUTIONS S.F. 39

AN ACT relating to campaign contributions, the filing of disclosure reports, the posting of statements and reports on the internet, the posting of signs on private property, and the escheat of funds from an unknown or unidentifiable source.

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

Section 1. Section 68A.102, subsection 10, paragraph b, unnumbered paragraph 2, Code 2007, is amended to read as follows:

"Contribution" shall not include services provided without compensation by individuals volunteering their time on behalf of a candidate's committee or political committee or a state or county statutory political committee except when organized or provided on a collective basis by a business, trade association, labor union, or any other organized group or association. "Contribution" shall not include refreshments served at a campaign function so long as such refreshments do not exceed fifty dollars in value or transportation provided to a candidate so long as its value computed at a rate of twenty cents per mile the current rate of reimbursement allowed under the standard mileage rate method for computation of business expenses pursu-

ant to the Internal Revenue Code does not exceed one hundred dollars in value in any one reporting period. "Contribution" shall not include something provided to a candidate for the candidate's personal consumption or use and not intended for or on behalf of the candidate's committee.

- Sec. 2. Section 68A.201, subsection 1, Code 2007, is amended to read as follows:
- 1. Every committee, as defined in this chapter, shall file a statement of organization within ten days from the date of its organization. Unless formal organization has previously occurred, a committee is deemed to have organized as of the date that committee transactions exceed the financial activity threshold established in section 68A.102, subsection 5 or 18. If committee transactions exceed the financial activity threshold prior to the due date for filing a disclosure report as established under section 68A.402, the committee shall file a disclosure report whether or not a statement of organization has been filed by the committee.
 - Sec. 3. Section 68A.201, subsection 5, Code 2007, is amended to read as follows:
- 5. <u>a.</u> When either a committee or organization not organized as a committee under this section makes a contribution to a committee organized in Iowa, that committee or organization shall disclose each contribution in excess of fifty dollars to the board.
- <u>b.</u> A committee or organization not organized as a committee under this section <u>which that</u> is not registered and filing full disclosure reports of all financial activities with the federal election commission or another state's disclosure commission shall register and file full disclosure reports with the board pursuant to this chapter, <u>and</u>. The committee or organization shall either appoint an eligible Iowa elector as committee or organization treasurer, or shall maintain all committee funds in an account in a financial institution located in Iowa.
- <u>c.</u> A committee which that is currently filing a disclosure report in another jurisdiction shall either file a statement of organization under subsections 1 and 2 and file disclosure reports, the same as those required of committees organized only in Iowa, under section 68A.402, or shall file one copy of a verified statement with the board and a second copy with the treasurer of the committee receiving the contribution. The form shall be completed and filed at the time the contribution is made within fifteen days of the contribution being made.
- <u>d.</u> The verified statement shall be on forms prescribed by the board and shall attest that the committee is filing reports with the federal election commission or in a jurisdiction with reporting requirements which are substantially similar to those of this chapter, and that the contribution is made from an account <u>which that</u> does not accept contributions <u>which that</u> would be in violation of section 68A.503.
- <u>e.</u> The <u>form verified statement</u> shall include the complete name, address, and telephone number of the contributing committee, the state or federal jurisdiction under which it is registered or operates, the identification of any parent entity or other affiliates or sponsors, its purpose, the name and address of an Iowa resident authorized to receive service of original notice, and the name and address of the receiving committee, the amount of the cash or in-kind contribution, and the date the contribution was made.
 - Sec. 4. Section 68A.203, subsection 2, Code 2007, is amended to read as follows:
- 2. <u>a.</u> An individual who receives contributions for a committee without the prior authorization of the chairperson of the committee or the candidate shall be responsible for either rendering the contributions to the treasurer within fifteen days of the date of receipt of the contributions, or depositing the contributions in the account maintained by the committee within seven days of the date of receipt of the contributions.
- <u>b.</u> A person, other than a candidate or committee officer, who receives contributions for a committee shall, not later than fifteen days from the date of receipt of the contributions or on demand of the treasurer, render to the treasurer the contributions and an account of the total of all contributions, including the name and address of each person making a contribution in excess of ten dollars, the amount of the contributions, and the date on which the contributions were received.

- <u>c.</u> The treasurer shall deposit all contributions within seven days of receipt by the treasurer in an account maintained by the committee.
- <u>d.</u> All funds of a committee shall be segregated from any other funds held by officers, members, or associates of the committee or the committee's candidate. However, if a candidate's committee receives contributions only from the candidate, or if a permanent organization temporarily engages in activity <u>which that</u> qualifies it as a political committee and all expenditures of the organization are made from existing general operating funds and funds are not solicited or received for this purpose from sources other than operating funds, then that committee is not required to maintain a separate account in a financial institution.
- <u>e.</u> Committee funds or committee property shall not be used for the personal benefit of an <u>a candidate</u>, officer, member, or associate of the committee. The funds of a committee are not attachable for the personal debt of the committee's candidate or an officer, member, or associate of the committee.
- Sec. 5. Section 68A.401, subsections 1 and 3, Code 2007, are amended to read as follows:

 1. All statements and reports required to be filed under this chapter shall be filed with the board. The board shall provide copies of all statements and reports filed under this chapter for a county, city, school, or other political subdivision to the commissioner responsible under

section 47.2 post on its internet website all statements and reports filed under this chapter.

- 3. The commissioner shall retain statements and reports provided by the board for a county, city, school, or other political subdivision for at least three years from the date of the election in which the committee is involved. However, statements and reports provided by the board for county statutory political committees shall be retained for five years from the date of the election in which the committee is involved. The candidate of a candidate's committee, or the chairperson of any other committee, is responsible for filing statements and reports under this chapter. The board shall send notice to a committee that has failed to file a disclosure report at the time required under section 68A.402. A candidate of a candidate's committee, or the chairperson of any other committee, may be subject to a civil penalty for failure to file a disclosure report required under section 68A.402.
 - Sec. 6. Section 68A.402, subsection 8, Code 2007, is amended to read as follows:
- 8. POLITICAL COMMITTEES BALLOT ISSUES. A political committee expressly advocating the passage or defeat of a ballot issue shall file reports as follows:
- a. ELECTION YEAR. Five days before the election covering the period of the date of initial activity through ten days before election. Another report covering the time period from nine days before the election through December 31 shall be filed on or before January 19 of the next calendar year.
- b. NONELECTION YEAR. On January 19 of the next calendar year that covers the time period of nine days before the election through December 31 January 1 through December 31 of the previous calendar year.
- Sec. 7. Section 68A.406, subsection 2, unnumbered paragraph 2, Code 2007, is amended to read as follows:

This subsection Subparagraphs¹ "d", "e", and "f" shall not apply to the posting of signs on private property not a polling place, except that the placement of a sign on a motor vehicle, trailer, or semitrailer, or any attachment to a motor vehicle, trailer, or semitrailer parked on public property within three hundred feet of a polling place, which sign is more than ninety square inches in size, is prohibited.

Sec. 8. Section 68A.501, Code 2007, is amended to read as follows: 68A.501 FUNDS FROM UNKNOWN SOURCE — ESCHEAT.

The expenditure of funds from an unknown or unidentifiable source received by a candidate or committee is prohibited. Such funds received by a candidate or committee shall escheat to the state. Any candidate or committee receiving such contributions shall remit such contributions to the director of the department of administrative services board which shall forward

¹ See chapter 215, §244 herein

it to the treasurer of state for deposit in the general fund of the state. Persons requested to make a contribution at a fundraising event shall be advised that it is illegal to make a contribution in excess of ten dollars unless the person making the contribution also provides the person's name and address.

Approved March 14, 2007

CHAPTER 15

DIRECTORS OF NONPROFIT CORPORATIONS — DUTIES

H.F. 258

AN ACT relating to the duties of directors of nonprofit corporations.

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

Section 1. Section 504.831, subsections 2 and 4, Code 2007, are amended to read as follows:

- 2. The members of the board of directors or a committee of the board, when becoming informed in connection with their decision-making functions or when devoting attention to their oversight functions, shall discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances.
- 4. In discharging board or committee duties, a director who does not have knowledge that makes reliance unwarranted, is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by any of the persons specified in subsection 5.

Approved March 14, 2007

CHAPTER 16

CONVEYANCE SAFETY STANDARDS — ELEVATORS AND SIMILAR MECHANISMS

H.F. 369

AN ACT relating to elevator conveyance safety standards enforced by the division of labor services of the department of workforce development.

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

Section 1. Section 88.19, Code 2007, is amended to read as follows: 88.19 ANNUAL REPORT.

Within one hundred twenty days following the convening of each session of each general assembly, the commissioner shall prepare and submit to the governor for transmittal to the general assembly a report upon the subject matter of this chapter, the progress toward achievement of the purpose of this chapter, the needs and requirements in the field of occupational safety and health, and any other relevant information. Such reports may include infor-

mation regarding occupational safety and health standards, and criteria for such standards, developed during the preceding year; evaluation of standards and criteria previously developed under this chapter, defining areas of emphasis for new criteria and standards; and evaluation of the degree of observance of applicable occupational safety and health standards, and a summary of inspection and enforcement activity undertaken, including remedial actions taken under chapter 89A; analysis and evaluation of research activities for which results have been obtained under governmental and nongovernmental sponsorship; an analysis of major occupational diseases; evaluation of available control and measurement technology for hazards for which standards or criteria have been developed during the preceding year; description of co-operative efforts undertaken between government agencies and other interested parties in the implementation of this chapter during the preceding year; a progress report on the development of an adequate supply of trained personnel in the field of occupational safety and health, including estimates of future needs and the efforts being made by government and others to meet those needs; listing of all toxic substances in industrial usage for which labeling requirements, criteria, or standards have not yet been established; and such recommendations for additional legislation as are deemed necessary to protect the safety and health of the worker and improve the administration of this chapter.

Sec. 2. Section 89A.1, Code 2007, is amended to read as follows: 89A.1 DEFINITIONS.

As used in this chapter, except as otherwise expressly provided:

- 1. "Alteration" means any change made to an existing facility conveyance, other than the repair or replacement of damaged, worn, or broken parts necessary for normal maintenance.
- 2. "Commissioner" means the labor commissioner, appointed pursuant to section 91.2, or the labor commissioner's designee.
- 3. "Conveyance" means an elevator, dumbwaiter, escalator, moving walk, lift, or inclined or vertical wheelchair lift subject to regulation under this chapter, and includes hoistways, rails, guides, and all other related mechanical and electrical equipment.
- <u>4.</u> "Division" means the division of labor services of the department of workforce development created under section 84A.1.
- 4. <u>5.</u> "Dormant <u>facility</u>" <u>conveyance</u>" means a <u>facility conveyance</u> whose power feed lines have been disconnected from the mainline disconnect switch and is one of the following:
- a. An electric elevator, material lift, or dumbwaiter whose suspension ropes have been removed, whose car and counterweight rest at the bottom of the hoistway, and whose hoistway doors have been permanently barricaded or sealed in the closed position on the hoistway side.
- b. A hydraulic elevator, material lift, or dumbwaiter whose car rests at the bottom of the hoistway, whose pressure piping has been disassembled and a section removed from the premises; whose hoistway doors have been permanently barricaded or sealed in the closed position on the hoistway side; and, if provided, whose suspension ropes have been removed and the counterweights landed at the bottom of the hoistway.
 - c. An escalator or moving walk whose entrances have been permanently barricaded.
- d. A rack and pinion or screw column <u>facility elevator</u>, whose motor has been removed, platform lowered to the bottom, and entrances barricaded.
- 5. 6. "Dumbwaiter" means a hoisting and lowering mechanism equipped with a car which moves in guides in a substantially vertical direction, when the floor area does not exceed nine square feet, the total compartment height does not exceed four feet, the capacity does not exceed five hundred pounds, and which is used exclusively for carrying materials.
- 6. 7. "Elevator" means a hoisting and lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction, and which serves two or more floors of a building or structure. The term elevator "Elevator" does not include a dumbwaiter, endless belt, conveyor, chain or bucket hoist, construction hoist, or other device used for the primary purpose of elevating or lowering building or other materials and not used as a means of conveyance for individuals, nor shall it and does not include tiering, piling, feeding, or other machines or devices giving service within only one story.

- 7. <u>8.</u> "Escalator" means a power-driven, inclined, continuous stairway used for raising or lowering passengers.
- 8. "Facility" means an elevator, dumbwaiter, escalator, moving walk, lift, or inclined or vertical wheelchair lift subject to regulation under this chapter, and includes hoistways, rails, guides, and all other related mechanical and electrical equipment.
- 9. "Freight elevator" means an elevator used for carrying freight and on which only the operator and persons necessary for unloading and loading the freight are permitted to ride.
- 10. "Inclined or vertical wheelchair lift" means a lift used as part of an accessible route in or at a public building as specified in the American society of mechanical engineers safety codes for elevators and escalators, A17.1.
- 11. "Inspector" means an inspector employed by the division for the purpose of administering this chapter.
- 12. "Lift" means a device consisting of a power-driven endless belt, provided with steps or platforms and handholds attached to it for the transportation of persons from floor to floor.
- 13. "Material lift elevator" means an elevator existing at the location prior to January 1, 1975, which is limited in use to the movement of materials.
- 14. "Moving walk" means a type of passenger-carrying device on which passengers stand or walk, and in which the passenger-carrying surface remains parallel to its direction in motion and is uninterrupted.
- 15. "New installation" means a facility <u>conveyance</u> the construction or relocation of which is begun, or for which an application for a new installation permit is filed, on or after the effective date of rules relating to those permits adopted by the commissioner under authority of this chapter. All other installations are existing installations.
- 16. "Owner" means the owner of a <u>facility conveyance</u>, unless the <u>facility conveyance</u> is a new installation or is undergoing major alterations, in which case the owner shall be considered the person responsible for the installation or alteration of the <u>facility conveyance</u> until the <u>facility conveyance</u> has passed final inspection by the division.
- 17. "Passenger elevator" means an elevator that is used to carry persons other than the operator and person¹ necessary for loading and unloading.
 - 18. "Safety board" means the elevator safety board created in section 89A.13.
- 19. "Special inspector" means an inspector licensed commissioned by the labor commissioner, and not employed by the division.
 - Sec. 3. Section 89A.2, Code 2007, is amended to read as follows:

89A.2 SCOPE OF CHAPTER.

The provisions of this chapter shall not apply to any facility <u>conveyance</u> installed in any single private dwelling residence, to <u>facilities conveyances</u> subject to regulation under <u>Iowa Administrative Code</u>, chapter 26 of the rules of the division of labor services (regulation <u>875 IAC 26.1 and 29 C.F.R. 1926.552</u>), to lifts subject to regulation under chapter 88, to <u>material lift elevators existing in the same location since prior to January 1, 1975</u>, or to <u>facilities conveyances</u> over which an agency of the federal government is asserting similar enforcement jurisdiction. Provisions of this chapter supersede <u>similar conflicting</u> provisions contained in building codes of this state or any subdivision thereof.

- Sec. 4. Section 89A.3, subsections 1 and 2, Code 2007, are amended to read as follows:
- 1. The safety board may adopt rules governing maintenance, construction, alteration, and installation of facilities conveyances, and the inspection and testing of new and existing installations as necessary to provide for the public safety, and to protect the public welfare.

The safety board shall adopt, amend, or repeal rules pursuant to chapter 17A as it deems necessary for the administration of this chapter, which shall include, but not be limited to, rules providing for:

- a. Classifications of types of facilities conveyances.
- b. Maintenance, inspection, testing, and operation of the various classes of $\frac{1}{1}$ satisfies $\frac{1}{1}$ conveyances.

¹ According to enrolled Act; the word "persons" probably intended

- c. Construction of new facilities conveyances.
- d. Alteration of existing facilities conveyances.
- e. Minimum safety requirements for all existing facilities conveyances.
- f. Control or prevention of access to facilities <u>conveyances</u> or dormant facilities <u>conveyances</u>.
 - g. The reporting of accidents and injuries arising from the use of facilities conveyances.
 - h. The adoption of procedures for the issuance of variances.
- i. The amount of fees charged and collected for inspection, permits, and <u>licenses commissions</u>. Fees shall be set at an amount sufficient to cover costs as determined from consideration of the reasonable time required to conduct an inspection, reasonable hourly wages paid to inspectors, and reasonable transportation and similar expenses.
- 2. The safety board shall adopt rules for <u>facilities conveyances</u> according to the applicable provisions of the American society of mechanical engineers safety codes for elevators and escalators, A17.1 and A17.3, as the safety board deems necessary. In adopting rules the safety board may adopt the American society of mechanical engineers safety codes, or any part of the codes, by reference.

The safety board may adopt rules permitting existing passenger and freight elevators to be modified into material lift elevators.

Sec. 5. Section 89A.5, Code 2007, is amended to read as follows:

89A.5 REGISTRATION OF FACILITIES CONVEYANCES.

The owner of every existing <u>facility conveyance</u>, whether or not dormant, shall register the <u>facility conveyance</u> with the commissioner, giving type, contract load and speed, name of manufacturer, its location and the purpose for which it is used, and other information the commissioner may require. Registration shall be made in a format required by the division.

Sec. 6. Section 89A.6, Code 2007, is amended to read as follows:

89A.6 INSPECTIONS — REPORTS — NONLIABILITY.

All new and existing facilities <u>conveyances</u>, except dormant facilities <u>conveyances</u>, shall be tested and inspected in accordance with the following schedule:

- 1. Every new or altered facility <u>conveyance</u> shall be inspected and tested before the operating permit is issued.
- 2. Every existing <u>facility conveyance</u> registered with the commissioner shall be inspected within one year after the effective date of the registration, except that the safety board may extend by rule the time specified for making inspections.
- 3. Every <u>facility conveyance</u> shall be inspected not less frequently than annually, except that the safety board may adopt rules providing for inspections of <u>facilities conveyances</u> at intervals other than annually.
- 4. The inspections required by subsections 1 to 3 shall be made only by inspectors or special inspectors. An inspection by a special inspector may be accepted by the commissioner in lieu of a required inspection by an inspector.
- 5. A report of every inspection shall be filed with the commissioner by the inspector or special inspector, in a format required by the commissioner, after the inspection has been completed and within the time provided by rule, but not to exceed thirty days. The report shall include all information required by the commissioner to determine whether the facility conveyance is in compliance with applicable rules. For the inspection required by subsection 1, the report shall indicate whether the facility conveyance has been installed in accordance with the detailed plans and specifications approved by the commissioner, and meets the requirements of the applicable rules. The failure of a special inspector to inform the commissioner of violations shall not subject the commissioner to liability for any damages incurred.
- 6. In addition to the inspections required by subsections 1 to 3, the safety board may provide by rule for additional inspections as the safety board deems necessary to enforce the provisions of this chapter.

Sec. 7. Section 89A.7, Code 2007, is amended to read as follows: 89A.7 ALTERATION PERMITS.

The owner shall submit to the commissioner detailed plans, specifications, and other information the commissioner may require for each facility conveyance to be altered, together with an application for an alteration permit, in a format required by the commissioner. Repairs or replacements necessary for normal maintenance are not alterations, and may be made on existing installations with parts equivalent in material, strength, and design to those replaced and no plans or specifications or application need be filed for the repairs or replacements. However, this section does not authorize the use of any facility conveyance contrary to an order issued pursuant to section 89A.10, subsections 2 and 3.

Sec. 8. Section 89A.9, Code 2007, is amended to read as follows: 89A.9 OPERATING PERMITS.

Operating permits shall be issued by the commissioner to the owner of every facility conveyance when the inspection report indicates compliance with the applicable provisions of this chapter. However, a permit shall not be issued if the fees required by this chapter have not been paid. Permits shall be issued within thirty days after filing of the inspection report required by section 89A.6, unless the time is extended for cause by the division. A facility conveyance shall not be operated after the thirty days or after an extension granted by the commissioner has expired, unless an operating permit has been issued.

The operating permit shall indicate the type of equipment for which it is issued, and in the case of elevators shall state whether passenger or freight, and also shall state the contract load and speed for each <u>facility conveyance</u>. The permit shall be posted conspicuously in the car of an elevator, or on or near a dumbwaiter, escalator, moving walk, or lift.

- Sec. 9. Section 89A.10, subsections 2 and 3, Code 2007, are amended to read as follows:
- 2. If the owner does not make the changes necessary for compliance as required in subsection 1 within the period specified by the commissioner, the commissioner, upon notice, may suspend or revoke the operating permit, or may refuse to issue the operating permit for the facility conveyance. The commissioner shall notify the owner of any action to suspend, revoke, or refuse to issue an operating permit and the reason for the action by service in the same manner as an original notice or by certified mail. An owner may appeal the commissioner's initial decision to the safety board. The decision of the safety board shall be considered final agency action pursuant to chapter 17A.
- 3. If the commissioner has reason to believe that the continued operation of a facility conveyance constitutes an imminent danger which could reasonably be expected to seriously injure or cause death to members of the public, any person, in addition to any other remedies, the commissioner may apply to the district court in the county in which such imminently dangerous condition exists for a temporary order for the purpose of enjoining such imminently dangerous facility conveyance. Upon hearing, if deemed appropriate by the court, a permanent injunction may be issued to insure that such imminently dangerous facility conveyance be prevented or controlled. Upon the elimination or rectification of such imminently dangerous condition, the temporary or permanent injunction shall be vacated.

Sec. 10. Section 89A.11, Code 2007, is amended to read as follows: 89A.11 NONCONFORMING FACILITIES CONVEYANCES.

The safety board, pursuant to rule, may grant exceptions and variances from the requirements of rules adopted for any facility conveyance. Exceptions or variations shall be reasonably related to the age of the facility conveyance, and may be conditioned upon a repair or modification of the facility conveyance deemed necessary by the safety board to assure reasonable safety. However, an exception or variance shall not be granted except to prevent undue hardship. Such facilities conveyances shall be subject to orders issued pursuant to section 89A.10.

Sec. 11. Section 89A.12, Code 2007, is amended to read as follows:

89A.12 ACCESS TO FACILITIES CONVEYANCES.

Every owner of a <u>facility conveyance</u> subject to regulation by this chapter shall grant access to that <u>facility conveyance</u> to the commissioner and personnel of the division. Inspections shall be permitted at reasonable times, with or without prior notice.

- Sec. 12. Section 89A.13, subsections 1 and 7, Code 2007, are amended to read as follows:
- 1. An elevator safety board is created within the division of labor services in the department of workforce development to formulate definitions and rules for the safe and proper installation, repair, maintenance, alteration, use, and operation of facilities conveyances in this state.
- 7. Not later than July 1, 2005, and every three years thereafter, the safety board shall conduct a comprehensive review of existing elevator and facility conveyance rules, regulations, and standards.
 - Sec. 13. Section 89A.14, Code 2007, is amended to read as follows:

89A.14 CONTINUING DUTY OF OWNER.

Every <u>facility conveyance</u> shall be maintained by the owner in a safe operating condition and in conformity with the rules adopted by the safety board.

Sec. 14. Section 89A.15, Code 2007, is amended to read as follows:

89A.15 INSPECTIONS BY LOCAL AUTHORITIES.

A city or other governmental subdivision shall not make or maintain any ordinance, bylaw, or resolution providing for the licensing of special inspectors. An ordinance or resolution relating to the inspection, construction, installation, alteration, maintenance, or operation of facilities conveyances within the limits of the city or governmental subdivision which conflicts with this chapter or with rules adopted pursuant to this chapter is void. The commissioner, in the commissioner's discretion, may accept inspections by local authorities in lieu of inspections required by section 89A.6, but only upon a showing by the local authority that applicable laws and rules will be consistently and literally enforced and that inspections will be performed by special inspectors.

Sec. 15. Section 89A.18, Code 2007, is amended to read as follows: 89A.18 CIVIL PENALTY.

If upon notice and hearing the commissioner determines that an owner has operated a facility conveyance after an order of the commissioner that suspends, revokes, or refuses to issue an operating permit for the facility conveyance has become final under section 89A.10, subsection 2, the commissioner may assess a civil penalty against the owner in an amount not exceeding five hundred dollars, as determined by the commissioner. An order assessing a civil penalty is subject to appeal under section 89A.10, subsection 2, in the same manner and to the same extent as decisions referred to in that subsection. The commissioner may commence an action in the district court to enforce payment of the civil penalty. No A record of assessment against or payment of a civil penalty by any person for a violation of this section shall not be admissible as evidence in any court in any civil action. Revenue from the penalty provided in this section shall be remitted to the treasurer of state for deposit in the state general fund.

- Sec. 16. Section 331.304, subsection 4, Code 2007, is amended to read as follows:
- 4. A county shall not license elevator inspectors or regulate elevator facilities conveyances except as provided in section 89A.15.

CHAPTER 17

TAXATION OF CIGARETTES AND TOBACCO PRODUCTS — HEALTH CARE TRUST FUND

S.F. 128

AN ACT relating to an increase in the taxes on cigarettes and tobacco products, imposing an inventory tax on tobacco products, creating a health care trust fund, providing for a standing appropriation, and providing an effective date and providing an applicability provision.

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

- Section 1. Section 421B.2, subsection 3, paragraph b, Code 2007, is amended to read as follows:
- b. The cost of doing business by the retailer is presumed to be six <u>eight</u> percent of the basic cost of cigarettes in the absence of proof of a lesser or higher cost plus the full face value of any stamps which may be required by any cigarette tax act of this state to the extent not already included in the basic cost of cigarettes.
- Sec. 2. Section 421B.2, subsection 4, paragraph b, Code 2007, is amended to read as follows:
- b. The cost of doing business by the wholesaler is presumed to be three four percent of the basic cost of cigarettes in the absence of proof of a lesser or higher cost, which includes cartage to the retail outlet, plus the full face value of any stamps which may be required by any cigarette tax act of this state to the extent not already included in the basic cost of cigarettes.
 - Sec. 3. Section 453A.6, subsection 1, Code 2007, is amended to read as follows:
- 1. There is imposed, and shall be collected and paid to the department, the following taxes a tax on all cigarettes used or otherwise disposed of in this state for any purpose whatsoever:

Class A. On cigarettes weighing not more than three pounds per thousand, eighteen mills on each such cigarette.

- Class B. On cigarettes weighing more than three pounds per thousand, eighteen mills <u>equal</u> to six and <u>eight-tenths</u> on each <u>such</u> cigarette.
- Sec. 4. Section 453A.6, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 7. Cigarettes shall be sold only in packages of twenty or more cigarettes.
 - Sec. 5. Section 453A.35, Code 2007, is amended to read as follows:
- 453A.35 TAX AND FEES PAID TO GENERAL FUND <u>STANDING APPROPRIATION TO HEALTH CARE TRUST FUND</u>.
- 1. The proceeds derived from the sale of stamps and the payment of taxes, fees and penalties provided for under this chapter, and the permit fees received from all permits issued by the department, shall be credited to the general fund of the state. However, beginning July 1, 2007, of the revenues generated from the tax on cigarettes pursuant to section 453A.6, subsection 1, and from the tax on tobacco products as specified in section 453A.43, subsections 1, 2, 3, and 4, and credited to the general fund of the state under this subsection, there is appropriated, annually, to the health care trust fund created in section 453A.35A, the first one hundred twenty-seven million six hundred thousand dollars.
- <u>2.</u> All permit fees provided for in this chapter and collected by cities in the issuance of permits granted by the cities shall be paid to the treasurer of the city where the permit is effective, or to another city officer as designated by the council, and credited to the general fund of the city. Permit fees so collected by counties shall be paid to the county treasurer.

Sec. 6. NEW SECTION. 453A.35A HEALTH CARE TRUST FUND.

A health care trust fund is created in the office of the treasurer of state. The fund consists of the revenues generated from the tax on cigarettes pursuant to section 453A.6, subsection 1, and from the tax on tobacco products as specified in section 453A.43, subsections 1, 2, 3, and 4, that are credited to the general fund of the state and appropriated to the health care trust fund, annually, pursuant to section 453A.35. Moneys in the fund shall be separate from the general fund of the state and shall not be considered part 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. Moneys in the fund shall be used only as specified in this section and shall be appropriated only for the uses specified. Moneys in the fund are not subject to section 8.33 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 deposited in the fund shall be credited to the fund.

Moneys in the fund shall be used only for purposes related to health care, substance abuse treatment and prevention, and tobacco use prevention, cessation, and control.

- Sec. 7. Section 453A.40, subsection 1, Code 2007, is amended to read as follows:
- 1. All persons required to <u>obtain a permit or to</u> be licensed under section 453A.13 as <u>distributors or section 453A.44</u> having in their possession and held for resale on the effective date of an increase in the tax rate cigarettes, or little cigars, <u>or tobacco products</u> upon which the tax under section 453A.6 or 453A.43 has been paid, unused cigarette tax stamps which have been paid for under section 453A.8, or unused metered imprints which have been paid for under section 453A.12, <u>or tobacco products for which the tax has not been paid under section 453A.46</u> shall be subject to an inventory tax on the items as provided in this section.
- Sec. 8. Section 453A.42, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 11A. "Snuff" means any finely cut, ground, or powdered tobacco that is not intended to be smoked.
 - Sec. 9. Section 453A.42, subsection 14, Code 2007, is amended to read as follows:
- 14. "Tobacco products" means cigars; little cigars as defined herein; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but shall not include cigarettes as defined in section 453A.1, subsection 3.
 - Sec. 10. Section 453A.43, Code 2007, is amended to read as follows: 453A.43 TAX ON TOBACCO PRODUCTS.
- 1. <u>a.</u> A tax is imposed upon all tobacco products in this state and upon any person engaged in business as a distributor of tobacco products, at the rate of twenty-two percent of the wholesale sales price of the tobacco products, except little cigars <u>and snuff</u> as defined in section 453A.42.
- b. In addition to the tax imposed under paragraph "a", a tax is imposed upon all tobacco products in this state and upon any person engaged in business as a distributor of tobacco products, at the rate of twenty-eight percent of the wholesale sales price of the tobacco products, except little cigars and snuff as defined in section 453A.42, with the limitation that if the tobacco product is a cigar, the additional tax shall not exceed fifty cents per cigar.
- <u>c.</u> Little cigars shall be subject to the same rate of tax imposed upon cigarettes in section 453A.6, payable at the time and in the manner provided in section 453A.6; and stamps shall be affixed as provided in division I of this chapter. <u>Snuff shall be subject to the tax as provided</u> in subsections 3 and 4.
- <u>d.</u> The tax taxes on tobacco products, excluding little cigars and snuff, shall be imposed at the time the distributor does any of the following:

- a. (1) Brings, or causes to be brought, into this state from without <u>outside</u> the state tobacco products for sale.
 - b. (2) Makes, manufactures, or fabricates tobacco products in this state for sale in this state.
- e_{-} (3) Ships or transports to bacco products to retailers in this state, to be sold by those retailers.
- 2. <u>a.</u> A tax is imposed upon the use or storage by consumers of tobacco products in this state, and upon the consumers, at the rate of twenty-two percent of the cost of the tobacco products.
- b. In addition to the tax imposed in paragraph "a", a tax is imposed upon the use or storage by consumers of tobacco products in this state, and upon the consumers, at a rate of twenty-eight percent of the cost of the tobacco products, with the limitation that if the tobacco product is a cigar, the additional tax shall not exceed fifty cents per cigar.
- \underline{c} . The tax taxes imposed by this subsection shall not apply if the tax taxes imposed by subsection 1 on the tobacco products has have been paid.
- <u>d.</u> This tax The taxes imposed under this subsection shall not apply to the use or storage of tobacco products in quantities of:
 - a. (1) Less than 25 twenty-five cigars.
 - b. Less than 10 oz. snuff or snuff powder.
- e. (2) Less than 1 lb. one pound smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one consumer.¹
- 3. A tax is imposed upon all snuff in this state and upon any person engaged in business as a distributor of snuff at the rate of one dollar and nineteen cents per ounce, with a proportionate tax at the same rate on all fractional parts of an ounce of snuff. The tax shall be computed based on the net weight listed by the manufacturer. The tax on snuff shall be imposed at the time the distributor does any of the following:
 - a. Brings or causes to be brought into this state from outside the state, snuff for sale.
 - b. Makes, manufactures, or fabricates snuff in this state for sale in this state.
 - c. Ships or transports snuff to retailers in this state, to be sold by those retailers.
- 4. A tax is imposed upon the use or storage by consumers of snuff in this state, and upon the consumers, at the rate of one dollar and nineteen cents per ounce with a proportionate tax at the same rate on all fractional parts of an ounce of snuff. The tax shall be computed based on the net weight as listed by the manufacturer.

The tax imposed by this subsection shall not apply if the tax imposed by subsection 3 on snuff has been paid.

The tax shall not apply to the use or storage of snuff in quantities of less than ten ounces.

- 3. 5. Any tobacco product with respect to which a tax has once been imposed under this division shall not again be subject to tax under said this division, except as provided in section 453A.40.
- 4. <u>6.</u> The tax imposed by this section shall not apply with respect to any tobacco product which under the Constitution and laws of the United States may not be made the subject of taxation by this state.
- 5. 7. The tax imposed by this section shall be in addition to all other occupation or privilege taxes or license fees now or hereafter imposed by any city or county.
- 6. 8. All excise taxes collected under this chapter by a distributor or any individual are deemed to be held in trust for the state of Iowa.
- Sec. 11. APPLICABILITY. Notwithstanding section 453A.40 as amended in this Act, persons required to obtain a permit or license as specified in that section shall not be subject to an inventory tax on the items as provided in that section as a result of the tax increases provided in this Act.
- Sec. 12. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 15, 2007

¹ See chapter 186, §46, 55 herein

CHAPTER 18

ELECTIONS — NOMINATION PETITION SIGNATURES REQUIREMENT FOR MAYOR

S.F. 58

AN ACT relating to the number of signatures required on nomination papers for the office of mayor in certain cities.

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

Section 1. <u>NEW SECTION</u>. 376.4A CHANGE TO DIRECT ELECTION OF MAYOR — NOMINATION SIGNATURE REQUIREMENTS.

- 1. If there is a change in government pursuant to section 372.6, subsection 2, the number of signatures required on a nomination petition for the office of mayor for the first election that office is on the ballot shall be an amount equal to the product of the following:
- a. The total number of votes cast for at-large city council offices at the last regular city election divided by the number of city council seats to be filled at the last regular city election.
 - b. Two hundredths.
- 2. If the product of subsection 1, paragraphs "a" and "b", is less than ten, the required number of signatures is ten.

Approved March 23, 2007

CHAPTER 19

PHARMACY PRACTICE AND REGULATION

S.F. 67

AN ACT relating to the regulation and practice of pharmacy, including providing for the establishment of a limited drug and device distributor license.

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

- Section 1. Section 155A.3, subsection 5, Code 2007, is amended to read as follows:
- 5. "College of pharmacy" means a school, university, or college of pharmacy that satisfies the accreditation standards of the American accreditation council on pharmaceutical for pharmacy education as to the extent those standards are adopted by the board, or that has degree requirements which meet the standards of accreditation adopted by the board.
- Sec. 2. Section 155A.3, Code 2007, is amended by adding the following new subsections: NEW SUBSECTION. 22A. "Limited drug and device distributor" means a person operating or maintaining, either within or outside this state, a location at which limited noncontrolled prescription drugs, prescription devices, and medical gases, are distributed to patients in this state pursuant to a prescription drug order; or a person operating or maintaining a location at which limited quantities of drugs, devices, or medical gases are distributed at wholesale in this state. A "limited drug and device distributor" does not include a pharmacy licensed pursuant to this chapter or a drug wholesaler providing prescription drugs to patients in this state pursuant to a drug manufacturer's prescription drug assistance program.

<u>NEW SUBSECTION</u>. 23A. "Medical gas" means a gas or liquid oxygen intended for human consumption.

Sec. 3. Section 155A.4, subsection 2, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. h. A limited drug and device distributor, licensed by the board, to distribute limited noncontrolled prescription drugs, prescription devices, and medical gases, to patients in this state pursuant to rules adopted by the board.

- Sec. 4. Section 155A.9, subsection 1, Code 2007, is amended to read as follows:
- 1. A college of pharmacy shall not be approved by the board unless the college is accredited by the American accreditation council on pharmaceutical for pharmacy education.
 - Sec. 5. Section 155A.29, subsection 1, Code 2007, is amended to read as follows:
- 1. Except as specified in subsection 2, a prescription for any prescription drug or device which is not a controlled substance shall not be filled or refilled more than eighteen months after the date on which the prescription was issued and a prescription which is authorized to be refilled shall not be refilled more than eleven twelve times.
- Sec. 6. <u>NEW SECTION</u>. 155A.42 LIMITED DRUG AND DEVICE DISTRIBUTOR LICENSE.
- 1. A person shall not act as a limited drug and device distributor without a license. The license shall be identified as a limited drug and device distributor license.
- 2. The board shall establish, by rule, standards for limited drug and device distributors and may define specific types of limited drug and device distributors. The board may identify, by rule, specific prescription drugs or classes of noncontrolled prescription drugs, which may be distributed by a limited drug and device distributor.
- 3. The board shall adopt rules pursuant to chapter 17A relating to the issuance of a limited drug and device distributor license. The rules shall provide for conditions of licensure, compliance standards, licensure fees, disciplinary action, and other relevant matters.
- 4. The board may deny, suspend, or revoke a limited drug and device distributor's license for failure to meet the applicable standards or for a violation of the laws of this state, another state, or the United States relating to prescription drugs or controlled substances, or for a violation of this chapter, chapter 124, 124A, 124B, 126, 205, or 272C, or a rule of the board.

Approved March 23, 2007

CHAPTER 20

REGISTRATION OF PHARMACY INTERNS AND TECHNICIANS

S.F. 75

AN ACT relating to the registration of pharmacy technicians.

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

Section 1. Section 155A.6, Code 2007, is amended to read as follows:

155A.6 PHARMACIST INTERNSHIP PROGRAM AND PHARMACY TECHNICIAN REGISTRATION.

- 1. A program of pharmacist internships is established. Each internship is subject to approval by the board.
- 2. A person desiring to be a pharmacist-intern in this state shall apply to the board for registration. The application must be on a form prescribed by the board. A pharmacist-intern shall be registered during internship training and thereafter pursuant to rules adopted by the board.

- 3. The board shall establish standards for pharmacist-intern registration and may deny, suspend, or revoke a pharmacist-intern registration for failure to meet the standards or for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of this chapter or chapter 124, 124A, 124B, 126, 147, or 205, or any rule of the board.
- 4. The board shall adopt rules in accordance with chapter 17A on matters pertaining to pharmacist-intern registration standards, registration fees, conditions of registration, termination of registration, and approval of preceptors.
- 5. A registration program for pharmacy technicians is established for the purposes of identification, tracking, and disciplinary action for the violation of federal drug laws or regulations, state drug or pharmacy laws, or board rules by pharmacy technicians. The registration shall not include any determination of the competency of the registered individual and, notwith-standing section 272C.2, subsection 1, shall not require continuing education for renewal. The ultimate responsibility for the actions of a pharmacy technician working under a licensed pharmacist's supervision shall remain with the licensed pharmacist.
- 6. A person who is or desires to be a pharmacy technician in this state shall apply to the board for registration. The application must be submitted on a form prescribed by the board. A pharmacy technician must be registered pursuant to rules adopted by the board.
- 7. The board may deny, suspend, or revoke a pharmacy technician registration for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of this chapter or chapter 124, 124B, 126, 147, or 205, or any rule of the board.
- 8. The board shall adopt rules in accordance with chapter 17A on matters pertaining to pharmacy technician registration applications, renewals, fees, termination of registration, and any other relevant matters.

Sec. 2. <u>NEW SECTION</u>. 155A.6A PHARMACY TECHNICIAN REGISTRATION.

- 1. A registration program for pharmacy technicians is established for the purpose of establishing technician competency and for the purposes of identification, tracking, and disciplinary action for the violation of federal drug laws or regulations, state drug or pharmacy laws, or board rules. The ultimate responsibility for the actions of a pharmacy technician working under a licensed pharmacist's supervision shall remain with the licensed pharmacist.
- 2. A person who is or desires to be a pharmacy technician in this state shall apply to the board for registration. The application shall be submitted on a form prescribed by the board. A pharmacy technician must be registered pursuant to rules adopted by the board. Except as provided in subsection 3, beginning July 1, 2010, all applicants for a new pharmacy technician registration or for a pharmacy technician renewal shall provide proof of current certification by a national technician certification authority approved by the board. Notwithstanding section 272C.2, subsection 1, a pharmacy technician registration shall not require continuing education for renewal.
- 3. Beginning July 1, 2009, a person who is in the process of acquiring national certification as a pharmacy technician and who is in training to become a pharmacy technician shall register with the board as a pharmacy technician. The registration shall be issued for a period not to exceed one year and shall not be renewable.
- 4. The board shall adopt rules in accordance with chapter 17A on matters pertaining to pharmacy technician registration, application, forms, renewals, fees, termination of registration, national certification, training, and any other relevant matters.
- 5. The board may deny, suspend, or revoke the registration of, or otherwise discipline, a registered pharmacy technician for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of this chapter or chapter 124, 124A, 124B, 126, 147, 205, or 272C, or any rule of the board.

CHAPTER 21

MEMORIAL BUILDING AND MONUMENT COMMISSIONS S.F. 130

AN ACT relating to commissions that oversee memorial buildings and monuments.

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

Section 1. Section 37.9, unnumbered paragraphs 1, 2, and 6, Code 2007, are amended to read as follows:

When the proposition to erect any such a building or monument under this chapter has been carried by a majority vote, the board of supervisors or the city council, as the case may be, shall appoint a commission consisting of not less than five or seven and not more than eleven members, in the manner and with the qualifications provided in this chapter, which shall have charge and supervision of the erection of the building or monument, and when erected, the management and control of the building or monument.

In cities having a population of more than one hundred thousand, the city council may establish, by ordinance, the number of commission members at not less than five.

The commissioners having the management and control of a memorial hospital shall, within ten days after their appointment, qualify by taking the usual oath of office, but no bonds shall be required of them except as hereinafter provided. The commissioners shall organize by electing a chairperson, secretary, and treasurer. The secretary and treasurer shall each file with the chairperson of the commission a surety bond in such sum as the commission may require, with sureties approved by the commission, for the use and benefit of the memorial hospital. The reasonable costs of such bonds shall be paid from operating funds of the hospital. The secretary shall immediately report to the county auditor and county treasurer the names of the chairperson, secretary, and treasurer of the commission. The commission shall meet at least once each month. Three members of a five-member commission and five members of a seven-member A majority of the commission members shall constitute a quorum for the transaction of business. The secretary shall keep a complete record of its proceedings.

Approved March 23, 2007

CHAPTER 22

NONSUBSTANTIVE CODE CORRECTIONS

S.F. 272

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 6B.14, unnumbered paragraph 2, Code 2007, 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, <u>but</u> 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. 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. 2. Section 8.6, subsection 15, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Designate <u>To designate</u> 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:

Sec. 3. Section 8A.415, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A merit system employee, except an employee covered by a collective bargaining agreement, who is discharged, suspended, demoted, or otherwise reduced receives a reduction in pay, except during the employee's probationary period, may bypass steps one and two of the grievance procedure and appeal the disciplinary action to the director within seven calendar days following the effective date of the action. The director shall respond within thirty calendar days following receipt of the appeal.

Sec. 4. Section 11.36, Code 2007, is amended to read as follows: 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 whether 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 whether the entity is in substantial compliance. Departments requesting the review 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 whether 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 whether the entity is in substantial compliance. Departments requesting the review 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 providing the state or federal funds shall reimburse 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. 5. Section 12.76, Code 2007, is amended to read as follows: 12.76 LIMITATIONS.

Bonds or notes issued pursuant to section 12.71 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 or notes pursuant to section 12.71 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 or notes. Bonds and notes issued under section 12.71 are payable solely and only from the sources and special fund provided in section 12.72.

- Sec. 6. Section 12.91, subsection 16, Code 2007, is amended to read as follows:
- 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.
- Sec. 7. Section 13B.4, subsection 4, paragraph d, subparagraph (8), Code 2007, is amended to read as follows:
- (8) Any If the state public defender is not first notified and given an opportunity to be heard, 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. 8. Section 15.318, subsection 16, Code 2007, is amended to read as follows:
- 16. In cases where projects being reviewed at the same time are given equivalent ratings under subsections 1 through 15, preference in funding shall be given to the project which is locat-

ed in the county which has the highest percentage of <u>low-low-income</u> and moderate-income individuals. If the projects are located in the same county, preference in funding shall be given to the project which is located in the city which has the highest percentage of <u>low-low-income</u> and moderate-income individuals.

- Sec. 9. Section 15I.3, subsection 1, Code 2007, is amended to read as follows:
- 1. In order for a wage-benefit wage-benefits tax credit to be claimed, the business shall submit an application to the department along with information on the qualified new job or retained qualified new job and any other information required. Applications for approval of the tax credit shall be on forms approved by the department. Within forty-five days of receipt of the application, the department shall either approve or disapprove the application. After the forty-five-day limit, the application is deemed approved.
 - Sec. 10. Section 16.2, Code 2007, is amended to read as follows:
 - 16.2 ESTABLISHMENT OF AUTHORITY TITLE GUARANTY DIVISION.
- 1. The Iowa finance authority is established, and constituted a public instrumentality and agency of the state exercising public and essential governmental functions, to undertake programs which assist in attainment of adequate housing for low or moderate income families, elderly families, and families which include one or more persons with disabilities, and to undertake the Iowa homesteading program, the small business loan program, the export business finance program, and other finance programs. The powers of the authority are vested in and shall be exercised by a board of nine members appointed by the governor subject to confirmation by the senate. No more than five members shall belong to the same political party. As far as possible, the governor shall include within the membership persons who represent community and housing development industries, housing finance industries, the real estate sales industry, elderly families, minorities, lower income families, very low income families, families which include persons with disabilities, average taxpayers, local government, business and international trade interests, and any other person specially interested in community housing, finance, small business, or export business development.
- 2. A title guaranty division is created within the authority. The powers of the division relating to the issuance of title guaranties are vested in and shall be exercised by a division board of five members appointed by the governor subject to confirmation by the senate. The membership of the board shall include an attorney, an abstractor, a real estate broker, a representative of a mortgage-lender, and a representative of the housing development industry. The executive director of the authority shall appoint an attorney as director of the title guaranty division who shall serve as an ex officio member of the board. The appointment of and compensation for the division director are exempt from the merit system provisions of chapter 8A, subchapter IV.
- a. Members of the board of the division shall be appointed by the governor for staggered terms of six years beginning and ending as provided in section 69.19. A person shall not serve on the division board while serving on the authority board. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term. A member is eligible for reappointment. A member of the division board may be removed from office by the governor for misfeasance, malfeasance, or willful neglect of duty or for other just cause, after notice and hearing, unless notice and hearing is expressly waived in writing.
- b. Three members of the board shall constitute a quorum. An affirmative vote of a majority of the appointed members is necessary for any substantive action taken by the division.
- c. Members of the board are entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties as members and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.
- d. Members of the board and the director shall give bond as required for public officers in chapter 64.
- e. Meetings of the board shall be held at the call of the chair of the board or on written request of two members.

- f. Members shall elect a chair and vice chair annually and other officers as they determine. The director shall serve as secretary to the board.
- g. The net earnings of the division, beyond that necessary for reserves, backing, guaranties issued or to otherwise implement the public purposes and programs authorized, shall not inure to the benefit of any person other than the state and are subject to subsection 8 9.
- 2. 3. Members of the authority shall be appointed by the governor for staggered terms of six years beginning and ending as provided in section 69.19. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term. A member is eligible for reappointment. A member of the authority may be removed from office by the governor for misfeasance, malfeasance, or willful neglect of duty or other just cause, after notice and hearing, unless the notice and hearing is expressly waived in writing.
- 3. 4. Five members of the authority constitute a quorum and the affirmative vote of a majority of the appointed members is necessary for any substantive action taken by the authority. The majority shall not include any member who has a conflict of interest and a statement by a member of a conflict of interest shall be conclusive for this purpose. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the authority.
- 4. <u>5.</u> Members of the authority are entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties as members, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.
- 5. 6. Members of the authority and the executive director shall give bond as required for public officers in chapter 64.
- 6. 7. Meetings of the authority shall be held at the call of the chairperson or whenever two members so request.
- 7. 8. Members shall elect a chairperson and vice chairperson annually, and other officers as they determine, but the executive director shall serve as secretary to the authority.
- 8. 9. 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 of Iowa or Article I, section 10, of the Constitution of the United States.
- Sec. 11. Section 21.8, subsection 1, paragraph c, Code 2007, is amended to read as follows: c. Minutes are kept of the meeting. The minutes shall include a statement explaining why a meeting in person was impossible or impractical.

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- Sec. 12. Section 29A.101A, subsection 5, Code 2007, is amended to read as follows:
- 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 shall 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.
 - Sec. 13. Section 29B.18, subsection 1, Code 2007, is amended to read as follows:
- 1. <u>a.</u> Subject to section 29B.16, special courts-martial have jurisdiction to try persons subject to this code for any offense for which they may have been punished under this code and

may, under such limitations as the adjutant general may impose by rule, adjudge any one or a combination of the following punishments:

- a. (1) A fine not exceeding one hundred dollars.
- b. (2) Forfeiture of pay and allowances not exceeding one thousand dollars.
- e. (3) A reprimand.
- d. (4) Dismissal or dishonorable discharge.
- e. (5) Reduction of a noncommissioned officer to the ranks.
- b. A special courts-martial shall not try a commissioned officer.
- Sec. 14. Section 36.3, subsection 3 and unnumbered paragraph 2, Code 2007, are amended to read as follows:
- 3. Conduct epidemiological investigations of veterans who have cancer or other medical problems or who have children born with birth defects associated with exposure to chemicals, in consultation and cooperation with a certified medical toxicologist selected by the department. The department shall obtain consent from a veteran before conducting the investigations. The department shall cooperate with local and state agencies during the course of an investigation.

The department shall cooperate with local and state agencies during the course of an investigation.

- Sec. 15. Section 68B.37, subsections 1 and 2, Code 2007, are amended to read as follows:
- 1. A lobbyist before the general assembly shall file with the general assembly, on forms prescribed by each house of the general assembly, a report disclosing all of the following:
 - a. The lobbyist's clients before the general assembly.
- 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 general assembly. For purposes of this paragraph, "expenditures" does not include expenditures made by any organization for publishing a newsletter or other informational release for its members.

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.

- 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 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 paragraph, "expenditures" does not include expenditures made by any organization for publishing a newsletter or other informational release for its members.

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.

- Sec. 16. Section 69.15, Code 2007, is amended to read as follows:
- 69.15 BOARD MEMBERS NONATTENDANCE VACANCY.
- 1. Any person who has been appointed by the governor to any board under the laws of this state shall be deemed to have submitted a resignation from such office if either of the following events occurs:
- 1. a. The person does not attend three or more consecutive regular meetings of such board. This paragraph does not apply unless the first and last of the consecutive meetings counted for this purpose are at least thirty days apart.

- 2. <u>b.</u> The person attends less than one-half of the regular meetings of such board within any period of twelve calendar months beginning on July 1 or January 1. This paragraph does not apply unless such board holds at least four regular meetings during such period. This paragraph applies only to such a period beginning on or after the date when the person takes office as a member of such board.
- <u>2.</u> If such person received no notice and had no knowledge of a regular meeting and gives the governor a sworn statement to that effect within ten days after the person learns of the meeting, such meeting shall not be counted for the purposes of this section.
- <u>3.</u> The governor in the governor's discretion may accept or reject such resignation. If the governor accepts it, the governor shall notify such person, in writing, that the resignation is accepted pursuant to this section. The governor shall then make another appointment to such office. Such appointment shall be made in the same manner and for the same term as in the case of other vacancies caused by resignation from such office.
- <u>4.</u> As used in this section, "board" includes any commission, committee, agency, or governmental body which has three or more members.
 - Sec. 17. Section 72.5, subsection 2, Code 2007, is amended to read as follows:
- 2. The director of the department of natural resources in consultation with the department of management, state building code commissioner, and state fire marshal, shall develop standards and methods to evaluate design development documents and construction documents based upon life cycle cost factors, to facilitate fair and uniform comparisons between design proposals and informed decision making by public bodies.
 - Sec. 18. Section 80B.11, Code 2007, is amended to read as follows: 80B.11 RULES.
- 1. The director of the academy, subject to the approval of the council, shall promulgate rules in accordance with the provisions of this chapter and chapter 17A, giving due consideration to varying factors and special requirements of law enforcement agencies relative to the following:
- 1. a. Minimum entrance requirements, course of study, attendance requirements, and equipment and facilities required at approved law enforcement training schools. Minimum age requirements for entrance to approved law enforcement training schools shall be eighteen years of age. Minimum course of study requirements shall include a separate domestic abuse curriculum, which may include, but is not limited to, outside speakers from domestic abuse shelters and crime victim assistance organizations. Minimum course of study requirements shall also include a sexual assault curriculum.
- 2. <u>b.</u> Minimum basic training requirements law enforcement officers employed after July 1, 1968, must complete in order to remain eligible for continued employment and the time within which such basic training must be completed. Minimum requirements shall mandate training devoted to the topic of domestic abuse and sexual assault. The council shall submit an annual report to the general assembly by January 15 of each year relating to the continuing education requirements devoted to the topic of domestic abuse, including the number of hours required, the substance of the classes offered, and other related matters.
- 3. <u>c. (1)</u> Categories or classifications of advanced in-service training program and minimum courses of study and attendance requirements for such categories or classifications.
- (2) In-service training under this <u>subsection paragraph</u> "c" shall include the requirement that by December 31, 1994, all law enforcement officers complete a course on investigation, identification, and reporting of public offenses based on the race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability of the victim. The director shall consult with the civil rights commission, the department of public safety, and the prosecuting attorneys training coordinator in developing the requirements for this course and may contract with outside providers for this course.
- 4. <u>d.</u> Within the existing curriculum, expanded training regarding racial and cultural awareness and dealing with gang-affected youth.

- 5. <u>e.</u> 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.
- $\frac{6}{1}$. Minimum standards of physical, educational, and moral fitness which shall govern the recruitment, selection, and appointment of law enforcement officers.
- 7. g. Minimum standards of mental fitness which shall govern the initial recruitment, selection, and appointment of law enforcement officers. The rules shall include, but are not limited to, providing a battery of psychological tests to determine cognitive skills, personality characteristics, and suitability of an applicant for a law enforcement career. However, this battery of tests need only be given to applicants being considered in the final selection process for a law enforcement position. Notwithstanding any provision of chapter 400, an applicant shall not be hired if the employer determines from the tests that the applicant does not possess sufficient cognitive skills, personality characteristics, or suitability for a law enforcement career. The director of the academy shall provide for the cognitive and psychological examinations and their administration to the law enforcement agencies or applicants, and shall identify and procure persons who can be hired to interpret the examinations.
 - 8. h. Grounds for revocation or suspension of a law enforcement officer's certification.
- 9. i. Exemptions from particular provisions of this chapter in case of any state, county, or city, if, in the opinion of the council, the standards of law enforcement training established and maintained by the governmental agency are as high or higher than those established pursuant to this chapter; or revocation in whole or in part of such exemption, if in its opinion the standards of law enforcement training established and maintained by the governmental agency are lower than those established pursuant to this chapter.
 - 10. j. Minimum qualifications for instructors in telecommunicator training schools.
- 11. k. Minimum qualifications for instructors in law enforcement and jailer training schools.
- 12. L. Certification through examination for individuals who have successfully completed the federal bureau of investigation national academy, have corrected Snellen vision in both eyes of 20/20 or better, and were employed on or before January 1, 1996, as chief of police of a city in this state with a population of twenty thousand or more.
- <u>2.</u> A certified course of instruction provided for under this section which occurs at a location other than at the central training facility of the Iowa law enforcement academy shall not be eliminated by the Iowa law enforcement academy.
- Sec. 19. Section 80B.13, subsection 8, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Revoke a law enforcement officer's certification for the conviction of a felony or revoke or suspend a law enforcement officer's certification for a violation of rules adopted pursuant to section 80B.11, subsection 8 1, paragraph "h". In addition the council may consider revocation or suspension proceedings when an employing agency recommends to the council that revocation or suspension would be appropriate with regard to a current or former employee. If a law enforcement officer resigns, the employing agency shall notify the council that an officer has resigned and state the reason for the resignation if a substantial likelihood exists that the reason would result in the revocation or suspension of an officer's certification for a violation of the rules.

- Sec. 20. Section 85.27, subsection 3, Code 2007, is amended to read as follows:
- 3. Notwithstanding section 85.26, subsection 4, charges believed to be excessive or unnecessary may be referred by the employer, insurance carrier, or health service provider to the workers' compensation commissioner for determination, and the commissioner may utilize the procedures provided in sections 86.38 and 86.39, or set by rule, and conduct such inquiry

as the commissioner deems necessary. Any health service provider charges not in dispute shall be paid directly to the health service provider prior to utilization of procedures provided in sections 86.38 and 86.39 or set by rule. A health service provider rendering treatment to an employee whose injury is compensable under this section agrees to be bound by such charges as allowed by the workers' compensation commissioner and shall not recover in law or equity any amount in excess of charges set by the commissioner. When a dispute under this chapter, chapter 85, 85A, or chapter 85B regarding reasonableness of a fee for medical services arises between a health service provider and an employer or insurance carrier, the health service provider, employer, or insurance carrier shall not seek payment from the injured employee.

- Sec. 21. Section 85.61, subsections 11, 12, and 13, Code 2007, are amended to read as follows:
- 11. a. "Worker" or "employee" means a person who has entered into the employment of, or works under contract of service, express or implied, or apprenticeship, for an employer; an executive officer elected or appointed and empowered under and in accordance with the charter and bylaws of a corporation, including a person holding an official position, or standing in a representative capacity of the employer; an official elected or appointed by the state, or a county, school district, area education agency, municipal corporation, or city under any form of government; a member of the state patrol; a conservation officer; and a proprietor, limited liability company member, limited liability partner, or partner who elects to be covered pursuant to section 85.1A, except as specified in this chapter.
- <u>b.</u> "Worker" or "employee" includes an inmate as defined in section 85.59 and a person described in section 85.60.
- <u>c.</u> "Worker" or "employee" includes an emergency medical care provider as defined in section 147A.1, a volunteer emergency rescue technician as defined in section 147A.1, a volunteer ambulance driver, or an emergency medical technician trainee, only if an agreement is reached between such worker or employee and the employer for whom the volunteer services are provided that workers' compensation coverage under <u>this chapter and</u> chapters 85, 85A, and 85B is to be provided by the employer. An emergency medical care provider or volunteer emergency rescue technician who is a worker or employee under this paragraph is not a casual employee. "Volunteer ambulance driver" means a person performing services as a volunteer ambulance driver at the request of the person in charge of a fire department or ambulance service of a municipality. "Emergency medical technician trainee" means a person enrolled in and training for emergency medical technician certification.
- <u>d.</u> "Worker" or "employee" includes a real estate agent who does not provide the services of an independent contractor. For the purposes of this paragraph "<u>d"</u>, a real estate agent is an independent contractor if the real estate agent is licensed by the Iowa real estate commission as a salesperson and both of the following apply:
- a. (1) Seventy-five percent or more of the remuneration, whether or not paid in cash, for the services performed by the individual as a real estate salesperson is derived from one company and is directly related to sales or other output, including the performance of services, rather than to the number of hours worked.
- b. (2) The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee with respect to the services for state tax purposes.
- <u>e.</u> "Worker" or "employee" includes a student enrolled in a public school corporation or accredited nonpublic school who is participating in a school-to-work program that includes, but is not limited to, the components provided for in section 258.10, subsection 2, paragraphs "a" through "f". "Worker" or "employee" also includes a student enrolled in a community college as defined in section 260C.2, who is participating in a school-to-work program that includes, but is not limited to, the components provided for in section 258.10, subsection 2, paragraphs "a" through "f", and that is offered by the community college pursuant to a contractual agreement with a school corporation or accredited nonpublic school to provide the program.
 - 12. f. The term "worker" or "employee" shall include the singular and plural. Any reference

to a worker or employee who has been injured shall, when such worker or employee is dead, include the worker's or employee's dependents as herein defined or the worker's or employee's legal representatives; and where the worker or employee is a minor or incompetent, it shall include the minor's or incompetent's guardian, next friend, or trustee. Notwithstanding any law prohibiting the employment of minors, all minor employees shall be entitled to the benefits of this chapter and chapters 86 and 87 regardless of the age of such minor employee.

- 13. g. The following persons shall not be deemed "workers" or "employees":
- a. (1) A person whose employment is purely casual and not for the purpose of the employer's trade or business except as otherwise provided in section 85.1.
 - b. (2) An independent contractor.
- e. (3) An owner-operator who, as an individual or partner, or shareholder of a corporate owner-operator, owns a vehicle licensed and registered as a truck, road tractor, or truck tractor by a governmental agency, is an independent contractor while performing services in the operation of the owner-operator's vehicle if all of the following conditions are substantially present:
 - (1) (a) The owner-operator is responsible for the maintenance of the vehicle.
- (2) (b) The owner-operator bears the principal burden of the vehicle's operating costs, including fuel, repairs, supplies, collision insurance, and personal expenses for the operator while on the road.
- (3) (c) The owner-operator is responsible for supplying the necessary personnel to operate the vehicle, and the personnel are considered the owner-operator's employees.
- (4) (d) The owner-operator's compensation is based on factors related to the work performed, including a percentage of any schedule of rates or lawfully published tariff, and not on the basis of the hours or time expended.
- (5) (e) The owner-operator determines the details and means of performing the services, in conformance with regulatory requirements, operating procedures of the carrier, and specifications of the shipper.
- (6) (f) The owner-operator enters into a contract which specifies the relationship to be that of an independent contractor and not that of an employee.
- d. (4) Directors of a corporation who are not at the same time employees of the corporation; or directors, trustees, officers, or other managing officials of a nonprofit corporation or association who are not at the same time full-time employees of the nonprofit corporation or association
- e. (5) Proprietors, limited liability company members, limited liability partners, and partners who have not elected to be covered by the workers' compensation law of this state pursuant to section 85.1A.
- Sec. 22. Section 87.1, unnumbered paragraph 2, Code 2007, is amended to read as follows: A motor carrier who contracts with an owner-operator who is acting as an independent contractor pursuant to section 85.61, subsection 13 11, paragraph "g", shall not be required to insure the motor carrier's liability for the owner-operator. A motor carrier may procure compensation liability insurance coverage for these owner-operators, and may charge the owner-operator for the costs of the premiums. A motor carrier shall require the owner-operator to provide and maintain a certificate of workers' compensation insurance covering the owner-operator's employees. An owner-operator shall remain responsible for providing compensation liability insurance for the owner-operator's employees.

Sec. 23. Section 87.23, Code 2007, is amended to read as follows: 87.23 COMPENSATION LIABILITY INSURANCE NOT REQUIRED.

A corporation, association, or organization approved by the commissioner of insurance to provide compensation liability insurance shall not require a motor carrier that contracts with an owner-operator who is acting as an independent contractor pursuant to section 85.61, subsection 13 11, paragraph "g", to purchase compensation liability insurance for the employer's liability for the owner-operator or its employees.

- Sec. 24. Section 91.16, subsection 1, Code 2007, is amended to read as follows:
- 1. Any owner, superintendent, manager, or person in charge of any factory, mill, workshop, store, mine, hotel, restaurant, cafe, railway, business house, public or private work, who shall refuse to allow the <u>labor</u> commissioner of <u>labor</u> or any inspector or employee of the division of labor services to enter the same, or who shall hinder or deter the commissioner, inspector, or employee in collecting information which it is that person's duty to collect shall be guilty of a simple misdemeanor.
 - Sec. 25. Section 91E.1, subsection 1, Code 2007, is amended to read as follows:
- 1. "Commissioner" means the commissioner of the division of labor services of the department of workforce development labor commissioner, appointed pursuant to section 91.2.
- Sec. 26. Section 96.5, subsection 3, paragraph a, Code 2007, is amended to read as follows: a. (1) In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, prior training, length of unemployment, and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and any other factor which the department finds bears a reasonable relation to the purposes of this paragraph. Work is suitable if the work meets all the other criteria of this paragraph and if the gross weekly wages for the work equal or exceed the following percentages of the individual's average weekly wage for insured work paid to the individual during that quarter of the individual's base period in which the individual's wages were highest.
- (1) (a) One hundred percent, if the work is offered during the first five weeks of unemployment.
- (2) (b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.
- (3) (c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.
 - (4) (d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.
- (2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.
 - Sec. 27. Section 96.5, subsections 4 and 5, Code 2007, are amended to read as follows:
 - 4. LABOR DISPUTES.
- <u>a.</u> For any week with respect to which the department finds that the individual's total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which the individual is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the department that:
- a. (1) The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and
- b. (2) The individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute.
- <u>b.</u> Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.
 - 5. OTHER COMPENSATION.
- <u>a.</u> For any week with respect to which the individual is receiving or has received payment in the form of any of the following:
 - a. (1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

- b. (2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.
- e. (3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, if an individual's benefits are reduced due to the receipt of a payment under this paragraph, the reduction shall be decreased by the same percentage as the percentage contribution of the individual to the plan under which the payment is made.
- <u>b.</u> Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under paragraph "a", "b", or "c" subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.
 - Sec. 28. Section 96.14, subsection 2, Code 2007, is amended to read as follows:
- 2. PENALTIES. Any employer who shall fail to file a report of wages paid to each of the employer's employees for any period in the manner and within the time required by this chapter and the rules of the department or any employer who the department finds has filed an insufficient report and fails to file a sufficient report within thirty days after a written request from the department to do so shall pay a penalty to the department.
- <u>a.</u> The penalty shall become effective with the first day the report is delinquent or, where a report is insufficient, with the thirty-first day following the written request for a sufficient report.
- <u>b.</u> Penalty The penalty for failing to file a sufficient report shall be in addition to any penalty incurred for a delinquent report where the delinquent report is also insufficient.
- <u>c.</u> The amount of the penalty for delinquent and insufficient reports shall be computed based on total wages in the period for which the report was due and shall be computed as follows:

Days Delinquent	
or Insufficient	Penalty Rate
1–60	0.1%
61–120	0.2%
121–180	0.3%
181–240	0.4%
241 or over	0.5%

- <u>d.</u> A penalty shall not be less than ten dollars for the first delinquent report or the first insufficient report not made sufficient within thirty days after a request to do so. The penalty shall not be less than twenty-five dollars for the second delinquent or insufficient report, and not less than fifty dollars for each delinquent or insufficient report thereafter, until four consecutive calendar quarters of reports are timely and sufficiently filed. Interest, penalties, and cost shall be collected by the department in the same manner as provided by this chapter for contributions.
 - e. If the department finds that any employer has willfully failed to pay any contribution or

¹ See chapter 215, §245 herein

part thereof when required by this chapter and the rules of the department, with intent to defraud the department, then such employer shall in addition to such contribution or part thereof, pay a contribution equal to fifty percent of the amount of such contribution or part thereof, as the case may be.

<u>f.</u> The department may cancel any interest or penalties if it is shown to the satisfaction of the department that the failure to pay a required contribution or to file a required report was not the result of negligence, fraud, or intentional disregard of the law or the rules of the department.

Sec. 29. Section 96.17, subsection 3, Code 2007, is amended to read as follows:

3. INDEMNIFICATION. Any member of the department or any employee of the department shall be indemnified for any damages and legal expenses incurred as a result of the good faith performance of their official duties, for any claim for civil damages not specifically covered by the Iowa Tort Claims tort claims Act, chapter 669. Any payment described herein shall be paid from the special employment security contingency fund in section 96.13, subsection 3.

Sec. 30. Section 97.52, Code 2007, is amended to read as follows: 97.52 ADMINISTRATION AGREEMENTS.

The Iowa public employees' retirement system created in section 97B.1 may enter into agreements whereby services performed by the system and its employees under this chapter and chapters 97, 97B, and 97C shall be equitably apportioned among the funds provided for the administration of those chapters. The money spent for personnel, rentals, supplies, and equipment used by the system in administering the chapters shall be equitably apportioned and charged against the funds.

Sec. 31. Section 97C.19, Code 2007, is amended to read as follows: 97C.19 APPORTIONMENT OF EXPENSE.

The money spent for personnel, rentals, supplies, and equipment used by the state agency in administering <u>this chapter and</u> chapters 97, <u>and</u> 97B, <u>and 97C</u> shall be equitably apportioned and charged against the funds provided for the administration of <u>this chapter and</u> those chapters.

- Sec. 32. Section 103A.10, subsection 2, paragraph c, Code 2007, is amended to read as follows:
- 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 <u>which are</u> not wholly owned by the state.
 - Sec. 33. Section 103A.10, subsection 3, Code 2007, 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 A factory-built structure 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. 34. Section 103A.10A, subsection 3, Code 2007, is amended to read as follows:
- 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 which are 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 com-

ply 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.

Sec. 35. Section 123.37, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The power to establish licenses and permits and levy taxes as imposed in <u>this</u> chapter <u>123</u> is vested exclusively with the state. Unless specifically provided, a local authority shall not require the obtaining of a special license or permit for the sale of alcoholic beverages, wine, or beer at any establishment, or require the obtaining of a license by any person as a condition precedent to the person's employment in the sale, serving, or handling of alcoholic beverages, wine, or beer, within an establishment operating under a license or permit.

- Sec. 36. Section 123.186, subsection 2, Code 2007, is amended to read as follows:
- 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 <u>an</u> 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.
 - Sec. 37. Section 152.7, Code 2007, is amended to read as follows:
 - 152.7 APPLICANT QUALIFICATIONS.
- 1. In addition to the provisions of section 147.3, an applicant to be licensed for the practice of nursing shall have the following qualifications:
 - 1. a. Be a graduate of an accredited high school or the equivalent.
 - 2. b. Pass an examination as prescribed by the board.
 - 3. c. Complete a course of study approved by the board pursuant to section 152.5.
- 2. For purposes of licensure pursuant to the nurse licensure compact contained in section 152E.1, 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. 38. Section 152E.3, article II, paragraph j, Code 2007, is amended to read as follows: j. "Licensing board" means a party state's regulatory body responsible for issuing advanced practice registered nurse licensure or authority to practice.
 - Sec. 39. Section 153.39, subsection 3, Code 2007, is amended to read as follows:
- 3. <u>Individuals A person</u> employed as a dental assistant after July 1, 2005, shall have a twelvemonth period following their the person's first date of employment after July 1, 2005, to comply with the provisions of subsection 1.
 - Sec. 40. Section 154B.6, Code 2007, is amended to read as follows: 154B.6 REOUIREMENTS FOR LICENSURE.
- 1. Except as provided in this section, an applicant for licensure as a psychologist shall meet the following requirements in addition to those specified in chapter 147:

- 1. <u>a.</u> Except as provided in this section, after July 1, 1985, a new applicant for licensure as a psychologist shall possess a doctoral degree in psychology from an institution approved by the board and shall have completed at least one year of supervised professional experience under the supervision of a licensed psychologist.
- 2. <u>b.</u> Have passed an examination administered by the board to assure the applicant's professional competence. The examination of any of its divisions may be given by the board at any time after the applicant has met the degree requirements of this section.
- 3. c. Have not failed the examination required in subsection 2 paragraph "b" within sixty days preceding the date of the subsequent examination.
- <u>2.</u> 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.

Sec. 41. Section 154E.4, Code 2007, is amended to read as follows: 154E.4 EXCEPTIONS.

- 1. A person shall not practice interpreting or transliterating, or represent oneself to be that the person is an interpreter, unless the person is licensed under this chapter.
 - 2. This chapter does not prohibit any of the following:
- a. Any person residing outside of the state of Iowa holding a current license from another state that meets the state of Iowa's requirements from providing interpreting or transliterating services in this state for up to fourteen days per calendar year without a license issued pursuant to this chapter.
- b. Any person who interprets or transliterates from interpreting or transliterating solely in a religious setting with the exception of those working in schools that receive government funding.
- c. Volunteers working without compensation, including emergency situations, until a licensed interpreter is obtained.
- d. Any person working as a substitute for a licensed interpreter in an early childhood, elementary, or secondary education setting for no more than thirty school days in a calendar year.
- e. Students enrolled in a school of interpreting may interpret from interpreting only under the direct supervision of a permanently licensed interpreter as part of the student's course of study.
 - Sec. 42. Section 155A.24, subsection 8, Code 2007, is amended to read as follows:
- 8. A wholesaler who knowingly forges, counterfeits, or falsely creates any pedigree, who falsely represents any factual matter contained in any pedigree, or who knowingly omits <u>fails</u> to record material information required to be recorded in a pedigree is guilty of a class "C" felony.
- Sec. 43. Section 161A.4, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The soil conservation division is established within the department to perform the functions conferred upon it in this chapter and chapters 161A through 161C, 161E, <a href="this chap

- Sec. 44. Section 165.18, subsection 1, paragraphs c and d, Code 2007, are amended to read as follows:
- c. The expenses of the inspection and testing program provided in chapter 163A, but only to the extent that the moneys in the fund are not required for expenses incurred under chapter 164 or 165 this chapter.
- d. Indemnities as provided in section 159.5, subsection 12, but only to the extent that the moneys in the fund are not required to pay expenses under chapter 163A, <u>chapter</u> 164, or 165 <u>this chapter</u>.
- Sec. 45. Section 175.37, subsection 9, paragraph a, Code 2007, is amended to read as follows:
- a. If the authority determines that the taxpayer is not at fault for the termination, the authority shall not issue a tax <u>credit</u> certificate 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.
 - Sec. 46. Section 191.6, Code 2007, is amended to read as follows:

191.6 STANDARDS FOR OLEOMARGARINE.

The department may prescribe and establish standards for oleo, oleomargarine, or margarine manufactured or sold in this state and may adopt the standards set up by now existing regulations of the federal security administration or agency as found in 1949, Code of Federal Regulations, Title 21, Part 45, section 45.0, or any amendments thereto. Any standards so established shall not be contrary to or inconsistent with the provisions of section 190.1, subsection 6, entitled "Oleo, oleomargarine or margarine" "Oleomargarine".

- Sec. 47. Section 203.1, subsection 10, paragraph j, subparagraph (2), Code 2007, is amended to read as follows:
- (2) The purpose of the limited liability company is to produce renewable fuel as defined in section 159A.2 214A.1.
 - Sec. 48. Section 203.5, Code 2007, is amended to read as follows: 203.5 LICENSE.
- 1. Upon the filing of the application and compliance with the terms and conditions of this chapter and rules of the department, the department shall issue a license to the applicant. The license shall terminate at the end of the third calendar month following the close of the grain dealer's fiscal year. A grain dealer's license may be renewed annually by the filing of a renewal fee and a renewal application on a form prescribed by the department. An application for renewal shall be received by the department on or before the end of the third calendar month following the close of the grain dealer's fiscal year. A grain dealer license which has terminated may be reinstated by the department upon receipt of a proper renewal application, the renewal fee, and the reinstatement fee as provided in section 203.6 if filed within thirty days from the date of termination of the grain dealer license. The department may cancel a license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter. Fees for licenses issued for less than a full year shall be prorated from the date of the application.
- <u>2.</u> If an applicant has had a license under <u>this</u> chapter <u>203</u> or <u>chapter</u> <u>203</u>C revoked for cause within the past three years, or has been convicted of a felony involving violations of <u>this</u> chapter <u>203</u> or <u>chapter</u> <u>203</u>C, or is owned or controlled by a person who has had a license so revoked or who has been so convicted, the department may deny a license to the applicant.
 - 3. The department may deny a license to an applicant if any of the following apply:
- 1. a. The applicant has caused liability to the Iowa grain depositors and sellers indemnity fund in regard to a license issued under this chapter or chapter 203C, and the liability has not been discharged, settled, or satisfied.

- 2. <u>b.</u> The applicant is owned or controlled by a person who has caused liability to the fund through operations under a license issued under this chapter or chapter 203C and the liability has not been discharged, settled, or satisfied.
 - Sec. 49. Section 203C.6, subsection 7, Code 2007, is amended to read as follows:
- 7. If an applicant has had a license under chapter 203 or 203C this chapter revoked for cause within the past three years, or has been convicted of a felony involving violations of chapter 203 or 203C this chapter, or is owned or controlled by a person who has had a license so revoked or who has been so convicted, the department may deny a license to the applicant.
 - Sec. 50. Section 214A.9, Code 2007, is amended to read as follows: 214A.9 POSTER SHOWING ANALYSIS.

Any retail dealer who sells or holds for sale motor fuel, as defined in section 214A.2 hereof 214A.1, may post upon any container or pump from which such motor fuel is being sold, a statement or notice in form to be prescribed by the department, showing the results of the tests of such motor fuel then being sold from such pumps or other containers.

- Sec. 51. Section 216A.132, Code 2007, is amended to read as follows: 216A.132 COUNCIL ESTABLISHED TERMS COMPENSATION.
- 1. A criminal and juvenile justice planning advisory council is established consisting of twenty-two members.
- <u>a.</u> The governor shall appoint seven members each for a four-year term beginning and ending as provided in section 69.19 and subject to confirmation by the senate as follows:
- 1. (1) Three persons, each of whom is a county supervisor, county sheriff, mayor, city chief of police, or county attorney.
- 2. (2) Two persons who represent the general public and are not employed in any law enforcement, judicial, or corrections capacity.
 - 3. (3) Two persons who are knowledgeable about Iowa's juvenile justice system.
- <u>b.</u> The departments of human services, corrections, and public safety, the division on the status of African-Americans, 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.
- <u>c.</u> The chief justice of the supreme court shall appoint two additional members currently serving as district judges. Two members of the senate and two members of the house of representatives shall be ex officio members and shall be appointed by the majority and minority leaders of the senate and the speaker and minority leader of the house of representatives pursuant to section 69.16. Members appointed pursuant to this paragraph shall serve for four-year terms beginning and ending as provided in section 69.19 unless the member ceases to serve as a district court judge or as a member of the senate or of the house of representatives.
- <u>2.</u> Members of the council shall receive reimbursement from the state for actual and necessary expenses incurred in the performance of their official duties. Members may also be eligible to receive compensation as provided in section 7E.6.
- Sec. 52. Section 216B.3, subsection 16, paragraph b, subparagraph (1), unnumbered paragraph 1, Code 2007, is amended to read as follows:

A flexible fuel which is either any of the following:

Sec. 53. Section 229.19, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

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 an 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:

- Sec. 54. Section 229.19, subsection 1, paragraph c, Code 2007, is amended to read as follows:
- c. To make the advocate <u>be</u> readily accessible to communications from the patient and to originate communications with the patient within five days of the patient's commitment.
- Sec. 55. Section 235A.15, subsection 2, paragraph c, subparagraph (14), Code 2007, is amended to read as follows:
- (14) A <u>To a</u> 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. 56. Section 249A.12, subsection 8, Code 2007, is amended to read as follows:
- 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 services 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. 57. Section 252D.1, Code 2007, is amended to read as follows: 252D.1 DELINOUENT SUPPORT PAYMENTS.

If support payments ordered under this chapter or chapter 232, 234, 252A, 252C, 252D, 252E, 252F, 598, 600B, or any other applicable chapter, or under a comparable statute of a foreign jurisdiction, as certified to the child support recovery unit established in section 252B.2, are not paid to the clerk of the district court or the collection services center pursuant to section 598.22 and become delinquent in an amount equal to the payment for one month, the child support recovery unit may enter an ex parte order or, upon application of a person entitled to receive the support payments, the district court may enter an ex parte order, notifying the person whose income is to be withheld, of the delinquent amount, of the amount of income to be withheld, and of the procedure to file a motion to quash the order for income withholding, and ordering the withholding of specified sums to be deducted from the delinquent person's in-

come as defined in section 252D.16 sufficient to pay the support obligation and, except as provided in section 598.22, requiring the payment of such sums to the clerk of the district court or the collection services center. Beginning October 1, 1999, all income withholding payments shall be paid to the collection services center. Notification of income withholding shall be provided to the obligor and to the payor of income pursuant to section 252D.17.

- Sec. 58. Section 256A.2, Code 2007, is amended to read as follows: 256A.2 CHILD DEVELOPMENT COORDINATING COUNCIL ESTABLISHED.
- <u>1.</u> A child development coordinating council is established to promote the provision of child development services to at-risk three-year-three-year-old and four-year-old children. The council shall consist of the following members:
- 1. <u>a.</u> The administrator of the division of child and family services of the department of human services or the administrator's designee.
 - 2. b. The director of the department of education or the director's designee.
 - 3. c. The director of human services or the director's designee.
 - 4. d. The director of the department of public health or the director's designee.
- 5. <u>e.</u> An early childhood specialist of an area education agency selected by the area education agency administrators.
- 6. <u>f.</u> The dean of the college of family and consumer sciences at Iowa state university of science and technology or the dean's designee.
- 7. g. The dean of the college of education from the university of northern Iowa or the dean's designee.
- 8. h. The professor and head of the department of pediatrics at the university of Iowa or the professor's designee.
- 9. i. A resident of this state who is a parent of a child who is or has been served by a federal head start program.
- <u>2.</u> Staff assistance for the council shall be provided by the department of education. Members of the council shall be reimbursed for actual and necessary expenses incurred while engaged in their official duties and shall receive per diem compensation at the level authorized under section 7E.6, subsection 1, paragraph "a".
 - Sec. 59. Section 257.6, subsection 1, Code 2007, is amended to read as follows:
 - 1. ACTUAL ENROLLMENT.
- <u>a.</u> Actual enrollment is determined annually on October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, and includes all of the following:
- a. (1) Resident pupils who were enrolled in public schools within the district in grades kindergarten through twelve and including prekindergarten pupils enrolled in special education programs.
- b. (2) Full-time equivalent resident pupils of high school age for which the district pays tuition to attend an Iowa community college.
- e. (3) Shared-time and part-time pupils of school age enrolled in public schools within the district, irrespective of the districts in which the pupils reside, in the proportion that the time for which they are enrolled or receive instruction for the school year is to the time that full-time pupils carrying a normal course schedule, at the same grade level, in the same school district, for the same school year, are enrolled and receive instruction. Tuition charges to the parent or guardian of a shared-time or part-time nonresident pupil shall be reduced by the amount of any increased state aid received by the district by the counting of the pupil.
- d. (4) Eleventh and twelfth grade nonresident pupils who were residents of the district during the preceding school year and are enrolled in the district until the pupils graduate. Tuition for those pupils shall not be charged by the district in which the pupils are enrolled and the requirements of section 282.18 do not apply.
- e. (5) Resident pupils receiving competent private instruction from a licensed practitioner provided through a public school district pursuant to chapter 299A shall be counted as sixtenths of one pupil.

- f. (6) Resident pupils receiving competent private instruction under dual enrollment pursuant to chapter 299A shall be counted as one-tenth of one pupil.
- <u>b.</u> Pupils attending a university laboratory school are not counted in the actual enrollment of a school district, but the laboratory school shall report their enrollment directly to the department of education.
- \underline{c} . A school district shall certify its actual enrollment to the department of education by October 15 of each year, and the department shall promptly forward the information to the department of management.
- <u>d.</u> The department of management shall adjust the enrollment of the school district for the audit year based upon reports filed under section 11.6, and shall further adjust the budget of the second year succeeding the audit year for the property tax and state aid portions of the reported differences in enrollments for the year succeeding the audit year.
 - Sec. 60. Section 257.40, subsection 1, Code 2007, is amended to read as follows:
- 1. The board of directors of a school district requesting to use modified allowable growth for programs for returning dropouts and dropout prevention shall submit requests for modified at-risk allowable growth, including budget cost costs, to the department not later than December 15 of the year preceding the budget year during which the program will be offered. The department shall review the request and shall prior to January 15 either grant approval for the 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 modified allowable growth for funding have been approved and the approved budget of each program listed separately for each school district having an approved request.
- Sec. 61. Section 260C.19A, subsection 2, paragraph a, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A flexible fuel which is either any of the following:

Sec. 62. Section 261C.6, subsection 1, unnumbered paragraph 1, Code 2007, 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 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" "a", subparagraph (6). 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. 63. Section 262.25A, subsection 3, paragraph a, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A flexible fuel which is either any of the following:

Sec. 64. Section 272.4, Code 2007, is amended to read as follows: 272.4 TERMS OF OFFICE.

1. Members, except for the director of the department of education, shall be appointed to serve staggered terms of four years. A member shall not serve more than two consecutive terms, except for the director of the department of education, who shall serve until the director

tor's term of office expires. A member of the board, except for the two public members, shall hold a valid practitioner's license during the member's term of office. A vacancy exists when any of the following occur:

- 1. a. A nonpublic member's license expires, is suspended, or is revoked.
- 2. b. A nonpublic member retires or terminates employment as a practitioner.
- 3- c. A member dies, resigns, is removed from office, or is otherwise physically unable to perform the duties of office.
 - 4. d. A member's term of office expires.
- <u>2.</u> Terms of office for regular appointments shall begin and end as provided in section 69.19. Terms of office for members appointed to fill vacancies shall begin on the date of appointment and end as provided in section 69.19. Members may be removed for cause by a state court with competent jurisdiction after notice and opportunity for hearing. The board may remove a member for three consecutive absences or for cause.

Sec. 65. Section 279.17, Code 2007, is amended to read as follows: 279.17 APPEAL BY TEACHER TO ADJUDICATOR.

- 1. If the teacher is no longer a probationary teacher, the teacher may, within ten days, appeal the determination of the board to an adjudicator by filing a notice of appeal with the secretary of the board. The notice of appeal shall contain a concise statement of the action which is the subject of the appeal, the particular board action appealed from, the grounds on which relief is sought and the relief sought.
- 2. Within five days following receipt by the secretary of the notice of appeal, the board or the board's legal representative, if any, and the teacher or the teacher's representative, if any, may select an adjudicator who resides within the boundaries of the merged area in which the school district is located. If an adjudicator cannot be mutually agreed upon within the five-day period, the secretary shall notify the chairperson of the public employment relations board by transmitting the notice of appeal, and the chairperson of the public employment relations board shall within five days provide a list of five adjudicators to the parties. Within three days from receipt of the list of adjudicators, the parties shall select an adjudicator by alternately removing a name from the list until only one name remains. The person whose name remains shall be the adjudicator. The parties shall determine by lot which party shall remove the first name from the list submitted by the chairperson of the public employment relations board. The secretary of the board shall inform the chairperson of the public employee relations board of the name of the adjudicator selected.
- 3. If the teacher does not timely request an appeal to an adjudicator the decision, opinion, or conclusion of the board shall become final and binding.

Within thirty days after filing the notice of appeal, or within further time allowed by the adjudicator, the board shall transmit to the adjudicator the original or a certified copy of the entire record of the private hearing which may be the subject of the petition. By stipulation of the parties to review the proceedings, the record of the case may be shortened. The adjudicator may require or permit subsequent corrections or additions to the shortened record.

- <u>4.</u> The record certified and filed by the board shall be the record upon which the appeal shall be heard and no additional evidence shall be heard by the adjudicator. In such appeal to the adjudicator, especially when considering the credibility of witnesses, the adjudicator shall give weight to the fact findings of the board; but shall not be bound by them.
- <u>5.</u> Before the date set for hearing a petition for review of board action, which shall be within ten days after receipt of the record unless otherwise agreed or unless the adjudicator orders additional evidence be taken before the board, application may be made to the adjudicator for leave to present evidence in addition to that found in the record of the case. If it is shown to the adjudicator that the additional evidence is material and that there were good reasons for failure to present it in the private hearing before the board, the adjudicator may order that the additional evidence be taken before the board upon conditions determined by the adjudicator. The board may modify its findings and decision in the case by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions, with the adjudicator and mail copies of the new findings or decisions to the teacher.

- <u>6.</u> The adjudicator may affirm board action or remand to the board for further proceedings. The adjudicator shall reverse, modify, or grant any appropriate relief from the board action if substantial rights of the teacher have been prejudiced because the board action is:
 - 1. a. In violation of a board rule or policy or contract; or
- 2. <u>b.</u> Unsupported by a preponderance of the competent evidence in the record made before the board when that record is viewed as a whole; or
- 3. c. Unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.
- 7. The adjudicator shall, within fifteen days after the hearing, make a decision and shall give a copy of the decision to the teacher and the secretary of the board. The decision of the adjudicator shall become the final and binding decision of the board unless either party within ten days notifies the secretary of the board that the decision is rejected. The board may reject the decision by majority vote, by roll call, in open meeting and entered into the minutes of the meeting. The board shall immediately notify the teacher of its decision by certified mail. The teacher may reject the adjudicator's decision by notifying the board's secretary in writing within ten days of the filing of such decision.
 - 8. All costs of the adjudicator shall be shared equally by the teacher and the board.

Sec. 66. Section 282.31, subsection 1, paragraph b, unnumbered paragraph 2, Code 2007, 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 of <u>in</u> 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. 67. Section 299A.8, Code 2007, is amended to read as follows: 299A.8 DUAL ENROLLMENT.

If a parent, guardian, or legal custodian of a child who is receiving competent private instruction under this chapter or a child over compulsory age who is receiving private instruction submits a request, the child shall also be registered in a public school for dual enrollment purposes. If the child is enrolled in a public school district for dual enrollment purposes, the child shall be permitted to participate in any academic activities in the district and shall also be permitted to participate on the same basis as public school children in any extracurricular activities available to children in the child's grade or group, and the parent, guardian, or legal custodian shall not be required to pay the costs of any annual evaluation under this chapter. If the child is enrolled for dual enrollment purposes, the child shall be included in the public school's basic enrollment under section 257.6. A pupil who is participating only in extracurricular activities shall be counted under section 257.6, subsection 1, paragraph "F" "a", subparagraph (6). A pupil enrolled in grades nine through twelve under this section shall be counted in the same manner as a shared-time pupil under section 257.6, subsection 1, paragraph "c" "a", subparagraph (3).

Sec. 68. Section 307.21, subsection 5, paragraph a, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A flexible fuel which is either any of the following:

Sec. 69. Section 321G.13, subsection 1, paragraph g, unnumbered paragraph 2, Code 2007, is amended to read as follows:

This paragraph <u>"g"</u> does not prohibit the use of ford crossings of public or private roads or any other ford crossing when used for agricultural purposes; the operation of construction vehicles engaged in lawful construction, repair, or maintenance in a streambed; or the operation of snowmobiles on ice.

Sec. 70. Section 327C.5, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Violations of the provisions of this chapter and chapters 327D to <u>through</u> 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. 71. Section 356.37, Code 2007, is amended to read as follows: 356.37 CONFINEMENT AND DETENTION REPORT — DESIGN PROPOSALS.

The division of criminal and juvenile justice planning of the department of human rights, in consultation with the department of corrections, the Iowa county attorneys association, the Iowa state sheriff's association, the Iowa association of chiefs of police and peace officers, a statewide organization representing rural property taxpayers, the Iowa league of cities, and the Iowa board of supervisors association, shall prepare a report analyzing the confinement and detention needs of jails and facilities established pursuant to chapters 356 and this chapter and chapter 356A. The report for each type of jail or facility shall include but is not limited to an inventory of prisoner space, daily prisoner counts, options for detention of prisoners with mental illness or substance abuse service needs, and the compliance status under section 356.36 for each jail or facility. The report shall contain an inventory of recent jail or facility construction projects in which voters have approved the issuance of general obligation bonds, essential county purpose bonds, revenue bonds, or bonds issued pursuant to chapter 423B. The report shall be revised periodically as directed by the administrator of the division of criminal and juvenile justice planning. The first submission of the report shall include recommendations on offender data needed to estimate jail space needs in the next two, three, and five years, on a county, geographic region, and statewide basis, which may be based upon information submitted pursuant to section 356.49.

Sec. 72. Section 384.4, subsection 2, Code 2007, is amended to read as follows:

2. Interest as it becomes due and the amount necessary to pay, or to create a sinking fund to pay, the principal at maturity of all general obligation bonds issued by the city or to pay, or to create a sinking fund to pay, amounts as due on loans received through the <u>former</u> Iowa community development loan program pursuant to section 15E.120.

Sec. 73. Section 384.94, Code 2007, is amended to read as follows: 384.94 PRIOR PROJECTS PRESERVED.

Projects and proceedings for the issuance of revenue bonds, pledge orders, and other temporary obligations commenced before the effective date of the city code may be consummated and completed as required or permitted by any statute or other law amended or repealed by 64GA 1972 Iowa Acts, chapter 1088, as though such repeal or amendment had not occurred, and the rights, duties, and interests flowing from such projects and proceedings remain valid and enforceable. Without limiting the foregoing, projects commenced prior to said effective date may be financed by the issuance of revenue bonds, pledge orders, and other temporary obligations under any such amended or repealed law or by the issuance of revenue bonds and pledge orders under the city code. For purposes of this section, commencement of a project includes, but is not limited to, action taken by the governing body or authorized officer to fix a date for either a hearing or an election in connection with any part of the project, and commencement of proceedings for the issuance of revenue bonds, pledge orders, and other temporary obligations includes, but is not limited to, action taken by the governing body to fix a date

for either a hearing or a sale in connection with any part of such revenue bonds, pledge orders, or other temporary obligations or to order any part thereof to be issued.

- Sec. 74. Section 423.3, subsection 56, Code 2007, is amended to read as follows:
- 56. The sales price from the sale of motor fuel and special fuel consumed for highway use or in watercraft or aircraft where the fuel tax has been imposed and paid and no refund has been or will be allowed and the sales price from the sales of ethanol blended gasoline, as defined in section 452A.2 214A.1.
- Sec. 75. Section 423.3, subsection 57, paragraph f, subparagraph (3), subparagraph subdivision (b), Code 2007, is amended to read as follows:
- (b) Eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the United States food and drug administration in chapter, ch. 3, part 401.11 of its food code, so as to prevent foodborne illnesses.
- Sec. 76. Section 423.9A, subsection 3, paragraph b, Code 2007, is amended to read as follows:
- b. Three members representing small Iowa businesses, at least one of whom must shall be a retailer, and at least one of whom shall be a supplier.
 - Sec. 77. Section 446.17, Code 2007, is amended to read as follows: 446.17 SALE CONTINUED.

The county treasurer shall continue the sale from day to day as long as there are bidders or until all delinquent parcels have been offered for sale.

If notice of annual tax sale has been published under section 446.9, as it appeared in the 1991 Code 1991, the notice is valid and further notice is not required for an adjourned sale held under this section, unless it is a public bidder sale.

- Sec. 78. Section 452A.31, subsection 6, paragraph b, Code 2007, is amended to read as follows:
- 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.
 - Sec. 79. Section 455B.197, Code 2007, is amended to read as follows: 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 (NPDES) 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) 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) 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. 80. Section 455G.31, subsection 2, Code 2007, is amended to read as follows:
- 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 must determine that it is compatible with E-85 gasoline.
- b. For a dispenser, the manufacturer must state all of provide a written statement that includes the following:
- (1) That the dispenser is, in the opinion of the manufacturer, not incompatible with E-85 gasoline.
- (2) The <u>That the</u> manufacturer has initiated the process of applying to an independent testing laboratory for listing of the equipment for use in dispensing E-85 gasoline.
- c. A manufacturer's statement <u>under paragraph "b"</u>, must <u>also</u> include a <u>written statement</u>, with reference to a <u>information regarding the</u> particular type and model of equipment for use in dispensing E-85 gasoline, <u>be</u> signed by a responsible official on behalf of the manufacturer, <u>and be</u> 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.
- Sec. 81. Section 456A.33B, subsection 2, paragraph a, Code 2007, is amended to read 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 <u>restoring</u> each lake <u>for restoration</u> 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.
- Sec. 82. Section 456A.33B, subsection 2, paragraph c, subparagraph (4), subparagraph subdivision (d), Code 2007, is amended to read as follows:
- (d) Sustainability. The water quality benefits of <u>from</u> the restoration efforts will be sustained for at least fifty years.

Sec. 83. Section 460.304, subsection 2, paragraph a, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Provide cost-share moneys to persons closing agricultural drainage wells in accordance with the priority system established pursuant to section 460.302. In conjunction with closing agricultural <u>drainage</u> wells, the division shall award cost-share moneys to carry out the following projects:

Sec. 84. Section 461C.1, Code 2007, 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 an owner's liability toward persons entering thereon onto the owner's property for such purposes.

Sec. 85. Section 499B.6, Code 2007, is amended to read as follows: 499B.6 COPY OF THE FLOOR PLANS TO BE FILED.

There shall be attached to the declaration, at the time it is filed, a full and an exact copy of the plans of the building, which copy shall be entered of record along with the declaration. The plans shall show graphically all particulars of the building including, but not limited to, the dimensions, area and location of common elements affording access to each apartment. Other common elements, both limited and general, shall be shown graphically insofar as possible and shall be certified to by an engineer, architect, or land surveyor, either of which who is registered or licensed to practice that profession in this state.

Sec. 86. Section 514.1, unnumbered paragraph 2, Code 2007, is amended to read as follows:

For the purposes of this chapter, "subscriber" means an individual who enters into a contract for health care services with a corporation subject to this chapter and includes a person eligible for medical assistance or additional medical assistance as defined under chapter 249A, with respect to whom the department of human services has entered into a contract with a firm operating under this chapter 514. For purposes of this chapter, "provider" means a person as defined in section 4.1, subsection 20, which is licensed or authorized in this state to furnish health care services. "Health care" means that care necessary for the purpose of preventing, alleviating, curing, or healing human physical or mental illness, injury, or disability.

Sec. 87. Section 514.19, Code 2007, is amended to read as follows: 514.19 COMBINED SERVICE CORPORATIONS.

A corporation subject to this chapter may combine with any other corporation subject to this chapter as permitted under chapter 504 and upon the approval by the commissioner of insurance. Each corporation shall comply with chapter 504, the corporation's articles of incorporation, and the corporation's bylaws. The combined service corporation shall continue the service benefits previously provided by each corporation and may, subject to the approval of the commissioner of insurance, offer other service benefits not previously provided by the corporations before combining, which are permitted under this chapter 514.

Sec. 88. Section 515.102, Code 2007, is amended to read as follows:

515.102 CONDITIONS INVALIDATING POLICY.

Any condition or stipulation referring to any of the following shall not be changed or affected by the provisions of section 515.101:

- 1. To any other insurance, valid or invalid, or.
- 2. To vacancy of the insured premises, or.
- 3. To the title or ownership of the property insured, or.
- 4. To lien, or encumbrances thereon created by voluntary act of the insured and within the insured's control, or.

- 5. To the suspension or forfeiture of the policy during default or failure to pay any written obligation given to the insurance company for the premium, or.
- 6. To the assignment or transfer of such policy of insurance before loss without the consent of the insurance company, or.
 - 7. To the removal of the property insured, or.
- 8. To a change in the occupancy or use of the property insured, if such change or use makes the risk more hazardous, or.
- 9. To the fraud of the insured in the procurement of the contract of insurance—shall not be changed or affected by the provision of section 515.101.
- Sec. 89. Section 515A.6, subsection 1, paragraph a, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A corporation, an unincorporated association, a partnership, or an individual, whether located within or outside this state, may make application to the commissioner for <u>a</u> 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 with the application all of the following:

Sec. 90. Section 515A.9, Code 2007, 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, the 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. 91. Section 521.1, subsection 4, Code 2007, is amended to read as follows:
- 4. "Company" 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. 92. Section 521.6, Code 2007, is amended to read as follows: 521.6 EXAMINATION.

The commission may examine the affairs and condition of any company as it deems proper, and. The commission shall have the power to summon and compel the attendance and testimony of witnesses, and. The commission shall have the power to compel the production of books and papers before the commission, and may administer oaths.

Sec. 93. Section 524.1601, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A director, officer, or employee of a state bank or bank holding company who willfully vio-

lates 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 and, in the following circumstances, shall pay an additional fine or fines equal to:

Sec. 94. Section 533D.6, subsection 1, Code 2007, 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 of, 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. 95. Section 535B.4, subsection 7, Code 2007, 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 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, ch. 83, section 6 535B.4A. The administrator may assess a late fee of ten dollars per day for applications or registrations accepted for processing after June 1.

Sec. 96. Section 535B.17, Code 2007, is amended to read as follows:

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, and criminal history checks, and pay fees therefor.

Sec. 97. Section 536.13, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The 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 <u>any</u> findings to the next regular session of the general assembly, and upon the basis of the facts:

- Sec. 98. Section 537.6203, subsection 5, Code 2007, is amended to read as follows:
- 5. Moneys collected under this section shall be deposited in a consumer credit administration fund in the state treasury and shall be used for the administration of <u>this</u> chapter 537. The moneys are subject to warrant upon certification of the administrator and are appropriated for these purposes. Notwithstanding section 8.33, the moneys in the fund do not revert at the end of a fiscal period.
 - Sec. 99. Section 558.70, subsection 4, Code 2007, is amended to read as follows:
- 4. This section applies to a contract seller who entered into four or more residential real estate contracts in the three hundred sixty-five days previous to the contract seller signing the contract disclosure statement. For purposes of this subsection, two or more entities sharing

a common owner or manager are considered a single contract seller. This section does not apply to an a person or organization listed in section 535B.2, subsections 1 through 7.

Sec. 100. Section 579B.1, subsection 4, Code 2007, 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 579B.2 by a contract producer who owns or leases the animal feeding operation. "Contract livestock facility" includes a confinement feeding operation as defined in section 459.102, an open feedlot 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. 101. Section 579B.1, subsection 12, Code 2007, is amended by striking the subsection.

Sec. 102. Section 602.9116, subsection 1, Code 2007, 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. 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 any findings and recommendations to the general assembly.

Sec. 103. Section 614.24, unnumbered paragraph 1, Code 2007, is amended to read as follows:

No action based upon any claim arising or existing by reason of the provisions of any deed or conveyance or contract or will reserving or providing for any reversion, reverted interests or use restrictions in and to the land therein described shall be maintained either at law or in equity in any court to recover real estate in this state or to recover or establish any interest therein or claim thereto, legal or equitable, against the holder of the record title to such real estate in possession after twenty-one years from the recording of such deed of conveyance or contract or after twenty-one years from the admission of said will to probate unless the claimant shall, personally, or by the claimant's attorney or agent, or if the claimant is a minor or under legal disability, by the claimant's guardian, trustee, or either parent or next friend, shall file a verified claim with the recorder of the county wherein said real estate is located within said twenty-one year period. In the event said deed was recorded or will was admitted to probate more than twenty years prior to July 4, 1965, then said claim may be filed on or before one year after July 4, 1965. Such claims shall set forth the nature thereof, also the time and manner in which such interest was acquired. For the purposes of this section, the claimant shall be any person or persons claiming any interest in and to said land or in and to such reversion, reverter interest or use restriction, whether the same is a present interest or an interest which would come into existence if the happening or contingency provided in said deed or will were to happen at once. Said claimant further shall include any member of a class of persons entitled to or claiming such rights or interests.

Sec. 104. Section 680.8, Code 2007, 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 addition, 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 the section 680.7 except for labor or wage claims as provided by statute.

Sec. 105. Section 692.8A, subsection 4, Code 2007, 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 55, 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 of public communication.

Sec. 106. Section 815.11, Code 2007, 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 "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 moneys appropriated by the general assembly to the office of the state public defender in the department of inspections and appeals 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 the fund. However, costs incurred in any administrative proceeding or in any other proceeding under this chapter or chapter 598, 600, 600A, 633, 633A, 814, 815, or 915 or other provisions of the Code or administrative rules are not payable from the fund.

Sec. 107. Section 904.312A, subsection 2, paragraph a, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A flexible fuel which is either any of the following:

Sec. 108. Section 910.10, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A restitution lien may be filed by either any of the following:

- Sec. 109. Section 910.15, subsection 2, paragraph d, subparagraph (2), Code 2007, is amended to read as follows:
- (2) It is more probable than not that there are victims who may recover a money judgment against the felon for physical, mental, or emotional injury or pecuniary loss proximately caused by the convicted felon as a result of the felony for which the felon was convicted or there is an unpaid order of restitution under this chapter 910 against the convicted felon for the felony for which the felon was convicted.
 - Sec. 110. Section 910.15, subsection 5, Code 2007, is amended to read as follows:
- 5. PAYMENT OF ESCROW FUNDS TO VICTIMS. The remaining proceeds in escrow may be levied upon to satisfy an order for restitution under <u>this</u> chapter 910 or a money judgment entered against the convicted felon, by a court of competent jurisdiction, for physical, mental, or emotional injury, or pecuniary loss proximately caused by the convicted felon as a result of the felony for which the felon was convicted.
 - Sec. 111. Section 915.94, Code 2007, 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 under 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. 112. 2006 Iowa Acts, chapter 1106, section 1, subsection 5, paragraph c, is amended to read as follows:
- c. Grants for veterans injured after September 11, 2001, but prior to the effective date of this section 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. 2
- Sec. 113. 2006 Iowa Acts, chapter 1153, section 3, subsection 1, paragraph c, subparagraph (4), is amended to read as follows:
- (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, and policies regarding conflicts of interest, standards of responsibility and obedience to law, fairness, and honesty.
- Sec. 114. 2006 Iowa Acts, chapter 1179, section 33, unnumbered paragraph 1, is amended to read as follows:

Section 8.57, subsection 6, Code <u>Supplement</u> 2005, is amended by adding the following new paragraph:

- Sec. 115. 2006 Iowa Acts, chapter 1179, section 57, subsection 1, is amended to read as follows:
- 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 328.21 328.36 and 452A.82 and other moneys appropriated to the fund.
- Sec. 116. RETROACTIVE APPLICABILITY. The following sections of this Act are retroactively applicable as follows:
- 1. The section amending 2006 Iowa Acts, chapter 1106, section 1, is retroactively applicable to May 8, 2006, and is applicable on and after that date.
- 2. The section amending 2006 Iowa Acts, chapter 1153, section 3, is retroactively applicable to service contracts entered into or renewed by an oversight agency on and after October 1, 2006.
- 3. The section amending 2006 Iowa Acts, chapter 1179, section 33, is retroactively applicable to July 1, 2006, and is applicable on and after that date.

Approved March 23, 2007

² See chapter 215, §258 herein

CHAPTER 23

COOPERATIVE ASSOCIATIONS — MISCELLANEOUS PROVISIONS

S.F. 319

AN ACT relating to cooperative associations, by providing for documentation, including certificates and statements.

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

Section 1. Section 499.15, Code 2007, is amended to read as follows: 499.15 CONTENTS OF CERTIFICATES.

The association shall <u>may</u> issue certificates of membership or stock, each of which states the fixed dividend, if any, and the restrictions or limitations upon its ownership, voting, transfer, redemption, or cancellation.

Sec. 2. Section 499.16, Code 2007, is amended to read as follows:

499.16 SUBSCRIPTIONS — ISSUING CERTIFICATES.

If permitted by the association's articles of incorporation, any eligible subscriber for common stock or membership may vote and be treated as a member after making part payment of the amount, if any, required to be paid for the common stock or membership in cash, giving the subscriber's note for the balance, and satisfying any other requirement for the subscription as set forth in the articles. A subscription may be forfeited as provided in section 499.32. Stock or a membership certificate shall not be issued until payment of the amount, if any, required to be paid for the stock or membership certificate is fully made. A subscriber shall not hold office until the subscriber's certificate association has been issued the subscriber stock or membership.

Sec. 3. Section 499.17, Code 2007, is amended to read as follows:

499.17 TRANSFER OF STOCK OR MEMBERSHIP.

No common stock shall be transferable, unless the articles expressly provide for transfer to others eligible for membership. Such provision may require that the transfer be preceded by an offer to the association, or be otherwise restricted. No nonstock membership shall be transferable, and all if the association issues certificates thereof of membership or stock to a member, the certificates shall be surrendered to the association on the member's voluntary withdrawal.

- Sec. 4. Section 499.44, subsection 3, Code 2007, is amended to read as follows:
- 3. Articles of incorporation, amendments to articles, or renewal of articles must be filed with the secretary of state, and recorded in the county where the association has its principal place of business, as required by the general corporation laws. The association's corporate existence shall begin upon approval by the secretary of state of the articles and issuance of the certificate of incorporation.
 - Sec. 5. Section 499.47, subsection 3, Code 2007, is amended to read as follows:
- 3. Upon the expiration or voluntary dissolution of an association, the members shall designate three of their number as trustees to replace the officers and directors and wind up its affairs. The trustees shall have all the powers of the board, including the power to sell and convey real or personal property and execute conveyances. Within the time fixed in their designation, or any extension of that time, the trustees shall liquidate the association's assets, pay its debts and expenses, and distribute remaining funds among the members. Upon distribution of remaining assets the association shall stand dissolved and cease to exist. The trustees shall make and sign a duplicate report of the dissolution. One copy of the report shall be

filed with the secretary of state and one copy of the report shall be filed with the recorder of the county where the articles were recorded.¹

Sec. 6. <u>NEW SECTION</u>. 499.73A CHANGE OF PRINCIPAL OFFICE.

An association may change its principal office by delivering to the secretary of state for filing a statement of change that sets forth all of the following:

- 1. The name of the association.
- 2. The street address of its current principal office.
- 3. The street address of its new principal office.

Approved March 23, 2007

CHAPTER 24

ATTORNEY FEES IN CUSTODY, VISITATION, OR PATERNITY PROCEEDINGS

H.F. 199

AN ACT relating to the payment of costs of reasonable attorney fees related to certain paternity proceedings.

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

Section 1. NEW SECTION. 600B.26 PAYMENT OF ATTORNEY FEES.

In a proceeding to determine custody or visitation, or to modify a paternity, custody, or visitation order under this chapter, the court may award the prevailing party reasonable attorney fees.

Approved March 23, 2007

CHAPTER 25

ELECTIONS — REQUIREMENTS FOR TOWNSHIP OFFICER CANDIDACY

H.F. 588

AN ACT relating to requirements for persons seeking election to township office.

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

Section 1. Section 39.22, subsection 2, paragraph a, Code 2007, is amended to read as follows:

a. TOWNSHIP OFFICERS. The election of township officers shall take place at the general election on ballots which shall not reflect a nominee's political affiliation. Nomination shall

¹ See chapter 215, §254 herein

be made by petition in accordance with chapter 45. The petition form shall be furnished by the county commissioner of elections and A person seeking election as township officer shall be filed file an affidavit of candidacy with the county commissioner of elections pursuant to section 45.3. A plurality is sufficient to elect the township officers.

- Sec. 2. Section 45.1, subsection 10, Code 2007, is amended by striking the subsection.
- Sec. 3. Section 49.41, Code 2007, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. For purposes of township office, "nomination papers" as used in this section means the affidavit of candidacy required in section 45.3.

Approved March 23, 2007

CHAPTER 26

CONSUMER LOANS SECURED BY MOTOR VEHICLE TITLES
— FINANCE CHARGES

H.F. 5

AN ACT relating to the maximum finance charge allowed for consumer loans secured by a certificate of title to a motor vehicle and making penalties applicable.

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

- Section 1. Section 537.2401, subsection 1, Code 2007, is amended to read as follows:
- 1. Except as provided with respect to a finance charge for loans pursuant to open end credit under section 537.2402 and loans secured by a certificate of title of a motor vehicle under section 537.2403, a lender may contract for and receive a finance charge not exceeding the maximum charge permitted by the laws of this state or of the United States for similar lenders, and, in addition, with respect to a consumer loan, a supervised financial organization or a mortgage lender may contract for and receive a finance charge, calculated according to the actuarial method, not exceeding twenty-one percent per year on the unpaid balance of the amount financed. This Except as provided in section 537.2403, this subsection does not prohibit a lender from contracting for and receiving a finance charge exceeding twenty-one percent per year on the unpaid balance of the amount financed on consumer loans if authorized by other provisions of the law.
 - Sec. 2. Section 537.2402, subsection 1, Code 2007, is amended to read as follows:
- 1. If authorized to make supervised loans, a creditor may contract for and receive a finance charge without limitation as to amount or rate with respect to a loan pursuant to open-end credit as permitted in this section <u>except as provided in section 537.2403</u>.
- Sec. 3. <u>NEW SECTION</u>. 537.2403 FINANCE CHARGE FOR CONSUMER LOANS SECURED BY A MOTOR VEHICLE.
- 1. A lender shall not contract for or receive a finance charge exceeding twenty-one percent per year on the unpaid balance of the amount financed for a loan of money secured by a certificate of title to a motor vehicle used for personal, family, or household purpose except as autho-

rized under chapter 536 or 536A. A consumer who is charged a finance charge in excess of the limitation in this section may seek any remedies available pursuant to this chapter for an excess charge.

2. It shall be a violation of this section and an unlawful practice under section 714.16 to attempt to avoid application of this section by structuring a loan of money secured by a certificate of title to a motor vehicle as a sale, sale and repurchase, sale and lease, pawn, rental purchase, lease, or other type of transaction with the intent to avoid application of this section or any other applicable provision of this chapter.

Approved March 27, 2007

CHAPTER 27

CRIME VICTIM RIGHTS AND REMEDIES — NOTIFICATION AND COMPENSATION

S.F. 70

AN ACT relating to crime victim compensation, excluding certain victim compensation payments from income taxation, and providing a retroactive applicability date.

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

- Section 1. Section 13.31, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 7. Administer an automated victim notification system as authorized pursuant to section 915.10A.
- Sec. 2. Section 422.7, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 50. Subtract, to the extent included, the amount of victim compensation awards paid under the victim compensation program, victim restitution payments received pursuant to chapter 910 or 915, and any damages awarded by a court, and received by the taxpaver, in a civil action filed by the victim against the offender, during the tax year.
 - Sec. 3. Section 915.10, subsection 2, Code 2007, is amended to read as follows:
- 2. "Registered" means having provided the county attorney with the victim's written request for registration and current mailing address and telephone number. If an automated victim notification system is implemented pursuant to section 915.10A, "registered" "Registered" also means having provided the county attorney notice in writing that the victim has filed a request for registration with the automated victim notification system established pursuant to section 915.10A.
 - Sec. 4. Section 915.10A, subsection 1, Code 2007, is amended to read as follows:
- 1. An automated victim notification system <u>may be utilized is established within the crime victim assistance division of the department of justice</u> to assist public officials in informing crime victims, the victim's family, or other interested persons as provided in this subchapter and where otherwise specifically provided. The system shall disseminate the information to registered users through telephonic, electronic, or other means of access.
 - Sec. 5. Section 915.11, Code 2007, is amended to read as follows:
 - 915.11 INITIAL NOTIFICATION BY LAW ENFORCEMENT.

A local police department or county sheriff's department shall advise a victim of the right to register with the county attorney, and shall provide a request-for-registration form to each victim. If an automated victim notification system is available pursuant to section 915.10A, a \underline{A} local police department or county sheriff's department shall provide a telephone number and website to each victim to register with the <u>automated victim notification</u> system <u>established pursuant to section 915.10A</u>.

- Sec. 6. Section 915.12, subsection 2, Code 2007, is amended to read as follows:
- 2. If an automated victim notification system is available pursuant to section 915.10A, a A victim, the victim's family, or other interested person may register with the automated victim notification system established pursuant to section 915.10A by filing a request for registration through written, telephonic, or electronic means.
 - Sec. 7. Section 915.80, subsection 2, Code 2007, is amended to read as follows:
- 2. "Crime" means conduct that occurs or is attempted in this state, poses a substantial threat of personal injury or death, and is punishable as a felony or misdemeanor, or would be so punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this state. "Crime" does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, motorcycle, motorized bicycle, train, boat, or aircraft except for violations of section 321.261, 321.277, 321J.2, 462A.7, 462A.12, 462A.14, or 707.6A, or when the intention is to cause personal injury or death. A license revocation under section 321J.9 or 321J.12 shall be considered by the department as evidence of a violation of section 321J.2 for the purposes of this subchapter. A license suspension or revocation under section 462A.14, 462A.14B, or 462A.23 shall be considered by the department as evidence of a violation of section 462A.14 for the purposes of this subchapter.
- Sec. 8. Section 915.86, subsections 1, 3, 5, 7, 8, and 12, Code 2007, are amended to read as follows:
- 1. Reasonable charges incurred for medical care not to exceed <u>fifteen twenty-five</u> thousand dollars. Reasonable charges incurred for mental health care not to exceed <u>three five</u> thousand dollars which includes services provided by a psychologist licensed under chapter 154B, a person holding at least a master's degree in social work or counseling and guidance, or a victim counselor as defined in section 915.20A.
- 3. Loss of income from work that the victim's parent or caretaker would have performed and for which the victim's parent or caretaker would have received remuneration for up to three days after the crime or the discovery of the crime to allow the victim's parent or caretaker to assist the victim and when the victim's parent or caretaker accompanies the victim to medical and counseling services, not to exceed one thousand dollars per parent or caretaker.
- 5. Reasonable replacement value of clothing that is held for evidentiary purposes not to exceed one two hundred dollars.
- 7. Loss of support for dependents resulting from death or a period of disability of the victim of sixty days or more not to exceed two four thousand dollars per dependent.
- 8. In the event of a victim's death, reasonable charges incurred for counseling the victim's spouse, children, parents, siblings, or persons cohabiting with or related by blood or affinity to the victim if the counseling services are provided by a psychologist licensed under chapter 154B, a victim counselor as defined in section 915.20A, subsection 1, or an individual holding at least a master's degree in social work or counseling and guidance, and reasonable charges incurred by such persons for medical care counseling provided by a psychiatrist licensed under chapter 147 or 150A. The allowable charges under this subsection shall not exceed three five thousand dollars per person.
- 12. Reasonable charges incurred for mental health care for secondary victims which include the services provided by a psychologist licensed under chapter 154B, a person holding at least a master's degree in social work, counseling, or a related field, a victim counselor as defined in section 915.20A, or a psychiatrist licensed under chapter 147, 148, or 150A. The allowable charges under this subsection shall not exceed one two thousand dollars per secondary victim.

Sec. 9. Section 915.86, Code 2007, is amended by adding the following new subsections: <u>NEW SUBSECTION</u>. 13. Reasonable dependent care expenses incurred by the victim, the victim's parent or caretaker, or the survivor of a homicide victim as described in subsection 10 for the care of dependents while attending criminal justice proceedings or medical or counseling services, not to exceed one thousand dollars per person.

<u>NEW SUBSECTION</u>. 14. Reasonable expenses incurred by a victim, the victim's parent or caretaker, or the survivor of a victim as described in subsection 10 to replace locks, windows, and other residential security items at the victim's residence or at the residential scene of a crime, not to exceed five hundred dollars per residence.

<u>NEW SUBSECTION</u>. 15. Reasonable expenses incurred by the victim, a secondary victim, the parent or guardian of a victim, or the survivor of a homicide victim as described in subsection 10 for transportation to medical, counseling, funeral, or criminal justice proceedings, not to exceed one thousand dollars per person.

Sec. 10. Section 915.94, Code 2007, 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, and for the support of an automated victim notification system established in section 915.10A. 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. 11. RETROACTIVE APPLICABILITY DATE. The section of this Act amending section 422.7 applies retroactively to January 1, 2007, for tax years beginning on or after that date.

Approved March 28, 2007

CHAPTER 28

NATURAL RESOURCES REGULATION AND RELATED PUBLIC OFFENSES

S.F. 78

AN ACT relating to various conservation and recreation activities under the purview of the department of natural resources, modifying fees, making penalties applicable, and making an appropriation.

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

Section 1. Section 455A.17, subsection 1, Code 2007, is amended to read as follows:

1. Biennially, during even-numbered years, the director shall schedule and make the necessary arrangements for an Iowa congress on resources enhancement and protection. The congress shall be held within the state capitol complex during the summer months.

Sec. 2. Section 462A.2, Code 2007, is amended by adding the following new subsections: <u>NEW SUBSECTION</u>. 8A. "Cut-off switch" means an operable factory-installed or dealer-installed emergency cut-off engine stop switch that is installed on a personal watercraft.

<u>NEW SUBSECTION</u>. 8B. "Cut-off switch lanyard" means the cord used to attach the person of the operator of a personal watercraft to the cut-off switch.

Sec. 3. Section 462A.5, subsection 1, unnumbered paragraphs 1 and 2, Code 2007, are amended to read as follows:

The owner of each vessel required to be numbered by this state shall register it every three years with the commission through the county recorder of the county in which the owner resides, or, if the owner is a nonresident, the owner shall register it in the county in which such vessel is principally used. The commission shall develop and maintain an electronic system for the registration of vessels pursuant to this chapter. The commission shall have supervisory responsibility over the registration of all vessels and shall provide each county recorder with registration establish forms and certificates and shall allocate identification numbers to each county procedures as necessary for the registration of all vessels.

The owner of the vessel shall file an application for registration with the appropriate county recorder on forms provided by the commission. The application shall be completed and signed by the owner of the vessel and shall be accompanied by the appropriate fee, and the writing fee specified in section 462A.53. Upon applying for registration, the owner shall display a bill of sale, receipt, or other satisfactory proof of ownership as provided by the rules of the commission to the county recorder. If the county recorder is not satisfied as to the ownership of the vessel or that there are no undisclosed security interests in the vessel, the county recorder may register the vessel but shall, as a condition of issuing a registration certificate, require the applicant to follow the procedure provided in section 462A.5A. Upon receipt of the application in approved form accompanied by the required fees, the county recorder shall enter it upon the records of the recorder's office and shall issue to the applicant a pocket-size registration certificate. The certificate shall be executed in triplicate, one copy to be delivered to the owner, one copy to the commission, and one copy to be retained on file by the county recorder. The registration certificate shall bear the number awarded to the vessel, the passenger capacity of the vessel, and the name and address of the owner. In the use of all vessels except nonpowered sailboats, nonpowered canoes, and commercial vessels, the registration certificate shall be carried either in the vessel or on the person of the operator of the vessel when in use. In the use of nonpowered sailboats, nonpowered canoes, or commercial vessels, the registration certificate may be kept on shore in accordance with rules adopted by the commission. The operator shall exhibit the certificate to a peace officer upon request or, when involved in a collision or accident an occurrence of any nature with another vessel or other personal property, to the owner or operator of the other vessel or personal property.

Sec. 4. Section 462A.5, subsection 3, unnumbered paragraph 2, Code 2007, is amended to read as follows:

Every registration certificate and number issued becomes delinquent at midnight April 30 of the last calendar year of the registration period unless terminated or discontinued in accordance with this chapter. After January 1, 2007, an unregistered vessel and a renewal of registration may be registered for the three-year registration period beginning May 1 of that year. When unregistered vessels are registered after May 1 of the second year of the three-year registration period, such unregistered vessels may be registered for the remainder of the current registration period at sixty-six percent two-thirds of the appropriate registration fee. When unregistered vessels are registered after May 1 of the third year of the three-year registration period, such unregistered vessels may be registered for the remainder of the current registration period at thirty-three percent one-third of the appropriate registration fee.

- Sec. 5. Section 462A.7, Code 2007, is amended to read as follows: 462A.7 COLLISIONS, ACCIDENTS AND CASUALTIES OCCURRENCES INVOLVING VESSELS.
 - 1. The operator of a vessel involved in a collision, accident or other casualty an occurrence

that results in personal property damage or the injury or death of a person, shall, so far as possible without serious danger to the operator's own vessel, crew, or passengers, render to other persons affected by the collision, accident or casualty, occurrence such assistance as may be practicable and necessary to save them from or minimize any danger caused by the collision, accident or other casualty occurrence. The operator shall also give the operator's name, address, and identification of the operator's vessel in writing to any person injured and to the owner of any property damaged in the collision, accident or other casualty occurrence.

- 2. Whenever any vessel is involved in a collision, accident or casualty an occurrence that results in personal property damage or the injury or death of a person, except one which results only in property damage not exceeding five hundred two thousand dollars, a report thereof of the occurrence shall be filed with the commission. The report shall be filed by the operator of the vessel and shall contain such information as the commission may, by rule, require. The report shall be submitted without delay within forty-eight hours of the occurrence in cases that result in death, or disappearance cases, or personal injuries requiring medical treatment by a licensed health care provider, and within five days of the occurrence in all other cases.
- 3. Every law enforcement officer who, in the regular course of duty, investigates an occurrence which is required to be reported by this section, shall, after completing such investigation, forward a report of such occurrence to the commission.
- 4. a. All reports shall be in writing. A vessel operator's report shall be without prejudice to the person making the report and shall be for the confidential use of the department. However, upon request the department shall disclose the identities of the persons on board the vessels involved in the occurrence and their addresses. Upon request of a person who made and filed a vessel operator's report, the department shall provide a copy of the vessel operator's report to the requester. A written vessel operator's report filed with the department shall not be admissible in or used in evidence in any civil or criminal action arising out of the facts on which the report is based.
- b. All written reports filed by law enforcement officers as required under subsection 3 are confidential to the extent provided in section 22.7, subsection 5, and section 622.11. However, a completed law enforcement officer's report shall be made available by the department or the investigating law enforcement agency to any party to a boating accident, collision, or other easualty an occurrence involving a vessel, the party's insurance company or its agent, or the party's attorney on written request and payment of a fee.
- 5. Failure of the operator of any vessel involved in a collision, accident, or other casualty, an occurrence to offer assistance and aid to other persons affected by such collision, accident, or casualty occurrence, as set forth in this chapter, 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 an occurrence 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 an occurrence 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 an occurrence 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 an occurrence resulting in the death of a person, the operator is guilty upon conviction of a class "D" felony.
- Sec. 6. Section 462A.9, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 12A. An owner of a personal watercraft equipped with a cut-off switch shall maintain the cut-off switch and the accompanying cut-off switch lanyard in an operable, fully functional condition.
- Sec. 7. Section 462A.12, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 14. A person shall not operate a personal watercraft that is equipped with a cut-off switch, at any time, without first attaching the accompanying cut-off switch lanyard to the operator's person while the engine is running and the personal watercraft is in use.

- Sec. 8. Section 462A.14A, subsection 3, paragraph b, Code 2007, is amended to read as follows:
- b. The motorboat or sailboat has been involved in an accident or collision occurrence resulting in personal injury or death.
- Sec. 9. Section 462A.23, subsection 2, paragraph c, Code 2007, is amended to read as follows:
- c. Failure to stop and render aid as required by this chapter when a collision, accident or other casualty an occurrence involving a vessel results in the death or personal injury of another.

Sec. 10. <u>NEW SECTION</u>. 462A.34B ELUDING OR ATTEMPTING TO ELUDE PURSUING LAW ENFORCEMENT VESSEL.

- 1. The operator of a vessel commits a serious misdemeanor if the operator willfully fails to bring the vessel to a stop or otherwise eludes or attempts to elude an authorized marked law enforcement vessel operated by a uniformed peace officer or by a water patrol officer of the department of natural resources, after being given a visual and audible signal to stop. The signals given by the officer shall be by displaying a blue light or flashing blue and red lights and by sounding a horn or siren.
- 2. The operator of a vessel commits an aggravated misdemeanor if the operator willfully fails to bring the vessel to a stop or otherwise eludes or attempts to elude an authorized marked law enforcement vessel operated by a uniformed peace officer or by a water patrol officer of the department of natural resources, after being given a visual and audible signal to stop as provided in this section and in doing so exceeds a reasonable speed.
- 3. The operator of a vessel commits a class "D" felony if the operator willfully fails to bring the vessel to a stop or otherwise eludes or attempts to elude an authorized marked law enforcement vessel operated by a uniformed peace officer or by a water patrol officer of the department of natural resources, after being given a visual and audible signal to stop as provided in this section, and in doing so exceeds a reasonable speed, and if any of the following occurs:
- a. The operator is participating in a public offense, as defined in section 702.13, that is a felony.
 - b. The operator is in violation of section 462A.14 or 124.401.
 - c. The offense results in bodily injury to a person other than the operator.

Sec. 11. Section 462A.43, Code 2007, is amended to read as follows:

462A.43 TRANSFER OF OWNERSHIP.

Upon the transfer of ownership of any vessel, the owner, except as otherwise provided by this chapter, shall complete the form on the back of the registration certificate and shall deliver it to the purchaser or transferee at the time of delivering the vessel. All registrations must be valid for the current registration period prior to the transfer of any registration, including assignment to a dealer If a vessel has an expired registration at the time of transfer, the transferee shall pay all applicable fees for the current registration period, the appropriate writing fee, and a penalty of five dollars, and a transfer of number shall be awarded in the same manner as provided for in an original registration. All penalties collected pursuant to this section shall be forwarded by the commission to the treasurer of state, who shall place the money in the state fish and game protection fund. The money so collected is appropriated to the commission solely for the administration and enforcement of navigation laws and water safety.

- Sec. 12. Section 462A.84, subsection 3, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
- 3. When a security interest is discharged, the secured party shall note the cancellation of the security interest on the face of the certificate of title and send the title by first class mail to the office of the county recorder where the title was issued, or the secured party shall send a notarized letter by first class mail to the county recorder where the title was issued notifying

the county recorder of the cancellation of the security interest. The county recorder shall note the release of the security interest in the county records as evidence of the release of the security interest.

- Sec. 13. Section 481A.55, subsection 1, Code 2007, is amended to read as follows:
- 1. Except as otherwise provided, a person shall not buy or sell, dead or alive, a bird or animal or any part of one which is protected by this chapter, but this section does not apply to fur-bearing animals, bones of wild turkeys that were legally taken, and the skins, plumage, and antlers of legally taken game. This section does not prohibit the purchase of jackrabbits from sources outside this state. A person shall not purchase, sell, barter, or offer to purchase, sell, or barter for millinery or ornamental use the feathers of migratory game birds; and a person shall not purchase, sell, barter, or offer to purchase, sell, or barter mounted specimens of migratory game birds.
- Sec. 14. Section 481A.123, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 5. This section does not apply to the discharge of a firearm on a farm unit by the owner or tenant of the farm unit or by a family member of the owner or tenant of the farm unit.

As used in this subsection, "family member", "farm unit", "owner", and "tenant" mean the same as defined in section 483A.24, subsection 2.

- Sec. 15. Section 481A.130, subsection 1, paragraph g, Code 2007, is amended to read as follows:
- g. For each antlered deer, reimbursement shall be based on the point score of the antlered deer as measured by the Boone and Crockett club's net scoring system for whitetail deer as follows:
- (1) 150 points gross inches or less: A minimum of two thousand dollars and not more than five thousand dollars, and eighty hours of community service or, in lieu of the community service, a minimum of four thousand dollars and not more than ten thousand dollars, in an amount that is deemed reasonable by the court.
- (2) More than 150 points gross inches: A minimum of five thousand dollars and not more than ten thousand dollars, and eighty hours of community service or, in lieu of the community service, a minimum of ten thousand dollars and not more than twenty thousand dollars, in an amount that is deemed reasonable by the court.
 - Sec. 16. Section 481A.133, Code 2007, is amended to read as follows: 481A.133 SUSPENSION OF LICENSES, CERTIFICATES, AND PERMITS.

A person who is assessed damages pursuant to section 481A.130 shall immediately surrender all licenses, certificates, and permits to hunt, fish, or trap in the state to the department. The licenses, permits, and certificates, and the privileges associated with them shall remain suspended until the assessed damages and any accrued interest are paid or a payment schedule is established by the court in full. Upon payment of the assessed damages and any accrued interest, the suspension shall be lifted. If a payment schedule is established, the suspension shall be lifted and remain so unless the person fails to make a payment pursuant to that schedule. Failure to make a payment shall cause the suspension to be renewed Interest shall begin to accrue as of the date of judgment at a rate of ten percent per year.

Sec. 17. Section 481A.134, Code 2007, is amended to read as follows: 481A.134 AUTHORITY TO CANCEL, SUSPEND, OR REVOKE LICENSE — POINT SYSTEM.

The department shall establish rules pursuant to chapter 17A providing for the suspension or revocation of licenses issued by the department. The rules may include procedures for summary cancellation of a license based on documentation that the licensee failed to pay the applicable fee for the license. For purposes of determining when to suspend or revoke a license

issued by the department under this section, the department shall adopt a point system pursuant to chapter 17A for the purpose of weighing the seriousness of violations of the provisions of this chapter or chapter 481B, 482, 483A, 484A, or 484B, or of committing trespass as defined in section 716.7 while hunting deer, other than farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1. The weighted scale may be amended from time to time as experience dictates.

- Sec. 18. Section 481A.135, subsections 2, 3, and 4, Code 2007, are amended to read as follows:
- 2. A person who pleads guilty or is convicted of a violation of any provision of this chapter or chapter 481B, 482, 483A, 484A, or 484B, or trespass as defined in section 716.7 while hunting deer, other than farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1, while the person's license or licenses are suspended or revoked is guilty of a simple misdemeanor if the person has no other violations within the previous three years which occurred while the person's license or licenses have been suspended or revoked.
- 3. A person who pleads guilty or is convicted of a violation of any provision of this chapter or chapter 481B, 482, 483A, 484A, or 484B, or trespass as defined in section 716.7 while hunting deer, other than farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1, while the person's license or licenses are suspended or revoked is guilty of a serious misdemeanor if the person has one other violation within the previous three years which occurred while the person's license or licenses have been suspended or revoked.
- 4. A person who pleads guilty or is convicted of a violation of any provision of this chapter or chapter 481B, 482, 483A, 484A, or 484B, or trespass as defined in section 716.7 while hunting deer, other than farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1, while the person's license or licenses are suspended or revoked is guilty of an aggravated misdemeanor when the person has had two or more convictions within the previous three years which occurred while the person's license or licenses have been suspended or revoked.
- Sec. 19. Section 483A.27, subsections 1 and 7, Code 2007, are amended to read as follows: 1. A person born after January 1, 1967 1972, shall not obtain a hunting license unless the person has satisfactorily completed a hunter safety and ethics education course approved by the commission. A person who is eleven years of age or more may enroll in an approved hunter safety and ethics education course, but a person who is eleven years of age and who has successfully completed the course shall be issued a certificate of completion which becomes valid on the person's twelfth birthday. A certificate of completion from an approved hunter safety

and ethics education course issued in this state since 1960, by another state, or by a foreign

nation, is valid for the requirements of this section.

- 7. A hunting license obtained under this section by a person who gave false information or presented a fraudulent certificate of completion shall be revoked and a new hunting license shall not be issued for at least two years from the date of conviction. A hunting license obtained by a person who was born after January 1, 1967 1972, but has not satisfactorily completed the hunter safety and ethics education course or has not met the requirements established by the commission, shall be revoked.
- Sec. 20. Section 716.7, subsection 2, paragraph a, Code 2007, is amended to read as follows:
- a. Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense, to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, or to hunt, fish or trap on or in the property, including the act of taking or attempting to take a deer, other than a farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1, which is on or in the property by a person who is outside the property. This paragraph does not prohibit the unarmed pursuit of game or furbearing fur-bearing animals by a person who

lawfully injured or killed the game or fur-bearing animal which come comes to rest on or escape escapes to the property of another.

- Sec. 21. Section 716.8, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 5. A person who commits a trespass as defined in section 716.7, subsection 2, paragraph "a", and takes a deer, other than a farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1, shall also be subject to civil penalties as provided in sections 481A.130 and 481A.131. A deer taken by a person while committing such a trespass shall be subject to seizure as provided in section 481A.12.
- Sec. 22. Section 805.8B, subsection 1, paragraph b, Code 2007, is amended to read as follows:
- b. For violations of registration, identification, and record provisions under sections 462A.4 and 462A.10, and for unused or improper or defective equipment under section 462A.9, subsections 2, 6, 7, 8, 12A, and 13, and section 462A.11, and for operation violations under sections 462A.26, 462A.31, and 462A.33, the scheduled fine is twenty dollars.

Approved March 28, 2007

CHAPTER 29

OVERDRAFT CHARGES AND DIRECT DEPOSIT OF WAGES $\it H.F.$ 367

AN ACT relating to wage payment collection of direct deposit wages as administered by the division of labor services of the department of workforce development.

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

Section 1. Section 91A.3, subsection 3, paragraph c, unnumbered paragraph 2, Code 2007, is amended to read as follows:

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. The overdraft charges may be the basis for a claim under section 91A.10 and for damages under section 91A.8.

Approved March 28, 2007

CHAPTER 30

UNIFORM COMMERCIAL CODE — DOCUMENTS OF TITLE

H.F. 716

AN ACT relating to revising the uniform commercial code, by providing for warehouse receipts, bills of lading, and other documents of title.

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

DIVISION I REVISION TO UNIFORM COMMERCIAL CODE ARTICLE 7

Section 1. Section 554.7101, Code 2007, is amended to read as follows: 554.7101 SHORT TITLE.

This Article shall be known and may be cited as Uniform Commercial Code — Documents of Title.

- Sec. 2. Section 554.7102, Code 2007, is amended to read as follows:
- 554.7102 DEFINITIONS AND INDEX OF DEFINITIONS.
- 1. In this Article, unless the context otherwise requires:
- a. "Bailee" means the a person who that by a warehouse receipt, bill of lading or other document of title acknowledges possession of goods and contracts to deliver them.
 - b. "Carrier" means a person that issues a bill of lading.
- <u>c.</u> "Consignee" means the <u>a</u> person named in a bill <u>of lading</u> to whom <u>which</u> or to whose order the bill promises delivery.
- c. d. "Consignor" means the a person named in a bill of lading as the person from whom which the goods have been received for shipment.
- d. e. "Delivery order" means a written record that contains an order to deliver goods directed to a warehouse operator, carrier, or other person who that in the ordinary course of business issues warehouse receipts or bills of lading.
- e. "Document" means document of title as defined in the general definitions in Article 1 (section 554.1201).
- f. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.
- g. "Goods" means all things which that are treated as movable for the purposes of a contract of <u>for</u> storage or transportation.
- g. h. "Issuer" means a bailee who that issues a document except that in relation to of title or, in the case of an unaccepted delivery order, it means the person who that orders the possessor of goods to deliver. Issuer The term includes any a person for whom which an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, notwithstanding that even if the issuer received no did not receive any goods, or that the goods were misdescribed, or that in any other respect the agent or employee violated that agent's or employee's the issuer's instructions.
- i. "Person entitled under the document" means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.
- j. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
 - k. "Sign" means, with present intent to authenticate or adopt a record:

- (1) to execute or adopt a tangible symbol; or
- (2) to attach to or logically associate with the record an electronic sound, symbol, or process.
 - 1. "Shipper" means a person that enters into a contract of transportation with a carrier.
- h. m. "Warehouse operator" is "Warehouse" means a person engaged in the business of storing goods for hire.
- 2. Other definitions applying to this Article or to specified Parts thereof, and the sections in which they appear are:

"Duly negotiate" Section 554.7501

"Person entitled under

the document" Section 554.7403(4)

3. Definitions in other Articles applying to this Article and the sections in which they appear are:

a. "Contract for sale"

"Overseas"

b. "Lessee in ordinary course
of business"

c. "Receipt" of goods

Section 554.2323

Section 554.13103

Section 554.13103

- 4. 3. In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.
 - Sec. 3. Section 554.7103, Code 2007, is amended to read as follows:

554.7103 RELATION OF ARTICLE TO TREATY, <u>OR</u> STATUTE, TARIFF, <u>CLASSIFICATION OR REGULATION</u>.

- 1. To the extent that This Article is subject to any treaty or statute of the United States, or regulatory statute of this state or tariff, classification or regulation filed or issued pursuant thereto to the extent that the treaty, statute, or regulatory statute is applicable, the provisions of this Article are subject thereto.
- 2. This Article does not modify or repeal any law prescribing the form or content of a document of title or the services or facilities to be afforded by a bailee, or otherwise regulating a bailee's business in respects not specifically treated in this Article. However, violation of such a law does not affect the status of a document of title that otherwise is within the definition of a document of title.
- 3. This Article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001, et seq.) but does not modify, limit, or supersede § 101(c) of that Act (15 U.S.C. § 7001(c)) or authorize electronic delivery of any of the notices described in § 103(b) of that Act (15 U.S.C. § 7003(b)).
- 4. To the extent there is a conflict between chapter 554D, the "Uniform Electronic Transactions Act", and this Article, this Article governs.
 - Sec. 4. Section 554.7104, Code 2007, is amended to read as follows:
- $554.7104\,$ NEGOTIABLE AND NONNEGOTIABLE WAREHOUSE RECEIPT, BILL OF LADING OR OTHER DOCUMENT OF TITLE.
- 1. A warehouse receipt, bill of lading or other Except as otherwise provided in subsection 3. a document of title is negotiable
- $\frac{a_{-}}{a_{-}}$ if by its terms the goods are to be delivered to bearer or to the order of a named person; or.
 - b. where recognized in overseas trade, if it runs to a named person or assigns.
- 2. Any other A document of title other than the one described in subsection 1 is nonnegotiable. A bill of lading in which it is stated that states that the goods are consigned to a named person is not made negotiable by a provision that the goods are to be delivered only against a written an order in a record signed by the same or another named person.
- 3. A document of title is nonnegotiable if, at the time it is issued, the document has a conspicuous legend, however expressed, that it is nonnegotiable.

- Sec. 5. Section 554.7105, Code 2007, is amended to read as follows:
- 554.7105 CONSTRUCTION AGAINST NEGATIVE IMPLICATION REISSUANCE IN ALTERNATIVE MEDIUM.
- 1. The omission from either Part 2 or Part 3 of this Article of a provision corresponding to a provision made in the other Part does not imply that a corresponding rule of law is not applicable. Upon request of a person entitled under an electronic document of title, the issuer of the electronic document may issue a tangible document of title as a substitute for the electronic document if:
- a. the person entitled under the electronic document surrenders control of the document to the issuer; and
- b. the tangible document when issued contains a statement that it is issued in substitution for the electronic document.
- 2. Upon issuance of a tangible document of title in substitution for an electronic document of title in accordance with subsection 1:
 - a. the electronic document ceases to have any effect or validity; and
- b. the person that procured issuance of the tangible document warrants to all subsequent persons entitled under the tangible document that the warrantor was a person entitled under the electronic document when the warrantor surrendered control of the electronic document to the issuer.
- 3. Upon request of a person entitled under a tangible document of title, the issuer of the tangible document may issue an electronic document of title as a substitute for the tangible document if:
- a. the person entitled under the tangible document surrenders possession of the document to the issuer; and
- b. the electronic document when issued contains a statement that it is issued in substitution for the tangible document.
- 4. Upon issuance of an electronic document of title in substitution for a tangible document of title in accordance with subsection 3:
 - a. the tangible document ceases to have any effect or validity; and
- b. the person that procured issuance of the electronic document warrants to all subsequent persons entitled under the electronic document that the warrantor was a person entitled under the tangible document when the warrantor surrendered possession of the tangible document to the issuer.

Sec. 6. NEW SECTION. 554.7106 CONTROL OF ELECTRONIC DOCUMENT OF TITLE.

- 1. A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.
- 2. A system satisfies subsection 1, and a person is deemed to have control of an electronic document of title, if the document is created, stored, and assigned in such a manner that:
- a. a single authoritative copy of the document exists which is unique, identifiable, and, except as otherwise provided in paragraphs "d", "e", and "f", unalterable;
 - b. the authoritative copy identifies the person asserting control as:
 - (1) the person to which the document was issued; or
- (2) if the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;
- c. the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;
- d. copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;
- e. each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and
- f. any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

Sec. 7. Section 554.7201, Code 2007, is amended to read as follows:

 $554.7201~\frac{\rm WHO}{\rm PERSON}$ THAT MAY ISSUE A WAREHOUSE RECEIPT — STORAGE UNDER GOVERNMENT BOND.

- 1. A warehouse receipt may be issued by any warehouse operator.
- 2. Where If goods, including distilled spirits and agricultural commodities, are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods has like effect as is deemed to be a warehouse receipt even though if issued by a person who that is the owner of the goods and is not a warehouse operator.
 - Sec. 8. Section 554.7202, Code 2007, is amended to read as follows:

554.7202 FORM OF WAREHOUSE RECEIPT — ESSENTIAL TERMS — OPTIONAL TERMS EFFECT OF OMISSION.

- 1. A warehouse receipt need not be in any particular form.
- 2. Unless a warehouse receipt embodies within its written or printed terms provides for each of the following, the warehouse operator is liable for damages caused to a person injured by the its omission to a person injured thereby:
 - a. a statement of the location of the warehouse facility where the goods are stored;
 - b. the date of issue of the receipt;
 - c. the consecutive number unique identification code of the receipt;
- d. a statement whether the goods received will be delivered to the bearer, to a specified named person, or to a specified named person or that person's its order;
- e. the rate of storage and handling charges, except that where unless goods are stored under a field warehousing arrangement, in which case a statement of that fact is sufficient on a nonnegotiable receipt;
 - f. a description of the goods or of the packages containing them;
- g. the signature of the warehouse operator, which may be made by the warehouse operator's authorized or its agent;
- h. if the receipt is issued for goods of which that the warehouse operator is owner owns, either solely, or jointly, or in common with others, a statement of the fact of such that ownership; and
- i. a statement of the amount of advances made and of liabilities incurred for which the warehouse operator claims a lien or security interest, (section 554.7209). If <u>unless</u> the precise amount of such advances made or of such liabilities incurred is, at the time of the issue of the receipt, <u>is</u> unknown to the warehouse operator or to the warehouse operator's <u>its</u> agent who issues it that issued the receipt, in which case a statement of the fact that advances have been made or liabilities incurred and the purpose thereof of the advances or liabilities is sufficient.
- 3. A warehouse operator may insert in the <u>its</u> receipt any <u>other</u> terms <u>which that</u> are not contrary to <u>the provisions of</u> this chapter and do not impair <u>the warehouse operator's its</u> obligation of delivery (<u>section 554.7403</u>) <u>under section 554.7403</u> or <u>its</u> duty of care (<u>section 554.7204</u>) <u>under section 554.7204</u>. Any contrary <u>provisions shall be provision is</u> ineffective.
 - Sec. 9. Section 554.7203, Code 2007, is amended to read as follows: 554.7203 LIABILITY FOR NONRECEIPT OR MISDESCRIPTION.

A party to or purchaser for value in good faith of a document of title, other than a bill of lading relying in either case, that relies upon the description therein of the goods in the document may recover from the issuer damages caused by the nonreceipt or misdescription of the goods, except to the extent that:

- 1. the document conspicuously indicates that the issuer does not know whether any all or part or all of the goods in fact were received or conform to the description, as where such as the case in which the description is in terms of marks or labels or kind, quantity, or condition, or the receipt or description is qualified by "contents, condition, and quality unknown", "said to contain", or the like, words of similar import, if such the indication be is true; or
 - 2. the party or purchaser otherwise has notice of the nonreceipt or misdescription.

Sec. 10. Section 554.7204, Code 2007, is amended to read as follows:

554.7204 DUTY OF CARE — CONTRACTUAL LIMITATION OF WAREHOUSE OPERATOR'S WAREHOUSE'S LIABILITY.

- 1. A warehouse operator is liable for damages for loss of or injury to the goods caused by the warehouse operator's its failure to exercise such care in with regard to them as the goods that a reasonably careful person would exercise under like similar circumstances but unless. Unless otherwise agreed, the warehouse operator is not liable for damages which that could not have been avoided by the exercise of such that care.
- 2. Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage, and setting forth a specific liability per article or item, or value per unit of weight, beyond which the warehouse operator shall is not be liable; provided, however, that such liability may on written. Such a limitation is not effective with respect to the warehouse's liability for conversion to its own use. On request of the bailor in a record at the time of signing such the storage agreement or within a reasonable time after receipt of the warehouse receipt, the warehouse's liability may be increased on part or all of the goods thereunder, in which covered by the storage agreement or the warehouse receipt. In this event, increased rates may be charged based on such an increased valuation, but that no such increase shall be permitted contrary to a lawful limitation of liability contained in the warehouse operator's tariff, if any of the goods. No such limitation is effective with respect to the warehouse operator's liability for conversion to the warehouse operator's own use.
- 3. Reasonable provisions as to the time and manner of presenting claims and instituting commencing actions based on the bailment may be included in the warehouse receipt or tariff storage agreement.
 - 4. This section does not modify or repeal any provision under chapter 203, 203C, or 203D.
 - Sec. 11. Section 554.7205, Code 2007, is amended to read as follows: 554.7205 TITLE UNDER WAREHOUSE RECEIPT DEFEATED IN CERTAIN CASES.

A buyer in the ordinary course of business of fungible goods sold and delivered by a warehouse operator who that is also in the business of buying and selling such goods takes the goods free of any claim under a warehouse receipt even though it if the receipt is negotiable and has been duly negotiated.

- Sec. 12. Section 554.7206, Code 2007, is amended to read as follows: 554.7206 TERMINATION OF STORAGE AT WAREHOUSE OPERATOR'S WAREHOUSE'S OPTION.
- 1. A warehouse operator may on notifying, by giving notice to the person on whose account the goods are held and any other person known to claim an interest in the goods, may require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage fixed by the document, of title or, if no a period is not fixed, within a stated period not less than thirty days after the notification warehouse gives notice. If the goods are not removed before the date specified in the notification notice, the warehouse operator may sell them in accordance with the provisions of the pursuant to section on enforcement of a warehouse operator's lien (section 554.7210) 554.7210.
- 2. If a warehouse operator in good faith believes that the goods are about to deteriorate or decline in value to less than the amount of the warehouse operator's its lien within the time prescribed provided in subsection 1 for notification, advertisement and sale and section 554.7210, the warehouse operator may specify in the notification notice given under subsection 1 any reasonable shorter time for removal of the goods and in case, if the goods are not removed, may sell them at public sale held not less than one week after a single advertisement or posting.
- 3. If, as a result of a quality or condition of the goods of which the warehouse operator had no did not have notice at the time of deposit, the goods are a hazard to other property, or to the warehouse facilities, or to other persons, the warehouse operator may sell the goods at public or private sale without advertisement or posting on reasonable notification to all persons

known to claim an interest in the goods. If the warehouse, operator after a reasonable effort, is unable to sell the goods the warehouse operator, it may dispose of them in any lawful manner and shall does not incur no liability by reason of such that disposition.

- 4. The $\underline{\underline{A}}$ warehouse operator must shall deliver the goods to any person entitled to them under this Article upon due demand made at any time <u>prior to before</u> sale or other disposition under this section.
- 5. The <u>A</u> warehouse operator may satisfy the warehouse operator's <u>its</u> lien from the proceeds of any sale or disposition under this section but <u>must shall</u> hold the balance for delivery on the demand of any person to <u>whom which</u> the warehouse operator would have been bound to deliver the goods.
 - Sec. 13. Section 554.7207, Code 2007, is amended to read as follows: 554.7207 GOODS MUST BE KEPT SEPARATE FUNGIBLE GOODS.
- 1. Unless the warehouse receipt otherwise provides <u>otherwise</u>, a warehouse <u>operator must shall</u> keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods <u>except that</u>. <u>However</u>, different lots of fungible goods may be commingled.
- 2. Fungible If different lots of fungible goods so are commingled, the goods are owned in common by the persons entitled thereto and the warehouse operator is severally liable to each owner for that owner's share. Where If, because of overissue, a mass of fungible goods is insufficient to meet all the receipts which the warehouse operator has issued against it, the persons entitled include all holders to whom which overissued receipts have been duly negotiated.
 - Sec. 14. Section 554.7208, Code 2007, is amended to read as follows: 554.7208 ALTERED WAREHOUSE RECEIPTS.

Where If a blank in a negotiable <u>tangible</u> warehouse receipt has been filled in without authority, a <u>good-faith</u> purchaser for value and without notice of the <u>want lack</u> of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any <u>tangible or electronic warehouse</u> receipt enforceable against the issuer according to its original tenor.

Sec. 15. Section 554.7209, Code 2007, is amended to read as follows: 554.7209 LIEN OF WAREHOUSE OPERATOR.

- 1. A warehouse operator has a lien against the bailor on the goods covered by a warehouse receipt or storage agreement or on the proceeds thereof in the warehouse operator's its possession for charges for storage or transportation (including, including demurrage and terminal charges) charges, insurance, labor, or other charges, present or future, in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for like similar charges or expenses in relation to other goods whenever deposited and it is stated in the warehouse receipt or storage agreement that a lien is claimed for charges and expenses in relation to other goods, the warehouse operator also has a lien against that person the goods covered in the warehouse receipt or storage agreement or on the proceeds thereof in its possession for such those charges and expenses, whether or not the other goods have been delivered by the warehouse operator. But However, as against a person to whom which a negotiable warehouse receipt is duly negotiated, a warehouse operator's warehouse's lien is limited to charges in an amount or at a rate specified on in the warehouse receipt or, if no charges are so specified, then to a reasonable charge for storage of the specific goods covered by the receipt subsequent to the date of the receipt.
- 2. The A warehouse operator may also reserve a security interest against the bailor for a the maximum amount specified on the receipt for charges other than those specified in subsection 1, such as for money advanced and interest. Such a The security interest is governed by the Article on Secured Transactions (Article 9) 9.
- 3. a. A warehouse operator's warehouse's lien for charges and expenses under subsection 1 or a security interest under subsection 2 is also effective against any person who that so en-

trusted the bailor with possession of the goods that a pledge of them by the bailor to a good faith good-faith purchaser for value would have been valid but. However, the lien or security interest is not effective against a person as to whom the that before issuance of a document confers no right of title had a legal interest or perfected security interest in the goods covered by it under section 554.7503. and that did not:

- a. deliver or entrust the goods or any document of title covering the goods to the bailor or the bailor's nominee with:
 - (1) actual or apparent authority to ship, store, or sell;
 - (2) power to obtain delivery under section 554.7403; or
- (3) power of disposition under sections 554.2403, 554.13304, subsection 2, 554.13305, subsection 2, 554.9320, or 554.9321, subsection 3, or other statute or rule of law; or
 - b. acquiesce in the procurement by the bailor or its nominee of any document.
- b. <u>4.</u> A warehouse operator's warehouse's lien on household goods for charges and expenses in relation to the goods under subsection 1 is also effective against all persons if the depositor was the legal possessor of the goods at the time of deposit. "Household In this subsection, "household goods" means furniture, furnishings and, or personal effects used by the depositor in a dwelling.
- 4. <u>5.</u> A warehouse operator loses the warehouse operator's its lien on any goods which the warehouse operator that it voluntarily delivers or unjustifiably refuses to deliver.
 - Sec. 16. Section 554.7210, Code 2007, is amended to read as follows: 554.7210 ENFORCEMENT OF WAREHOUSE OPERATOR'S WAREHOUSE'S LIEN.
- 1. Except as otherwise provided in subsection 2, a warehouse operator's warehouse's lien may be enforced by public or private sale of the goods, in block bulk or in parcels packages, at any time or place and on any terms which that are commercially reasonable, after notifying all persons known to claim an interest in the goods. Such The notification must include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a different method different from that selected by the warehouse operator is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the The warehouse operator either sells in a commercially reasonable manner if the warehouse sells the goods in the usual manner in any recognized market therefor, or if the warehouse operator sells at the price current in such that market at the time of the warehouse operator's sale, or if the warehouse operator has otherwise sold sells in conformity with commercially reasonable practices among dealers in the type of goods sold, the warehouse operator has sold in a commercially reasonable manner. A sale of more goods than apparently necessary to be offered to insure ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.
- 2. A warehouse operator's may enforce its lien on goods, other than goods stored by a merchant in the course of the merchant's <u>its</u> business may be enforced only as follows, only if the following requirements are satisfied:
 - a. All persons known to claim an interest in the goods must be notified.
- b. The notification must be delivered in person or sent by registered or certified letter to the last known address of any person to be notified.
- e. b. The notification must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than ten days after receipt of the notification, and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place.
 - $d_{\cdot \cdot}$ C. The sale must conform to the terms of the notification.
- e. d. The sale must be held at the nearest suitable place to that where the goods are held or stored.
- f. e. After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for two weeks consecutively in a newspaper of general circula-

tion where the sale is to be held. The advertisement must include a description of the goods, the name of the person on whose account they the goods are being held, and the time and place of the sale. The sale must take place at least fifteen days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least ten days before the sale in not less fewer than six conspicuous places in the neighborhood of the proposed sale.

- 3. Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under in complying with this section. In that event, the goods must may not be sold, but must be retained by the warehouse operator subject to the terms of the receipt and this Article.
 - 4. The \underline{A} warehouse operator may buy at any public sale <u>held</u> pursuant to this section.
- 5. A purchaser in good faith of goods sold to enforce a warehouse operator's warehouse's lien takes the goods free of any rights of persons against whom which the lien was valid, despite the warehouse's noncompliance by the warehouse operator with the requirements of with this section.
- 6. The <u>A</u> warehouse operator may satisfy the warehouse operator's <u>its</u> lien from the proceeds of any sale pursuant to this section but <u>must shall</u> hold the balance, if any, for delivery on demand to any person to <u>whom which</u> the warehouse operator would have been bound to deliver the goods.
- 7. The rights provided by this section shall be <u>are</u> in addition to all other rights allowed by law to a creditor against the creditor's <u>a</u> debtor.
- 8. Where If a lien is on goods stored by a merchant in the course of the merchant's its business, the lien may be enforced in accordance with either subsection 1 or 2.
- 9. The A warehouse operator is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.
- Sec. 17. Section 554.7301, Code 2007, is amended to read as follows: 554.7301 LIABILITY FOR NONRECEIPT OR MISDESCRIPTION "SAID TO CONTAIN" "SHIPPER'S <u>WEIGHT</u>, LOAD, AND COUNT" IMPROPER HANDLING.
- 1. A consignee of a nonnegotiable bill who of lading which has given value in good faith, or a holder to whom which a negotiable bill has been duly negotiated, relying in either case upon the description therein of the goods, in the bill or upon the date therein shown in the bill, may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent that the document bill indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, as where such as in a case in which the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by "contents or condition of contents of packages unknown", "said to contain", "shipper's weight, load, and count", or the like words of similar import, if such that indication be is true.
- 2. When If goods are loaded by an the issuer who is a common carrier, the of a bill of lading; a. the issuer must shall count the packages of goods if package freight shipped in packages and ascertain the kind and quantity if shipped in bulk freight. In such cases; and
- <u>b.</u> words such as "shipper's weight, load, and count", or other words of similar import indicating that the description was made by the shipper are ineffective except as to freight goods concealed by in packages.
- 3. When If bulk freight is goods are loaded by a shipper who that makes available to the issuer of a bill of lading adequate facilities for weighing such freight those goods, an the issuer who is a common carrier must shall ascertain the kind and quantity within a reasonable time after receiving the written shipper's request of the shipper in a record to do so. In such cases that case, "shipper's weight" or other words of like purport similar import are ineffective.
- 4. The issuer may of a bill of lading, by inserting including in the bill the words "shipper's weight, load, and count", or other words of like purport similar import, may indicate that the goods were loaded by the shipper; and, if such that statement be is true, the issuer shall is not be liable for damages caused by the improper loading. But their However, omission of such words does not imply liability for such damages caused by improper loading.

- 5. The A shipper shall be deemed to have guaranteed guarantees to the an issuer the accuracy at the time of shipment of the description, marks, labels, number, kind, quantity, condition, and weight, as furnished by the shipper; and the shipper shall indemnify the issuer against damage caused by inaccuracies in such those particulars. The This right of the issuer to such indemnity shall in no way does not limit the issuer's responsibility and or liability under the contract of carriage to any person other than the shipper.
 - Sec. 18. Section 554.7302, Code 2007, is amended to read as follows: 554.7302 THROUGH BILLS OF LADING AND SIMILAR DOCUMENTS OF TITLE.
- 1. The issuer of a through bill of lading, or other document of title embodying an undertaking to be performed in part by persons a person acting as its agents agent or by connecting carriers a performing carrier, is liable to anyone any person entitled to recover on the bill or other document for any breach by such the other persons person or by a connecting the performing carrier of its obligation under the bill or other document but. However, to the extent that the bill or other document covers an undertaking to be performed overseas or in territory not contiguous to the continental United States or an undertaking including matters other than transportation, this liability for breach by the other person or the performing carrier may be varied by agreement of the parties.
- 2. Where If goods covered by a through bill of lading or other document of title embodying an undertaking to be performed in part by persons a person other than the issuer are received by any such that person, that the person is subject, with respect to that person's its own performance while the goods are in that person's its possession, to the obligation of the issuer. That The person's obligation is discharged by delivery of the goods to another such person pursuant to the bill or other document, and does not include liability for breach by any other such persons person or by the issuer.
- 3. The issuer of such <u>a</u> through bill of lading or other document <u>shall be of title described in subsection 1 is</u> entitled to recover from the <u>connecting performing carrier</u>, or <u>such</u> other person in possession of the goods when the breach of the obligation under the <u>bill or other</u> document occurred, the:
- <u>a. the</u> amount it may be required to pay to <u>anyone any person</u> entitled to recover on the <u>bill</u> <u>or other</u> document <u>therefor for the breach</u>, as may be evidenced by any receipt, judgment, or transcript <u>thereof</u>, <u>of judgment</u>; and
- <u>b.</u> the amount of any expense reasonably incurred by <u># the issuer</u> in defending any action brought <u>commenced</u> by <u>anyone any person</u> entitled to recover on the <u>bill or other</u> document <u>therefor</u> for the breach.
 - Sec. 19. Section 554.7303, Code 2007, is amended to read as follows: 554.7303 DIVERSION RECONSIGNMENT CHANGE OF INSTRUCTIONS.
- 1. Unless the bill of lading otherwise provides, the <u>a</u> carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods, <u>without</u> liability for misdelivery, on instructions from:
 - a. the holder of a negotiable bill: or
- b. the consignor on a nonnegotiable bill notwithstanding, even if the consignee has given contrary instructions from the consignee; or
- c. the consignee on a nonnegotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the <u>tangible</u> bill <u>or in control of the electronic bill</u>; or
- d. the consignee on a nonnegotiable bill if the consignee is entitled as against the consignor to dispose of them the goods.
- 2. Unless such instructions <u>described in subsection 1</u> are noted on included in a negotiable bill of lading, a person to whom which the bill is duly negotiated can may hold the bailee according to the original terms.
 - Sec. 20. Section 554.7304, Code 2007, is amended to read as follows: 554.7304 TANGIBLE BILLS OF LADING IN A SET.
 - 1. Except where as customary in overseas international transportation, a tangible bill of lad-

ing must may not be issued in a set of parts. The issuer is liable for damages caused by violation of this subsection.

- 2. Where If a tangible bill of lading is lawfully drawn issued in a set of parts, each of which is numbered contains an identification code and is expressed to be valid only if the goods have not been delivered against any other part, the whole of the parts constitute constitutes one bill.
- 3. Where If a tangible negotiable bill of lading is lawfully issued in a set of parts and different parts are negotiated to different persons, the title of the holder to whom which the first due negotiation is made prevails as to both the document of title and the goods even though if any later holder may have received the goods from the carrier in good faith and discharged the carrier's obligation by surrender of the later holder's surrendering its part.
- 4. Any A person who that negotiates or transfers a single part of a tangible bill of lading drawn issued in a set is liable to holders of that part as if it were the whole set.
- 5. The bailee is obliged to shall deliver in accordance with Part 4 of this Article against the first presented part of a <u>tangible</u> bill of lading lawfully drawn <u>issued</u> in a set. Such delivery <u>Delivery in this manner</u> discharges the bailee's obligation on the whole bill.

Sec. 21. Section 554.7305, Code 2007, is amended to read as follows: 554.7305 DESTINATION BILLS.

- 1. Instead of issuing a bill of lading to the consignor at the place of shipment, a carrier, may at the request of the consignor, may procure the bill to be issued at destination or at any other place designated in the request.
- 2. Upon request of <u>anyone any person</u> entitled as against <u>the a carrier</u> to control the goods while in transit and on surrender of <u>possession or control of</u> any outstanding bill of lading or other receipt covering <u>such the goods</u>, the issuer, <u>subject to section 554.7105</u>, may procure a substitute bill to be issued at any place designated in the request.

Sec. 22. Section 554.7307, Code 2007, is amended to read as follows: 554.7307 LIEN OF CARRIER.

- 1. A carrier has a lien on the goods covered by a bill of lading <u>or on the proceeds thereof in its possession</u> for charges <u>subsequent to after</u> the date of <u>its the carrier's</u> receipt of the goods for storage or transportation (<u>including</u>, <u>including</u> demurrage and terminal <u>charges</u>) <u>charges</u>, and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law. <u>But However</u>, against a purchaser for value of a negotiable bill of lading, a carrier's lien is limited to charges stated in the bill or the applicable tariffs, or, if no charges are stated, <u>then to</u> a reasonable charge.
- 2. A lien for charges and expenses under subsection 1 on goods which that the carrier was required by law to receive for transportation is effective against the consignor or any person entitled to the goods unless the carrier had notice that the consignor lacked authority to subject the goods to such those charges and expenses. Any other lien under subsection 1 is effective against the consignor and any person who that permitted the bailor to have control or possession of the goods unless the carrier had notice that the bailor lacked such authority.
- 3. A carrier loses the carrier's its lien on any goods which the carrier that it voluntarily delivers or which the carrier unjustifiably refuses to deliver.

Sec. 23. Section 554.7308, Code 2007, is amended to read as follows: 554.7308 ENFORCEMENT OF CARRIER'S LIEN.

1. A carrier's lien <u>on goods</u> may be enforced by public or private sale of the goods, in <u>bloe bulk</u> or in <u>parcels packages</u>, at any time or place and on any terms <u>which that</u> are commercially reasonable, after notifying all persons known to claim an interest in the goods. <u>Such The</u> notification must include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a <u>different</u> method <u>different</u> from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If <u>The carrier sells goods in a commercially reasonable manner if</u> the carrier either

sells the goods in the usual manner in any recognized market therefor, or if the carrier sells at the price current in such that market at the time of the carrier's sale, or if the carrier has otherwise sold sells in conformity with commercially reasonable practices among dealers in the type of goods sold the carrier has sold in a commercially reasonable manner. A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

- 2. Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under in complying with this section. In that event, the goods must may not be sold, but must be retained by the carrier, subject to the terms of the bill of lading and this Article.
 - 3. The \underline{A} carrier may buy at any public sale pursuant to this section.
- 4. A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free of any rights of persons against whom which the lien was valid, despite the carrier's noncompliance by the carrier with the requirements of with this section.
- 5. The A carrier may satisfy the carrier's its lien from the proceeds of any sale pursuant to this section but must shall hold the balance, if any, for delivery on demand to any person to whom which the carrier would have been bound to deliver the goods.
- 6. The rights provided by this section shall be <u>are</u> in addition to all other rights allowed by law to a creditor against the creditor's <u>a</u> debtor.
- 7. A carrier's lien may be enforced in accordance with <u>pursuant to</u> either subsection 1 or the procedure set forth in <u>subsection 2 of</u> section 554.7210, <u>subsection 2</u>.
- 8. The A carrier is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.
 - Sec. 24. Section 554.7309, Code 2007, is amended to read as follows:
 - 554.7309 DUTY OF CARE CONTRACTUAL LIMITATION OF CARRIER'S LIABILITY.
- 1. A carrier who that issues a bill of lading, whether negotiable or nonnegotiable must, shall exercise the degree of care in relation to the goods which a reasonably careful person would exercise under like similar circumstances. This subsection does not repeal or change affect any law or statute, regulation, or rule of law which that imposes liability upon a common carrier for damages not caused by its negligence.
- 2. Damages may be limited by a provision term in the bill of lading or in a transportation agreement that the carrier's liability shall may not exceed a value stated in the document bill or transportation agreement if the carrier's rates are dependent upon value and the consignor by the carrier's tariff is afforded an opportunity to declare a higher value or a value as lawfully provided in the tariff, or where no tariff is filed and the consignor is otherwise advised of such the opportunity; but no. However, such a limitation is not effective with respect to the carrier's liability for conversion to its own use.
- 3. Reasonable provisions as to the time and manner of presenting claims and instituting commencing actions based on the shipment may be included in a bill of lading or tariff a transportation agreement.
 - Sec. 25. Section 554.7401, Code 2007, is amended to read as follows:
- 554.7401 IRREGULARITIES IN ISSUE OF RECEIPT OR BILL OR CONDUCT OF ISSUER. The obligations imposed by this Article on an issuer apply to a document of title regardless of the fact that even if:
- 1. the document <u>may does</u> not comply with the requirements of this Article or of any other <u>law statute</u>, rule, or regulation regarding its <u>issue issuance</u>, form, or content; or
 - 2. the issuer may have violated laws regulating the conduct of the issuer's its business; or
- 3. the goods covered by the document were owned by the bailee at the time when the document was issued; or
- 4. the person issuing the document does not come within the definition of is not a warehouse operator if it but the document purports to be a warehouse receipt.

Sec. 26. Section 554.7402, Code 2007, is amended to read as follows:

554.7402 DUPLICATE RECEIPT OR BILL DOCUMENT OF TITLE — OVERISSUE.

Neither a $\underline{\Lambda}$ duplicate nor \underline{or} any other document of title purporting to cover goods already represented by an outstanding document of the same issuer confers does not confer any right in the goods, except as provided in the case of <u>tangible</u> bills <u>of lading</u> in a set <u>of parts</u>, overissue of documents for fungible goods, and substitutes for lost, stolen, or destroyed documents, <u>or substitute documents issued pursuant to section 554.7105</u>. But the <u>The</u> issuer is liable for damages caused by the issuer's its overissue or failure to identify a duplicate document as such by a conspicuous notation on its face.

Sec. 27. Section 554.7403, Code 2007, is amended to read as follows:

 $554.7403\,$ OBLIGATION OF WAREHOUSE OPERATOR OR CARRIER BAILEE TO DELIVER — EXCUSE.

- 1. The \underline{A} bailee must shall deliver the goods to a person entitled under the \underline{a} document who of title if the person complies with subsections 2 and 3, unless and to the extent that the bailee establishes any of the following:
 - a. delivery of the goods to a person whose receipt was rightful as against the claimant;
- b. damage to or delay, loss, or destruction of the goods for which the bailee is not liable, but the burden of establishing negligence in such cases is on the person entitled under the document:
- c. previous sale or other disposition of the goods in lawful enforcement of a lien or on the warehouse operator's a warehouse's lawful termination of storage;
- d. the exercise by a seller of the seller's <u>its</u> right to stop delivery pursuant to the provisions of the Article on Sales (section 554.2705) section 554.2705 or by a lessor of its right to stop delivery pursuant to section 554.13526;
- e. a diversion, reconsignment, or other disposition pursuant to the provisions of this Article (section 554.7303) or tariff regulating such right section 554.7303;
- f. release, satisfaction or any other $\frac{1}{1}$ fact affording a personal defense against the claimant; or
 - g. any other lawful excuse.
- 2. A person claiming goods covered by a document of title <u>must shall</u> satisfy the bailee's lien <u>where if</u> the bailee so requests or <u>where if</u> the bailee is prohibited by law from delivering the goods until the charges are paid.
- 3. Unless the <u>a</u> person claiming the goods is one <u>a person</u> against whom which the document confers no of title does not confer a right under section 554.7503, subsection 1, that:
- a. the person must claiming under a document shall surrender possession or control of any outstanding negotiable document covering the goods for cancellation or notation indication of partial deliveries any outstanding negotiable document covering the goods, and the bailee must cancel the document or conspicuously note the partial delivery thereon or be liable to any person to whom the document is duly negotiated; and
- b. the bailee shall cancel the document or conspicuously indicate in the document the partial delivery or the bailee is liable to any person to which the document is duly negotiated.
- $4. \ \ "Person entitled under the document" means holder in the case of a negotiable document, or the person to whom delivery is to be made by the terms of or pursuant to written instructions under a nonnegotiable document.$
 - Sec. 28. Section 554.7404, Code 2007, is amended to read as follows:

554.7404 NO LIABILITY FOR GOOD FAITH GOOD-FAITH DELIVERY PURSUANT TO RECEIPT OR BILL DOCUMENT OF TITLE.

A bailee who that in good faith including observance of reasonable commercial standards has received goods and delivered or otherwise disposed of them the goods according to the terms of the a document of title or pursuant to this Article is not liable therefor. This rule applies even though for the goods even if:

1. the person from whom which the bailee received the goods had no did not have authority to procure the document or to dispose of the goods and even though; or

- <u>2.</u> the person to whom which the bailee delivered the goods had no did not have authority to receive them the goods.
 - Sec. 29. Section 554.7501, Code 2007, is amended to read as follows:
- 554.7501 FORM OF NEGOTIATION AND REQUIREMENTS OF "DUE NEGOTIATION" DUE NEGOTIATION.
 - 1. A The following rules apply to a negotiable tangible document of title running:
- <u>a.</u> If the document's original terms run to the order of a named person, the document is negotiated by that the named person's endorsement indorsement and delivery. After that the named person's endorsement indorsement in blank or to bearer, any person can may negotiate it the document by delivery alone.
- 2. a. <u>b.</u> A negotiable document of title is also negotiated by delivery alone when by its <u>If the document's</u> original terms <u>it runs run</u> to bearer, <u>it is negotiated by delivery alone</u>.
- b. c. When a document running If the document's original terms run to the order of a named person and it is delivered to the named person, the effect is the same as if the document had been negotiated.
- 3. <u>d.</u> Negotiation of a <u>negotiable the</u> document of title after it has been <u>endorsed indorsed</u> to a <u>specified named</u> person requires <u>endorsement indorsement</u> by the <u>special endorsee as well as named person and</u> delivery.
- 4. <u>e.</u> A negotiable document of title is "duly negotiated" when "duly negotiated" if it is negotiated in the manner stated in this <u>section</u> to a holder who that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a <u>money monetary</u> obligation.
 - 2. The following rules apply to a negotiable electronic document of title:
- a. If the document's original terms run to the order of a named person or to bearer, the document is negotiated by delivery of the document to another person. Indorsement by the named person is not required to negotiate the document.
- b. If the document's original terms run to the order of a named person and the named person has control of the document, the effect is the same as if the document had been negotiated.
- c. A document is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves taking delivery of the document in settlement or payment of a monetary obligation.
- 5. 3. Endorsement Indorsement of a nonnegotiable document of title neither makes it negotiable nor adds to the transferee's rights.
- 6. 4. The naming in a negotiable bill <u>of lading</u> of a person to be notified of the arrival of the goods does not limit the negotiability of the bill <u>nor or</u> constitute notice to a purchaser <u>thereof of the bill</u> of any interest of <u>such that</u> person in the goods.
- Sec. 30. Section 554.7502, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Subject to the following section and to the provisions of section sections 554.7205 on fungible goods and 554.7503, a holder to whom which a negotiable document of title has been duly negotiated acquires thereby:

- Sec. 31. Section 554.7502, subsection 1, paragraph d, Code 2007, is amended to read as follows:
- d. the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by the issuer except those arising under the terms of the document or under this Article. In, but in the case of a delivery order, the bailee's obligation accrues only upon the bailee's acceptance of the delivery order and the obligation ac-

quired by the holder is that the issuer and any <u>endorser indorser</u> will procure the acceptance of the bailee.

- Sec. 32. Section 554.7502, subsection 2, Code 2007, is amended to read as follows:
- 2. Subject to the following section <u>554.7503</u>, title and rights so acquired <u>by due negotiation</u> are not defeated by any stoppage of the goods represented by the document <u>of title</u> or by surrender of <u>such the</u> goods by the bailee, and are not impaired even though <u>if:</u>
- <u>a.</u> the <u>due</u> negotiation or any prior <u>due</u> negotiation constituted a breach of duty or even though;
- <u>b.</u> any person has been deprived of possession of the <u>a negotiable tangible</u> document <u>or control of a negotiable electronic document</u> by misrepresentation, fraud, accident, mistake, duress, loss, theft, or conversion; or even though
- <u>c.</u> a previous sale or other transfer of the goods or document has been made to a third person.
 - Sec. 33. Section 554.7503. Code 2007. is amended to read as follows:
 - 554.7503 DOCUMENT OF TITLE TO GOODS DEFEATED IN CERTAIN CASES.
- 1. A document of title confers no right in goods against a person who that before issuance of the document had a legal interest or a perfected security interest in them and who neither in the goods and that did not:
- a. <u>delivered deliver</u> or <u>entrusted them entrust the goods</u> or any document of title covering them the goods to the bailor or the bailor's nominee with:
 - (1) actual or apparent authority to ship, store, or sell or with;
 - (2) power to obtain delivery under this Article (section 554.7403) section 554.7403; or with
- (3) power of disposition under this chapter (sections sections 554.2403 and 554.9320), 554.9320, 554.9321, subsection 3, 554.13304, subsection 2, or 554.13305, subsection 2, or other statute or rule of law; nor or
- b. acquiesced acquiesce in the procurement by the bailor or the bailor's its nominee of any document of title.
- 2. Title to goods based upon an unaccepted delivery order is subject to the rights of anyone any person to whom which a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. Such a That title may be defeated under the next section 554.7504 to the same extent as the rights of the issuer or a transferee from the issuer.
- 3. Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of anyone any person to whom which a bill issued by the freight forwarder is duly negotiated; but. However, delivery by the carrier in accordance with Part 4 of this Article pursuant to its own bill of lading discharges the carrier's obligation to deliver.
 - Sec. 34. Section 554.7504, Code 2007, is amended to read as follows:
- 554.7504 RIGHTS ACQUIRED IN THE ABSENCE OF DUE NEGOTIATION EFFECT OF DIVERSION SELLER'S STOPPAGE OF DELIVERY.
- 1. A transferee of a document <u>of title</u>, whether negotiable or nonnegotiable, to <u>whom which</u> the document has been delivered but not duly negotiated, acquires the title and rights <u>which</u> the transferee's <u>that its</u> transferor had or had actual authority to convey.
- 2. In the case of a <u>transfer of a</u> nonnegotiable document <u>of title</u>, until but not after the bailee receives <u>notification notice</u> of the transfer, the rights of the transferee may be defeated:
- a. by those creditors of the transferor who could treat the <u>sale transfer</u> as void under section 554.2402 <u>or 554.13308</u>; or
- b. by a buyer from the transferor in ordinary course of business if the bailee has delivered the goods to the buyer or received notification of the buyer's rights; θ
- c. by a lessee from the transferor in ordinary course of business if the bailee has delivered the goods to the lessee or received notification of the lessee's rights; or
 - d. as against the bailee, by good faith good-faith dealings of the bailee with the transferor.
 - 3. A diversion or other change of shipping instructions by the consignor in a nonnegotiable

bill of lading which causes the bailee not to deliver the goods to the consignee defeats the consignee's title to the goods if they the goods have been delivered to a buyer in ordinary course of business or a lessee in ordinary course of business and, in any event, defeats the consignee's rights against the bailee.

- 4. Delivery of the goods pursuant to a nonnegotiable document of title may be stopped by a seller under section 554.2705, and or a lessor under section 554.13526, subject to the requirement requirements of due notification there provided in those sections. A bailee honoring that honors the seller's or lessor's instructions is entitled to be indemnified by the seller or lessor against any resulting loss or expense.
 - Sec. 35. Section 554.7505, Code 2007, is amended to read as follows:

554.7505 ENDORSER INDORSER NOT A GUARANTOR FOR OTHER PARTIES.

The <u>endorsement indorsement</u> of a <u>tangible</u> document of title issued by a bailee does not make the <u>endorser indorser</u> liable for any default by the bailee or <u>by previous endorsers indorsers</u>.

Sec. 36. Section 554.7506, Code 2007, is amended to read as follows:

554.7506 DELIVERY WITHOUT <u>ENDORSEMENT INDORSEMENT</u> — RIGHT TO COMPEL <u>ENDORSEMENT INDORSEMENT</u>.

The transferee of a negotiable <u>tangible</u> document of title has a specifically enforceable right to have <u>the transferee's its</u> transferor supply any necessary <u>endorsement indorsement</u>, but the transfer becomes a negotiation only as of the time the <u>endorsement indorsement</u> is supplied.

Sec. 37. Section 554.7507, Code 2007, is amended to read as follows:

554.7507 WARRANTIES ON NEGOTIATION OR TRANSFER DELIVERY OF RECEIPT OR BILL DOCUMENT OF TITLE.

Where If a person negotiates or transfers delivers a document of title for value otherwise than as a mere intermediary under the next following section 554.7508, then unless otherwise agreed that person, the transferor, in addition to any warranty made in selling or leasing the goods, warrants to that person's its immediate purchaser only in addition to any warranty made in selling the goods that:

- a. 1. that the document is genuine; and
- b. 2. that that person has no the transferor does not have knowledge of any fact which that would impair its the document's validity or worth; and
- e. 3. that that person's the negotiation or transfer delivery is rightful and fully effective with respect to the title to the document and the goods it represents.
 - Sec. 38. Section 554.7508, Code 2007, is amended to read as follows:

554.7508 WARRANTIES OF COLLECTING BANK AS TO DOCUMENTS OF TITLE.

A collecting bank or other intermediary known to be entrusted with documents of title on behalf of another or with collection of a draft or other claim against delivery of documents warrants by such the delivery of the documents only its own good faith and authority. This rule applies even though if the collecting bank or other intermediary has purchased or made advances against the claim or draft to be collected.

Sec. 39. Section 554.7509, Code 2007, is amended to read as follows:

554.7509 RECEIPT OR BILL: WHEN ADEQUATE COMPLIANCE WITH COMMERCIAL CONTRACT.

The question whether Whether a document of title is adequate to fulfill the obligations of a contract for sale, a contract for lease, or the conditions of a letter of credit is governed determined by the Articles on Sales (Article 2) and on Letters of Credit (Article 5) Article 2, 5, or 13.

Sec. 40. Section 554.7601, Code 2007, is amended to read as follows:

554.7601 LOST AND MISSING, STOLEN, OR DESTROYED DOCUMENTS OF TITLE.

1. If a document has been of title is lost, stolen, or destroyed, a court may order delivery of

the goods or issuance of a substitute document and the bailee may without liability to any person comply with <u>such the</u> order. If the document was negotiable, a court may not order delivery of the goods or issuance of a substitute document without the claimant must post claimant's posting security approved by the court to indemnify unless it finds that any person who that may suffer loss as a result of nonsurrender of <u>possession or control of</u> the document <u>is</u> adequately protected against the loss. If the document was not negotiable, such security the court may be required at the discretion of the court require security. The court may also in its discretion order payment of the bailee's reasonable costs and counsel attorney's fees <u>in any action under this subsection</u>.

- 2. A bailee who that, without a court order, delivers goods to a person claiming under a missing negotiable document of title is liable to any person injured thereby, and if. If the delivery is not in good faith becomes, the bailee is liable for conversion. Delivery in good faith is not conversion if made in accordance with a filed classification or tariff or, where no classification or tariff is filed, if the claimant posts security with the bailee in an amount at least double the value of the goods at the time of posting to indemnify any person injured by the delivery who which files a notice of claim within one year after the delivery.
- 3. If a warehouse receipt has been lost or destroyed, the warehouse operator shall issue a duplicate upon receipt of:
 - a. An affidavit that the warehouse receipt has been lost or destroyed.
- b. A bond in an amount at least double the value of the goods at the time of posting the bond, to indemnify any person injured by issuance of the duplicate warehouse receipt who files a notice of claim within one year after delivery of the goods.

A duplicate warehouse receipt shall be plainly marked to indicate that it is a duplicate. A receipt plainly marked as a duplicate is a representation and warranty by the warehouse operator that the duplicate receipt is an accurate copy of an original receipt properly issued and uncanceled at the date of the issue of the duplicate, but shall impose upon the warehouse operator no other liability.

A warehouse operator who in good faith delivers goods to the holder of a duplicate receipt issued in accordance with this subsection is liable to any person injured by the delivery, but only to the extent of the security posted in accordance with paragraph "b" of this subsection.

- 4. If a warehouse receipt has been lost or destroyed, the depositor may either remove the goods from the warehouse or sell the goods to the warehouse operator after executing a lost warehouse receipt release on a form prescribed by the department of agriculture and land stewardship. The form shall include an affidavit stating that the warehouse receipt has been lost or destroyed, and the depositor's undertaking to indemnify the warehouse operator for any loss incurred as a result of the loss or destruction of the warehouse receipt. The form shall be filed with the department of agriculture and land stewardship.
- 5. If a warehouse receipt has been lost or destroyed by a warehouse operator after delivery of the goods or purchase of the goods by the warehouse operator, the warehouse operator shall execute and file with the department of agriculture and land stewardship a notarized affidavit stating that the warehouse receipt has been lost or destroyed by the warehouse operator after delivery or purchase of the goods by the warehouse operator. The form of the affidavit shall be prescribed by the department of agriculture and land stewardship.
- Sec. 41. <u>NEW SECTION</u>. 554.7601A LOST, STOLEN, OR DESTROYED DOCUMENTS ADDITIONAL REQUIREMENTS.
- 1. a. If a warehouse receipt has been lost, stolen, or destroyed, the warehouse shall issue a duplicate upon receipt of:
 - (1) an affidavit that the warehouse receipt has been lost, stolen, or destroyed.
- (2) a bond in an amount at least double the value of the goods at the time of posting the bond, to indemnify any person injured by issuance of the duplicate warehouse receipt who files a notice of claim within one year after delivery of the goods.
- b. A duplicate warehouse receipt shall be plainly marked to indicate that it is a duplicate. A receipt plainly marked as a duplicate is a representation and warranty by the warehouse that

the duplicate receipt is an accurate copy of an original receipt properly issued and uncanceled at the date of the issue of the duplicate, but shall not impose upon the warehouse other liability.

- c. A warehouse which in good faith delivers goods to the holder of a duplicate receipt issued in accordance with this subsection is liable to any person injured by the delivery, but only to the extent of the security posted in accordance with paragraph "b" of this subsection.
- 2. If a warehouse receipt has been lost, stolen, or destroyed, the depositor may either remove the goods from the warehouse facility or sell the goods to the warehouse after executing a lost warehouse receipt release on a form prescribed by the department of agriculture and land stewardship. The form shall include an affidavit stating that the warehouse receipt has been lost or destroyed, and the depositor's undertaking to indemnify the warehouse for any loss incurred as a result of the loss or destruction of the warehouse receipt. The form shall be filed with the department of agriculture and land stewardship.
- 3. If a warehouse receipt has been lost or destroyed by a warehouse after delivery of the goods or purchase of the goods by the warehouse, the warehouse shall execute and file with the department of agriculture and land stewardship a notarized affidavit stating that the warehouse receipt has been lost or destroyed by the warehouse after delivery or purchase of the goods by the warehouse. The form of the affidavit shall be prescribed by the department of agriculture and land stewardship.

Sec. 42. Section 554.7602, Code 2007, is amended to read as follows:

554.7602 ATTACHMENT OF JUDICIAL PROCESS AGAINST GOODS COVERED BY A NEGOTIABLE DOCUMENT OF TITLE.

Except where the <u>Unless a</u> document <u>of title</u> was originally issued upon delivery of the goods by a person <u>who had no that did not have</u> power to dispose of them, <u>no a</u> lien <u>attaches does not attach</u> by virtue of any judicial process to goods in the possession of a bailee for which a negotiable document of title is outstanding unless <u>possession or control of</u> the document <u>be is</u> first surrendered to the bailee or <u>its the document's</u> negotiation <u>is</u> enjoined, <u>and the</u>. <u>The bailee shall may not be compelled to deliver the goods pursuant to process until <u>possession or control of</u> the document is surrendered to the bailee or <u>impounded by to</u> the court. <u>One who purchases A purchaser of</u> the document for value without notice of the process or injunction takes free of the lien imposed by judicial process.</u>

Sec. 43. Section 554.7603, Code 2007, is amended to read as follows:

554.7603 CONFLICTING CLAIMS — INTERPLEADER.

If more than one person claims title <u>to</u> or possession of the goods, the bailee is excused from delivery until the bailee has <u>had</u> a reasonable time to ascertain the validity of the adverse claims or to <u>bring commence</u> an action to <u>compel all claimants to interplead and may compel such interpleader</u>, <u>for interpleader</u>. The <u>bailee may assert an interpleader</u> either in defending an action for nondelivery of the goods, or by original action, <u>whichever is appropriate</u>.

- Sec. 44. Section 554.10104, Code 2007, is repealed.
- Sec. 45. APPLICABILITY. This Act applies to a document of title that is issued or a bailment that arises on or after the effective date of this Act. This Act does not apply to a document of title that is issued or a bailment that arises before the effective date of this Act even if the document of title or bailment would be subject to this Act if the document of title had been issued or bailment had arisen on or after the effective date of this Act. This Act does not apply to a right of action that has accrued before the effective date of this Act.
- Sec. 46. SAVINGS CLAUSE. A document of title issued or a bailment that arises before the effective date of this Act and the rights, obligations, and interests flowing from that document or bailment are governed by any statute or other rule amended or repealed by this Act as if amendment or repeal had not occurred and may be terminated, completed, consummated, or enforced under that statute or other rule.

DIVISION II COORDINATING AMENDMENTS PART A ARTICLE 1

- Sec. 47. Section 554.1201, subsections 5, 6, 10, 14, 15, 20, 25, 26, 27, 38, and 45, Code 2007, are amended to read as follows:
- 5. "Bearer" means the <u>a</u> person <u>in control of a negotiable electronic document of title or a person</u> in possession of an instrument, <u>a negotiable tangible</u> document of title, or <u>a</u> certificated security payable to bearer or endorsed in blank.
- 6. "Bill of lading" means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill. The term does not include a warehouse receipt.
- 10. "Conspicuous":— A, with reference to a term or clause is conspicuous when it is, means so written, displayed, or presented that a reasonable person against whom which it is to operate ought to have noticed it. Whether a term is "conspicuous" or not is a decision for the court. Conspicuous terms include the following:
- <u>a.</u> Aprinted <u>a</u> heading in capitals (as: "Nonnegotiable Bill of Lading") is conspicuous <u>equal</u> to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and
- <u>b.</u> Language language in the body of a form is "conspicuous" if it is record or display in larger or other contrasting type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language. But in a telegram any stated term is "conspicuous". Whether a term or clause is "conspicuous" or not is for decision by the court.
- 14. "Delivery" with respect to <u>an electronic document of title means voluntary transfer of control and with respect to</u> instruments, <u>tangible</u> documents of title, chattel paper, or certificated securities means voluntary transfer of possession.
- 15. "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which means a record that
- <u>a.</u> in the regular course of business or financing is treated as adequately evidencing that the person in possession <u>or control</u> of <u>it the record</u> is entitled to receive, <u>control</u>, hold, and dispose of the <u>document record</u> and the goods <u>it the record</u> covers <u>and</u>
- b. that purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for delivery of goods.
- To be a An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document must purport to be issued by or addressed to of title evidenced by a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass record consisting of information that is inscribed on a tangible medium.
 - 20. "Holder", with respect to a negotiable instrument, means:
- <u>a.</u> the person in possession <u>if the of a negotiable</u> instrument <u>that</u> is payable <u>either</u> to bearer or, in the case of an instrument payable to an identified person, if the identified <u>that</u> is the person <u>is</u> in possession.;
- <u>b.</u> "Holder" with respect to the person in possession of a negotiable tangible document of title means the person in possession if the goods are deliverable <u>either</u> to bearer or to the order of the person in possession; or
 - c. the person in control of a negotiable electronic document of title.

- 25. A Subject to subsection 27, a person has "notice" of a fact when if the person
- a. the person has actual knowledge of it; or
- b. the person has received a notice or notification of it; or
- c. from all the facts and circumstances known to the person at the time in question, the person has reason to know that it exists.

<u>PARAGRAPH DIVIDED</u>. A person "knows" or has "knowledge" of a fact when that the person has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this chapter.

- 26. A person "notifies" or "gives" a notice or notification to another <u>person</u> by taking such steps as may be reasonably required to inform the other <u>person</u> in ordinary course, whether or not <u>such the</u> other <u>person</u> actually comes to know of it. A <u>Subject to subsection 27, a person "receives" a notice or notification when</u>
 - a. it comes to that person's attention; or
- b. it is duly delivered <u>in a form reasonable under the circumstances</u> at the place of business through which the contract was made or at <u>any other place another location</u> held out by that person as the place for receipt of such communications.
- 27. Notice, knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event, from the time when it would have been brought to that the individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of that the individual's regular duties or unless the individual has reason to know of the transaction and that the transaction would be materially affected by the information.
 - 38. "Send" in connection with any writing, record, or notice means:
- <u>a.</u> to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances.; or
- <u>b.</u> The receipt of <u>in</u> any <u>writing other way to cause to be received any record</u> or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.
- 45. "Warehouse receipt" means a receipt document of title issued by a person engaged in the business of storing goods for hire.

PART B ARTICLE 2

Sec. 48. Section 554.2103, subsection 3, Code 2007, is amended to read as follows:

3. The "Control" as provided in section 554.7106 and the following definitions in other Articles apply to this Article:

"Check"	Section 554.3104
"Consignee"	Section 554.7102
"Consignor"	Section 554.7102
"Consumer goods"	Section 554.9102
"Dishonor"	Section 554.3502
"Draft"	Section 554.3104

Sec. 49. Section 554.2104, subsection 2, Code 2007, is amended to read as follows:

2. "Financing agency" means a bank, finance company or other person who in the ordinary course of business makes advances against goods or documents of title or who by arrangement with either the seller or the buyer intervenes in ordinary course to make or collect payment

due or claimed under the contract for sale, as by purchasing or paying the seller's draft or making advances against it or by merely taking it for collection whether or not documents of title accompany or are associated with the draft. "Financing agency" includes also a bank or other person who similarly intervenes between persons who are in the position of seller and buyer in respect to the goods (section 554.2707).

Sec. 50. Section 554.2310, Code 2007, is amended to read as follows:

554.2310 OPEN TIME FOR PAYMENT OR RUNNING OF CREDIT — AUTHORITY TO SHIP UNDER RESERVATION.

Unless otherwise agreed

- a. payment is due at the time and place at which the buyer is to receive the goods even though the place of shipment is the place of delivery; and
- b. if the seller is authorized to send the goods the seller may ship them under reservation, and may tender the documents of title, but the buyer may inspect the goods after their arrival before payment is due unless such inspection is inconsistent with the terms of the contract (section 554.2513); and
- c. if delivery is authorized and made by way of documents of title otherwise than by subsection "b" then payment is due <u>regardless of where the goods are to be received (i)</u> at the time and place at which the buyer is to receive <u>delivery of</u> the <u>tangible</u> documents <u>regardless of where the goods are or (ii) at the time the buyer is</u> to <u>be received receive delivery of the electronic documents and at the seller's place of business or if none, the seller's residence; and</u>
- d. where the seller is required or authorized to ship the goods on credit the credit period runs from the time of shipment but postdating post-dating the invoice or delaying its dispatch will correspondingly delay the starting of the credit period.
- Sec. 51. Section 554.2323, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Where in a case within subsection 1 a <u>tangible</u> bill of lading has been issued in a set of parts, unless otherwise agreed if the documents are not to be sent from abroad the buyer may demand tender of the full set; otherwise only one part of the bill of lading need be tendered. Even if the agreement expressly requires a full set

- Sec. 52. Section 554.2401, subsection 3, paragraphs a and b, Code 2007, are amended to read as follows:
- a. if the seller is to deliver a <u>tangible</u> document of title, title passes at the time when and the place where the seller delivers such documents <u>and if the seller is to deliver an electronic document</u> of title, title passes when the seller delivers the document; or
- b. if the goods are at the time of contracting already identified and no documents <u>of title</u> are to be delivered, title passes at the time and place of contracting.
- Sec. 53. Section 554.2503, subsection 4, paragraph b, Code 2007, is amended to read as follows:
- b. tender to the buyer of a nonnegotiable document of title or of a written direction to record directing the bailee to deliver is sufficient tender unless the buyer seasonably objects, and except as otherwise provided in Article 9 receipt by the bailee of notification of the buyer's rights fixes those rights as against the bailee and all third persons; but risk of loss of the goods and of any failure by the bailee to honor the nonnegotiable document of title or to obey the direction remains on the seller until the buyer has had a reasonable time to present the document or direction, and a refusal by the bailee to honor the document or to obey the direction defeats the tender.
- Sec. 54. Section 554.2503, subsection 5, paragraph b, Code 2007, is amended to read as follows:
- b. tender through customary banking channels is sufficient and dishonor of a draft accompanying or associated with the documents constitutes nonacceptance or rejection.

- Sec. 55. Section 554.2505, subsection 1, paragraph b, Code 2007, is amended to read as follows:
- b. a nonnegotiable bill of lading to the seller or the seller's nominee reserves possession of the goods as security but except in a case of conditional delivery (subsection 2 of section 554.2507) a nonnegotiable bill of lading naming the buyer as consignee reserves no security interest even though the seller retains possession or control of the bill of lading.
 - Sec. 56. Section 554.2505, subsection 2, Code 2007, is amended to read as follows:
- 2. When shipment by the seller with reservation of a security interest is in violation of the contract for sale it constitutes an improper contract for transportation within the preceding section but impairs neither the rights given to the buyer by shipment and identification of the goods to the contract nor the seller's powers as a holder of a negotiable document of title.
 - Sec. 57. Section 554.2506, subsection 2, Code 2007, is amended to read as follows:
- 2. The right to reimbursement of a financing agency which has in good faith honored or purchased the draft under commitment to or authority from the buyer is not impaired by subsequent discovery of defects with reference to any relevant document which was apparently regular on its face.
- Sec. 58. Section 554.2509, subsection 2, paragraphs a and c, Code 2007, are amended to read as follows:
- a. on the buyer's receipt of <u>possession or control of</u> a negotiable document of title covering the goods; or
- c. after the buyer's receipt of <u>possession or control of</u> a nonnegotiable document of title or other <u>written</u> direction to deliver <u>in a record</u>, as provided in <u>subsection 4 "b" of</u> section 554.2503, <u>subsection 4</u>, <u>paragraph "b"</u>.
 - Sec. 59. Section 554.2605, subsection 2, Code 2007, is amended to read as follows:
- 2. Payment against documents made without reservation of rights precludes recovery of the payment for defects apparent on the face of <u>in</u> the documents.
- Sec. 60. Section 554.2705, subsection 2, paragraph c, Code 2007, is amended to read as follows:
- c. such acknowledgment to the buyer by a carrier by reshipment or as <u>a</u> warehouse operator;
- Sec. 61. Section 554.2705, subsection 3, paragraph c, Code 2007, is amended to read as follows:
- c. If a negotiable document of title has been issued for goods the bailee is not obliged to obey a notification to stop until surrender of possession or control of the document.

PART C ARTICLE 4

- Sec. 62. Section 554.4104, subsection 3, Code 2007, is amended to read as follows:
- 3. The "Control" as provided in section 554.7106 and the following definitions in other Articles apply to this Article:

"Acceptance"	Section 554.3409
"Alteration"	Section 554.3407
"Cashier's check"	Section 554.3104
"Certificate of deposit"	Section 554.3104
"Certified check"	Section 554.3409
"Check"	Section 554.3104
"Good faith"	Section 554.3103
"Holder in due course"	Section 554.3302

"Instrument" "Notice of dishonor" "Order" "Ordinary care"	Section 554.3104 Section 554.3503 Section 554.3103 Section 554.3103
"Person entitled	
to enforce"	Section 554.3301
"Presentment"	Section 554.3501
"Promise"	Section 554.3103
"Prove"	Section 554.3103
"Teller's check"	Section 554.3104
"Unauthorized signature"	Section 554.3403

Sec. 63. Section 554.4210, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or <u>possession or control of the</u> accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to Article 9, but:

PART D ARTICLE 8

Sec. 64. Section 554.8103, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 7. A document of title is not a financial asset unless section 554.8102, subsection 1, paragraph "i", subparagraph (3) applies.

PART E ARTICLE 9

Sec. 65. Section 554.9102, subsection 2, Code 2007, is amended to read as follows:

2. DEFINITIONS IN OTHER ARTICLES. The "Control" as provided in section 554.7106 and the following definitions in other Articles apply to this Article:

and the following definitions in other Articles apply to the	iis Ai ticic.
"Applicant"	Section 554.5102
"Beneficiary"	Section 554.5102
"Broker"	Section 554.8102
"Certificated security"	Section 554.8102
"Check"	Section 554.3104
"Clearing corporation"	Section 554.8102
"Contract for sale"	Section 554.2106
"Customer"	Section 554.4104
"Entitlement holder"	Section 554.8102
"Financial asset"	Section 554.8102
"Holder in due course"	Section 554.3302
"Issuer" (with respect	
to a letter of credit or	
letter-of-credit right)	Section 554.5102
"Issuer" (with respect	
to a security)	Section 554.8201
"Issuer" (with respect	
to documents of title)	Section 554.7102
"Lease"	Section 554.13103
"Lease agreement"	Section 554.13103
"Lease contract"	Section 554.13103
"Leasehold interest"	Section 554.13103

"Lessee"	Section 554.13103
"Lessee in ordinary	
course of business"	Section 554.13103
"Lessor"	Section 554.13103
"Lessor's residual	
interest"	Section 554.13103
"Letter of credit"	Section 554.5102
"Merchant"	Section 554.2104
"Negotiable instrument"	Section 554.3104
"Nominated person"	Section 554.5102
"Note"	Section 554.3104
"Proceeds of a letter	
of credit"	Section 554.5114
"Prove"	Section 554.3103
"Sale"	Section 554.2106
"Securities account"	Section 554.8501
"Securities intermediary"	Section 554.8102
"Security"	Section 554.8102
"Security certificate"	Section 554.8102
"Security entitlement"	Section 554.8102
"Uncertificated security"	Section 554.8102

- Sec. 66. Section 554.9203, subsection 2, paragraph c, subparagraph (4), Code 2007, is amended to read as follows:
- (4) the collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, or electronic documents, and the secured party has control under section 554.7106, 554.9104, 554.9105, 554.9106, or 554.9107 pursuant to the debtor's security agreement.
- Sec. 67. Section 554.9207, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Except as otherwise provided in subsection 4, a secured party having possession of collateral or control of collateral under section <u>554.7106</u>, <u>554.9104</u>, <u>554.9105</u>, <u>554.9106</u>, or <u>554.9107</u>:

- Sec. 68. Section 554.9208, subsection 2, paragraphs d and e, Code 2007, are amended to read as follows:
- d. a secured party having control of investment property under section 554.8106, subsection 4, paragraph "b", or section 554.9106, subsection 2, shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and
- e. a secured party having control of a letter-of-credit right under section 554.9107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party-: and
 - f. a secured party having control of an electronic document shall:
 - (1) give control of the electronic document to the debtor or its designated custodian;
- (2) if the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic document is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and
 - (3) take appropriate action to enable the debtor or its designated custodian to make copies

of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party.

Sec. 69. Section 554.9301, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Except as otherwise provided in subsection 4, while <u>tangible</u> negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

- Sec. 70. Section 554.9310, subsection 2, paragraphs e and h, Code 2007, are amended to read as follows:
- e. in certificated securities, documents, goods, or instruments which is perfected without filing, control, or possession under section 554.9312, subsection 5, 6, or 7;
- h. in deposit accounts, electronic chattel paper, <u>electronic documents</u>, investment property, or letter-of-credit rights which is perfected by control under section 554.9314;
 - Sec. 71. Section 554.9312, subsection 5, Code 2007, is amended to read as follows:
- 5. TEMPORARY PERFECTION NEW VALUE. A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession <u>or control</u> for a period of twenty days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.
 - Sec. 72. Section 554.9313, subsection 1, Code 2007, is amended to read as follows:
- 1. PERFECTION BY POSSESSION OR DELIVERY. Except as otherwise provided in subsection 2, a secured party may perfect a security interest in <u>tangible</u> negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under section 554.8301.
- Sec. 73. Section 554.9314, subsections 1 and 2, Code 2007, are amended to read as follows: 1. PERFECTION BY CONTROL. A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper, or electronic documents may be perfected by control of the collateral under section 554.7106, 554.9104, 554.9105, 554.9106, or 554.9107
- 2. SPECIFIED COLLATERAL TIME OF PERFECTION BY CONTROL CONTINUATION OF PERFECTION. A security interest in deposit accounts, electronic chattel paper, or letter-of-credit rights, or electronic documents is perfected by control under section 554.7106, 554.9104, 554.9105, or 554.9107 when the secured party obtains control and remains perfected by control only while the secured party retains control.
- Sec. 74. Section 554.9317, subsections 2 and 4, Code 2007, are amended to read as follows: 2. BUYERS THAT RECEIVE DELIVERY. Except as otherwise provided in subsection 5, a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.
- 4. LICENSEES AND BUYERS OF CERTAIN COLLATERAL. A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, <u>electronic documents</u>, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.
 - Sec. 75. Section 554.9338, subsection 2, Code 2007, is amended to read as follows:
- 2. a purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information,

the purchaser gives value and, in the case of <u>tangible</u> chattel paper, <u>tangible</u> documents, goods, instruments, or a security certificate, receives delivery of the collateral.

Sec. 76. Section 554.9601, subsection 2, Code 2007, is amended to read as follows:

2. RIGHTS AND DUTIES OF SECURED PARTY IN POSSESSION OR CONTROL. A secured party in possession of collateral or control of collateral under section <u>554.7106</u>, 554.9104, 554.9105, 554.9106, or 554.9107 has the rights and duties provided in section 554.9207.

PART F ARTICLE 13

- Sec. 77. Section 554.13103, subsection 1, paragraphs a and o, Code 2007, are amended to read as follows:
- a. "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to the person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving acquiring goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.
- o. "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to the person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.
 - Sec. 78. Section 554.13514, subsection 2, Code 2007, is amended to read as follows:
- 2. A lessee's failure to reserve rights when paying rent or other consideration against documents precludes recovery of the payment for defects apparent on the face of in the documents.
- Sec. 79. Section 554.13526, subsection 2, paragraph c, Code 2007, is amended to read as follows:
- c. such an acknowledgment to the lessee by a carrier via reshipment or as $\frac{1}{2}$ warehouse.

PART G MISCELLANEOUS

- Sec. 80. Section 203C.17, subsection 1, Code 2007, is amended to read as follows:
- 1. Any grain which has been received at any licensed warehouse for which the actual sale price is not fixed and proper documentation made or payment made shall be construed to be grain held for storage within the meaning of this chapter. Grain may be held in open storage or placed on warehouse receipt. A warehouse receipt shall be issued for all grain held in open storage within one year from the date of delivery to the warehouse, unless the depositor has signed a statement that the depositor does not desire a warehouse receipt. A warehouse receipt shall be issued upon request by the depositor. The warehouse operator's tariff shall apply for any grain that is retained in open storage or under warehouse receipt.
- Sec. 81. Section 203C.18, Code 2007, is amended to read as follows: 203C.18 ISSUANCE OF WAREHOUSE RECEIPTS ISSUANCE, PRINTING, AND ELECTRONIC FILING.
 - 1. For all agricultural products that become storage in a licensed warehouse, warehouse re-

ceipts signed by the licensed warehouse operator or the operator's authorized agent shall be issued by the licensed warehouse operator. Such warehouse receipts shall be in the form required or permitted by uniform commercial code, sections 554.7202 and 554.7204, provided, however, that each receipt issued for agricultural products, in addition to the matters specified in uniform commercial code, section 554.7202 shall embody in its written or printed terms:

- 1. a. The receiving and loadout charges which will be made by the warehouse operator.
- 2. b. The grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made; provided that such grade or other class shall be stated according to the official standard of the United States applicable to such agricultural products as the same may be fixed and promulgated; provided, further, that until such official standards of the United States for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the secretary of agriculture of the United States.
- 3. c. A statement that the receipt is issued subject to the Iowa warehouse Act and the rules and regulations prescribed pursuant to the Act.
 - 4. d. Such other terms and conditions as may be required by rules of the department.
- <u>2.</u> Warehouses that are not licensed pursuant to this chapter or by the United States government shall not issue warehouse receipts for agricultural products.

The original copy of every warehouse receipt shall be imprinted with the signature of the secretary of agriculture prior to issuance.

- 3. Forms for warehouse receipts shall only be printed by a person approved by the department. A form for a warehouse receipt shall be printed in accordance with specifications set forth by the department. A form for a warehouse receipt that is unused at the time that a warehouse operator's license is canceled, suspended, revoked, or terminated shall be surrendered to the department.
- 4. The department may adopt rules to allow for the issuance of electronic warehouse receipts by a provider who is a person approved by the department to maintain a secure electronic central filing system of electronic records including warehouse receipts and who is independent of an outside influence or bias in action or appearance.
- Sec. 82. Section 203C.19, Code 2007, is amended to read as follows: 203C.19 RIGHTS AND OBLIGATIONS WITH RESPECT TO WAREHOUSE RECEIPTS LOST RECEIPTS.
- 1. Insofar as not inconsistent with the provisions of this chapter, original or duplicate receipts issued by licensed warehouse operators shall be deemed to have been issued under the provisions of uniform commercial code, chapter 554, article 7.
- <u>2.</u> Duplicates and releases for lost, destroyed, or stolen warehouse receipts may be issued only in accordance with the provisions of <u>section</u> 554.7601 and 554.7601A.

Approved March 28, 2007

141

CHAPTER 31

HEMOPHILIA ADVISORY COMMITTEE

S.F. 548

AN ACT creating a hemophilia advisory committee and providing a contingent effective date.

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

Section 1. NEW SECTION. 135N.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Hemophilia Advisory Committee Act".

Sec. 2. <u>NEW SECTION</u>. 135N.2 LEGISLATIVE INTENT AND FINDINGS.

- 1. It is the intent of the general assembly to establish an advisory committee to provide recommendations on cost-effective treatment programs that enhance the quality of life of those afflicted with hemophilia and contain the high cost of that treatment.
- 2. The general assembly finds inherited hemophilia and other bleeding and clotting disorders are devastating health conditions that can cause serious financial, social, and emotional hardships for patients and their families. Hemophilia and other bleeding and clotting disorders are incurable, so appropriate lifetime care and treatment are necessities for maintaining optimum health. Advancements in drug therapies are allowing individuals greater latitude in managing their conditions, fostering independence, and minimizing chronic complications. However, the rarity of these disorders coupled with the delicate processes for producing factors and administering anticoagulants makes treating these disorders extremely costly.

Sec. 3. $\,$ NEW SECTION. 135N.3 ESTABLISHMENT AND DUTIES OF HEMOPHILIA ADVISORY COMMITTEE.

- 1. The director of the department of public health shall establish an advisory committee known as the hemophilia advisory committee.
- 2. The committee shall review and make recommendations to the director concerning but not limited to the following:
- a. Proposed legislative or administrative changes to policies and programs that are integral to the health and wellness of individuals with hemophilia and other bleeding and clotting disorders.
- b. Standards of care and treatment for persons living with hemophilia and other bleeding and clotting disorders.
- c. The development of community-based initiatives to increase awareness of care and treatment for persons living with hemophilia and other bleeding and clotting disorders.
- d. Facilitating communication and cooperation between persons with hemophilia and other bleeding and clotting disorders.

Sec. 4. NEW SECTION. 135N.4 MEMBERSHIP.

- 1. The following persons shall serve as nonvoting members of the committee:
- a. The director of public health or a designee.
- b. The director of the department of human services or a designee.
- c. The commissioner of insurance or a designee.
- 2. The following voting members shall be appointed by the director, serving three-year terms:
- a. One member who is a board-certified physician licensed, practicing, and currently treating individuals with hemophilia or other bleeding and clotting disorders.
- b. One member who is a nurse licensed, practicing, and currently treating individuals with hemophilia or other bleeding and clotting disorders.
- c. One member who is a social worker licensed, practicing, and currently treating individuals with hemophilia or other bleeding and clotting disorders.

- d. One member who is a representative of a federally-funded hemophilia treatment center.
- e. One member who is a representative of an organization established under the Iowa insurance code for the purpose of providing health insurance.
- f. One member who is a representative of a voluntary health organization who currently services the hemophilia and other bleeding and clotting disorders community.
 - g. One member who is a patient, or caregiver of a patient, with hemophilia.
- h. One member who is a patient, or caregiver of a patient, with a bleeding disorder other than hemophilia.
 - i. One member who is a patient, or caregiver of a patient, with a clotting disorder.
- 3. At least one of the appointments made pursuant to subsection 2, paragraphs "g", "h", and "i" shall be a patient with hemophilia, a bleeding disorder that is not hemophilia, or a clotting disorder. The committee appointments may be made notwithstanding sections 69.16 and 69.16A.
- 4. If there is a vacancy on the committee, such position shall be filled in the same manner as the original appointment.

Sec. 5. NEW SECTION. 135N.5 MEETINGS.

- 1. The committee shall meet no less than four times per year and is subject to chapters 20 and 21 relating to open meetings and public records.
- 2. Members of the committee shall receive no compensation, but may be reimbursed for actual expenses incurred in the carrying out of their duties.

Sec. 6. NEW SECTION. 135N.6 REPORT REQUIRED.

The committee shall, by January 15, 2008, and annually thereafter, submit to the governor and the general assembly a report with recommendations for maintaining and improving access to care for individuals with hemophilia and other bleeding and clotting disorders. Subsequent annual reports shall report on the status of implementing the recommendations as proposed by the committee and on any state and national activities with regard to hemophilia and other bleeding and clotting disorders.

Sec. 7. CONTINGENT EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment only if an appropriation is made for the purposes of this Act.

Approved March 30, 2007

CHAPTER 32

STATEWIDE STUDENT INFORMATION SYSTEM — STUDY

H.F. 468

AN ACT requiring a study by the department of education relating to implementation of a statewide student information system.

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

Section 1. STATEWIDE STUDENT INFORMATION SYSTEM — STUDY. The department shall conduct a study regarding the student information systems currently in use in the state, the types of data collected, and the future needs for additional types of data at the kinder-

garten through grade twelve and postsecondary levels and for use by the state, including but not limited to the use of electronic student transcripts to share with other kindergarten through grade twelve and postsecondary institutions. This study shall examine the systems in use in other states as well as current systems approved for use within the department of education's project easier and the emerging student information data systems under development. The study shall take under consideration a recommendation on limits on the numbers of software systems approved to connect to project easier. The study shall focus on systems that will improve efficiency, accuracy, and security of, and access to, the data by various users. The department shall submit a report to the general assembly by January 15, 2008, regarding its conclusions and recommendations.

Approved March 30, 2007

CHAPTER 33

JUDICIAL BRANCH PRACTICES AND PROCEDURES

— ELECTRONIC PROCEDURES

H.F. 579

AN ACT relating to judicial branch practices and procedures, including expanding the definition of a seal, involving the duties of the clerk of the supreme court, and obtaining electronic signatures on citations.

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

- Section 1. Section 4.1, subsection 28, Code 2007, is amended to read as follows:
- 28. SEAL. Where the seal of a court, public office or, public officer, or public or private corporation, may be required to be affixed to any paper, the word "seal" shall include an impression upon the paper alone, as well as or upon wax or a wafer affixed thereto to the paper, or an official ink stamp if a notarial seal. If the seal of a court is required, the word "seal" may also include a visible electronic image of the seal on an electronic document.
 - Sec. 2. Section 602.4301, subsection 2, Code 2007, is amended to read as follows:
- 2. The clerk of the supreme court shall have an office at the seat of government, shall keep a complete record of the proceedings of the court, and shall not allow an opinion filed in the office to be removed. Opinions shall be open to examination and, upon request, may be copied and certified. The clerk promptly shall announce by <u>ordinary or electronic</u> mail to one of the attorneys on each side any ruling made or decision rendered, shall record every opinion rendered as soon as filed, shall <u>send by ordinary or electronic</u> mail a copy of each opinion rendered to each attorney of record and to each party not represented by counsel, and shall perform all other duties pertaining to the office of clerk.
- Sec. 3. Section 805.6, subsection 1, unnumbered paragraph 3,¹ Code 2007, is amended to read as follows:

Notwithstanding other contrary requirements of this section, a uniform citation and complaint may be originated from a computerized device. The officer issuing the citation through a computerized device shall <u>electronically sign and date the citation or complaint and shall</u> obtain electronically the signature of the person cited as provided in section 805.3 and shall give

¹ See chapter 215, §259 herein

two copies of the citation to the person cited and shall provide a record of the citation to the court where the person cited is to appear and to the law enforcement agency of the officer by an electronic process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or copy of the citation.

Approved March 30, 2007

CHAPTER 34

PRECINCT ELECTION BOARD MEMBERSHIP — HIGH SCHOOL STUDENTS

H.F. 618

AN ACT allowing a county commissioner of elections to appoint certain high school students to serve as precinct election board members.

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

Section 1. Section 49.13, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 5. The commissioner may appoint high school students who are not yet qualified to be registered voters to serve as precinct election board members.

- a. To qualify to serve as a precinct election board member, a high school student shall:
- (1) Be a United States citizen.
- (2) Be at least seventeen years of age and a student in good standing enrolled in a public or private secondary school in Iowa.
- (3) Receive credit in at least four subjects, each of one period or hour, or the equivalent thereof, at all times. The eligible subjects are language arts, social studies, mathematics, science, health, physical education, fine arts, foreign language, and vocational education. Coursework taken as a postsecondary enrollment option for which a school district or accredited nonpublic school grants academic credit toward high school graduation shall be used in determining eligibility. A student shall not be denied eligibility if the student's school program deviates from the traditional two-semester school year. Each student wishing to participate under this subsection shall be passing all coursework for which credit is given and shall be making adequate progress toward graduation requirements at the end of each grading period. At the end of a grading period that is the final grading period in a school year, a student who receives a failing grade in any course for which credit is awarded is ineligible to participate under this subsection. A student who is eligible at the close of a semester is academically eligible to participate under this subsection until the beginning of the subsequent semester. A student with a disability who has an individualized education program shall not be denied eligibility to participate under this subsection on the basis of scholarship if the student is making adequate progress, as determined by school officials, towards the goals and objectives on the student's individualized education program.
- (4) At the time of appointment, have the written approval of the principal of the secondary school the student attends.
 - (5) Have the written approval of the student's parent or legal guardian.
 - (6) Have satisfactorily completed the training course for election officials.
- (7) Meet all other qualifications for appointment and service as an election board member except the requirement of being a registered voter.

- b. No more than one student precinct election board member may serve on each precinct election board.
- c. Student precinct election board members shall not serve as the chairperson of a precinct election board.
- d. Before serving at a partisan election, the student precinct election board member must certify in writing to the commissioner the political party with which the student is affiliated.
- e. Student precinct election board members shall not be allowed to work more hours than allowed under the applicable labor laws.
- f. A student who serves on a precinct election board is not eligible to receive class credit for such service unless such service qualifies as meeting the requirements of a class assignment imposed on all students in the class.
- g. No later than fourteen days after the date of the election, the commissioner shall report to the appropriate secondary school the following information:
- (1) The name of each student attending the school who served as a precinct election board member on election day.
 - (2) The number of hours the student served as a precinct election board member.
- (3) The precinct number and polling place location where the student served as a precinct election board member.
- (4) Any other information the commissioner deems appropriate or that is requested by the school.
- Sec. 2. Section 49.15, Code 2007, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. In drawing up precinct election board panels, the commissioner may use student precinct election board members appointed pursuant to section 49.13, subsection 5.

Approved April 3, 2007

CHAPTER 35

VOTER REGISTRATION H.F. 653

AN ACT allowing a voter to register to vote and to vote after regular registration and prior to voting in an election and making a penalty applicable and providing an applicability date.

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

Section 1. Section 39A.2, subsection 1, paragraph a, Code 2007, is amended to read as follows:

- a. REGISTRATION FRAUD.
- (1) Produces, procures, submits, or accepts a voter registration application that is known by the person to be materially false, fictitious, forged, or fraudulent.
 - (2) Falsely swears to an oath required pursuant to section 48A.7A.
- Sec. 2. <u>NEW SECTION</u>. 48A.7A ELECTION DAY AND IN-PERSON ABSENTEE REGISTRATION.
 - 1. a. A person who is eligible to register to vote and to vote may register on election day by

appearing in person at the polling place for the precinct in which the individual resides and completing a voter registration application, making written oath, and providing proof of identity and residence.

- b. (1) For purposes of this section, a person may establish identity and residence by presenting to the appropriate precinct election official a current and valid Iowa driver's license or Iowa nonoperator's identification card or by presenting any of the following current and valid forms of identification if such identification contains the person's photograph and a validity expiration date:
 - (a) An out-of-state driver's license or nonoperator's identification card.
 - (b) A United States passport.
 - (c) A United States military identification card.
 - (d) An identification card issued by an employer.
- (e) A student identification card issued by an Iowa high school or an Iowa postsecondary educational institution.
- (2) If the photographic identification presented does not contain the person's current address in the precinct, the person shall also present one of the following documents that shows the person's name and address in the precinct:
 - (a) Residential lease.
 - (b) Property tax statement.
 - (c) Utility bill.
 - (d) Bank statement.
 - (e) Paycheck.
 - (f) Government check.
 - (g) Other government document.
- c. In lieu of paragraph "b", a person wishing to vote may establish identity and residency in the precinct by written oath of a person who is registered to vote in the precinct. The registered voter's oath shall attest to the stated identity of the person wishing to vote and that the person is a current resident of the precinct. The oath must be signed by the attesting registered voter in the presence of the appropriate precinct election official. A registered voter who has signed an oath on election day attesting to a person's identity and residency as provided in this paragraph is prohibited from signing any further oaths as provided in this paragraph on that day.
- 2. The oath required in subsection 1, paragraph "a", and in paragraph "c", if applicable, shall be attached to the voter registration application.
- 3. At any time before election day, a person who appears in person at the commissioner's office or at a satellite absentee voting station after the deadline for registration in section 48A.9, may register to vote and vote an absentee ballot by following the procedure in this section for registering to vote on election day. A person who wishes to vote in person at the polling place on election day and who has not registered to vote before the deadline for registering in section 48A.9, is required to register to vote at the polling place on election day following the procedure in this section. However, the person may complete the voter registration application at the commissioner's office and, after the commissioner has reviewed the completed application, may present the application to the appropriate precinct election official along with proof of identity and residency.
- 4. a. The form of the written oath required of the person registering under this section shall read as follows:
- I, (name of registrant), do solemnly swear or affirm all of the following:

I am the person named above.

I live at the address listed below.

I do not claim the right to vote anywhere else.

I have not voted and will not vote in any other precinct in this election.

than five years in confinement and a fine of at	oath is a class "D" felony punishable by no more least seven hundred fifty dollars but not more
than seven thousand five hundred dollars.	
	Signature of Registrant
	Address
Subscribed and sworn before me on (date).	Telephone (optional to provide)
Signature of Precinct Election Official b. The form of the written oath required of a of the registrant shall read as follows: I, (name of registered voter), do solemnly s I am a preregistered voter in this precinct of a registered voter did not sign an oath on my I am a resident of the	T I registered to vote in this precinct today, and behalf. ecinct, ward or township, city , Iowa.
(street address)	(city or township)
I personally know	, and I personally know
that is a resid (name of registrant)	•
Iowa.	, county of,
I understand that any false statement in this	oath is a class "D" felony punishable by no more least seven hundred fifty dollars but not more
	Signature of Registered Voter
Subscribed and sworn before me on (date).	
Signature of Precinct Election Official ¹	

- Sec. 3. Section 48A.9, subsection 1, Code 2007, is amended to read as follows:
- 1. Registration closes at five p.m. eleven days before each election except primary and general elections. For primary and general elections, registration closes at five p.m. ten days before the election. An eligible elector may register during the time registration is closed in the elector's precinct but the registration shall not become effective until registration opens again in the elector's precinct, except as otherwise provided in section 48A.7A.
- Sec. 4. <u>NEW SECTION</u>. 48A.26A ACKNOWLEDGMENT OF ELECTION DAY AND INPERSON ABSENTEE REGISTRATION FORM.
- 1. Within forty-five days of receiving a voter registration form completed under section 48A.7A, the commissioner shall send an acknowledgment to the registrant, in the manner provided in section 48A.26, subsections 2 through 5, as applicable, at the mailing address shown on the registration form. The acknowledgment shall be sent by nonforwardable mail.
- 2. If the acknowledgment is returned as undeliverable by the postal service, the commissioner shall attempt to contact the voter by forwardable mail. If a response is not received from the voter within fourteen days after the notice is mailed, the commissioner shall change the status of the registration to inactive status and shall immediately notify the state registrar of voters and the county attorney.

¹ See chapter 215, §242 herein

- Sec. 5. Section 48A.37, subsection 2, Code 2007, is amended to read as follows:
- 2. Electronic records shall include a status code designating whether the records are active, inactive, local, or pending. Inactive records are records of registered voters to whom notices have been sent pursuant to section 48A.28, subsection 3, and who have not returned the card or otherwise responded to the notice, and those records have been designated inactive pursuant to section 48A.29. Inactive records are also records of registered voters to whom notices have been sent pursuant to section 48A.26A and who have not responded to the notice. Local records are records of applicants who did not answer either "yes" or "no" to the question in section 48A.11, subsection 3, paragraph "a". Pending records are records of applicants whose applications have not been verified pursuant to section 48A.25A. All other records are active records. An inactive record shall be made active when the registered voter votes at an election, registers again, or reports a change of name, address, telephone number, or political party affiliation. A pending record shall be made active upon verification. A local record shall be valid for any election for which no candidates for federal office appear on the ballot. A registrant with only a local record shall not vote in a federal election unless the registrant submits a new voter registration application before election day indicating that the applicant is a citizen of the United States.
 - Sec. 6. Section 49.77, subsection 4, Code 2007, is amended to read as follows:
- 4. <u>a.</u> A person whose name does not appear on the election register of the precinct in which that person claims the right to vote shall not be permitted to vote, unless the person affirms that the person is currently registered in the county and presents proof of identity, or the commissioner informs the precinct election officials that an error has occurred and that the person is a registered voter of that precinct. If the commissioner finds no record of the person's registration but the person insists that the person is a registered voter of that precinct, the precinct election officials shall allow the person to cast a ballot in the manner prescribed by section 49.81.
- b. If the voter informs the precinct election official that the voter resides in the precinct and is not registered to vote, the voter may register to vote pursuant to section 48A.7A and cast a ballot. If such a voter is unable to establish identity and residency in the manner provided in section 48A.7A, subsection 1, paragraph "b" or "c", the voter shall be allowed to cast a ballot in the manner prescribed by section 49.81.
- <u>c.</u> A person who has been sent an absentee ballot by mail but for any reason has not received it shall be permitted to cast a ballot in person pursuant to section 53.19 and in the manner prescribed by section 49.81.
- Sec. 7. APPLICABILITY DATE. This Act applies to elections held on or after January 1, 2008.

Approved April 3, 2007

CHAPTER 36

REGULATION OF FIRE FIGHTER CLOTHING AND EQUIPMENT S.F. 116

AN ACT relating to the labor commissioner's regulation of fire fighter clothing and personal protection equipment.

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

Section 1. Section 88.5, subsection 11, Code 2007, is amended by striking the subsection.

Approved April 4, 2007

CHAPTER 37

DISPOSITION OF UNCLAIMED PROPERTY — PROCEDURES
S.F. 202

AN ACT relating to the disposition of certain unclaimed property.

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

- Section 1. Section 22.7, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 58. The information provided in any report, record, claim, or other document submitted to the treasurer of state pursuant to chapter 556 concerning unclaimed or abandoned property, except the name and last known address of each person appearing to be entitled to unclaimed or abandoned property paid or delivered to the treasurer of state pursuant to that chapter.
 - Sec. 2. Section 556.12, subsection 3, Code 2007, is amended to read as follows:
- 3. The treasurer of state is not required to publish in such notice any item of less than fifty one hundred dollars unless the treasurer deems the publication to be in the public interest.
- Sec. 3. Section 556.12, subsection 4, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
- 4. The treasurer of state may mail a notice to each person listed in a report filed by the holder of unclaimed property, at the last known address of that person if the treasurer deems such notice to be in the best interests of that person and has reason to believe that the address submitted by the holder is sufficient to ensure that delivery of such notice will likely occur.
 - Sec. 4. Section 556.13, subsection 1, Code 2007, is amended to read as follows:
- 1. Except for property held in a safe deposit box or other safekeeping depository, upon filing the report required by section 556.11, the holder of property presumed abandoned shall pay, deliver, or cause to be paid or delivered to the administrator the property described in the report as unclaimed, but if the property is an automatically renewable deposit, and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result. Tangible At the direction of the treasurer of state, the holder of tangible property held in a safe deposit box or other safekeeping depository shall not be delivered deliver the property to the treasurer of state until one hundred twenty days at the same time as or after filing the abandoned property report required in section 556.11.

- Sec. 5. Section 556.20, Code 2007, is amended to read as follows: 556.20 DETERMINATION OF CLAIMS.
- 1. The state treasurer of state shall consider any claim filed under this chapter and may hold a hearing and receive evidence concerning it the claim. If a hearing is held, the treasurer shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by the treasurer and the reasons for the treasurer's decision. The decision shall be a public record.
- 2. If the claim is allowed, the <u>state</u> treasurer <u>of state</u> shall make payment forthwith. The claim shall be paid without deduction for costs of notices or sale or for service charges. <u>The treasurer or an employee thereof shall not be held liable in any action for any claim paid in good faith pursuant to this section. However, a claimant, attorney in fact, or attorney or any <u>other person representing a claimant to whom such payment is made may be held liable to a person who proves a superior right to the payment.</u></u>
- 3. As a condition precedent to payment of any claim filed under this chapter, the treasurer of state may require that the claimant or owner of the unclaimed or abandoned property furnish the treasurer with a surety bond containing terms and provisions acceptable to the treasurer and issued by a corporate surety authorized to do business in this state or with such other form of indemnification and protection that is determined by the treasurer to be acceptable and sufficient to protect the treasurer and the state against any loss, liability, or damage which may arise out of or result from the payment of the claim by the treasurer. The claimant or owner shall be responsible for all premiums, costs, fees, or other expenses associated with any such surety bond or other form of indemnification and protection required pursuant to this subsection.

Sec. 6. NEW SECTION. 556.24A PUBLIC RECORDS.

- 1. The treasurer of state shall maintain a public record of the name and last known address of each person appearing to be entitled to unclaimed or abandoned property paid or delivered to the treasurer pursuant to this chapter.
- 2. Notwithstanding any other provision of law, any other identifying information set forth in any report, record, claim, or other document submitted to the treasurer of state pursuant to this chapter concerning unclaimed or abandoned property is a confidential record as provided in section 22.7 and shall be made available for public examination or copying only in the discretion of the treasurer.

Approved April 4, 2007

CHAPTER 38

PUBLIC SAFETY AND LAW ENFORCEMENT — CRIMES, PRACTICES, AND PROCEDURE

S.F. 204

AN ACT relating to the department of public safety practices and procedures.

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

Section 1. Section 80.9, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

They A peace officer shall not exercise their the general powers of a peace officer within the limits of any city, except:

Sec. 2. Section 80.9, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

In more particular, their the duties of a peace officer shall be as follows:

- Sec. 3. Section 80.9, subsection 3, Code 2007, is amended to read as follows:
- 3. They A peace officer may administer oaths, acknowledge signatures, and take voluntary testimony pursuant to their the peace officer's duties as provided by law.
 - Sec. 4. Section 81.2, subsection 6, Code 2007, is amended to read as follows:
- 6. A person required to register as a sex offender <u>shall submit a DNA sample for DNA profiling pursuant to section 81.4.</u>

Sec. 5. <u>NEW SECTION</u>. 692.3 REDISSEMINATION OF ARREST DATA AND OTHER INFORMATION.

A criminal or juvenile justice agency may redisseminate arrest data, and the name, photograph, physical description, and other identifying information concerning a person who is wanted or being sought if a warrant for the arrest of that person has been issued. Information relating to any threat the person may pose to the public may also be redisseminated. The information may be redisseminated through any written, audio, or visual means utilized by a criminal or juvenile justice agency. Any redissemination of information pursuant to this section shall also include the statement provided in section 692.2, subsection 1, paragraph "b", subparagraph (5).

Sec. 6. Section 692.6, Code 2007, is amended to read as follows: 692.6 CIVIL REMEDY.

Any person may institute a civil action for damages under chapter 669 or 670 or to restrain the dissemination of the person's criminal history data or intelligence data in violation of this chapter, and. Notwithstanding any provisions of chapter 669 or 670 to the contrary, any person, agency, or governmental body proven to have disseminated or to have requested and received criminal history data or intelligence data in violation of this chapter shall be liable for actual damages and exemplary damages for each violation and shall be liable for court costs, expenses, and reasonable attorneys' fees incurred by the party bringing the action. In no case shall the award for damages be less than one hundred dollars.

- Sec. 7. Section 692.15, subsection 3, Code 2007, is amended to read as follows:
- 3. The law enforcement agency making an arrest and securing fingerprints pursuant to section 690.2 or taking a juvenile into custody and securing fingerprints pursuant to section 232.148 shall fill out a final disposition report on each arrest or taking into custody on a form and in the manner prescribed by the commissioner of public safety. The final disposition report shall be forwarded to the county attorney, or at the discretion of the county attorney, to the clerk of the district court, in the county where the arrest or taking into custody occurred, or to the juvenile court officer who received the referral, whichever is deemed appropriate under the circumstances.
 - Sec. 8. Section 692.16, Code 2007, is amended to read as follows: 692.16 REVIEW AND REMOVAL.

At least every year the division shall review and determine current status of all Iowa arrests or takings into custody reported, which are at least one year four years old with no disposition data. Any Iowa arrest or taking of a juvenile into custody recorded within a computer data storage system which has no disposition data after four years shall be removed unless there is an outstanding arrest warrant or detainer on such charge.

- Sec. 9. Section 725.9, subsection 2, Code 2007, is amended by striking the subsection.
- Sec. 10. Section 725.9, subsection 3, Code 2007, is amended to read as follows:
- 3. "Gambling device" means a device used or adapted or designed to be used for gambling

and includes, but is not limited to, roulette wheels, klondike tables, punchboards, faro layouts, keno layouts, numbers tickets, slot machines, <u>pachislo skill-stop machine or any other similar machine or device</u>, <u>pinball machines</u>, push cards, jar tickets and pull-tabs. However, "gambling device" does not include an antique slot machine, <u>antique pinball machine</u>, or any device regularly manufactured and offered for sale and sold as a toy, except that any use of such a toy, <u>or</u> antique slot machine or <u>antique pinball machine</u> for gambling purposes constitutes unlawful gambling.

- Sec. 11. Section 809A.3, subsection 4, Code 2007, is amended to read as follows:
- 4. Notwithstanding subsections 1 through 3, violations of chapter 321 or 321J shall not be considered conduct giving rise to forfeiture, except for violations of the following:
 - a. Section 321.232.
 - a. b. A second or subsequent violation of section 321J.4B, subsection 2, paragraph "b".
 - b. c. Section 321J.4B, subsection 9.

Approved April 4, 2007

CHAPTER 39

PUBLIC FUNDS DEPOSITS AND INVESTMENTS — SUDAN

S.F. 361

AN ACT concerning investment of certain public funds in companies doing business in Sudan by the treasurer of state, public retirement systems in Iowa, and the state board of regents.

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

Section 1. NEW SECTION. 12A.1 LEGISLATIVE FINDINGS AND INTENT.

The general assembly is deeply concerned over the human rights situation in Sudan which calls for stepped-up international efforts to end the crisis in Sudan's Darfur region, and concurs with United States policy which has officially declared that genocide is ongoing in the Sudan, and demands that the government of Sudan bring an end to these atrocities. Therefore, the general assembly intends that state funds and funds administered by the state, including public employee retirement funds, should not be invested in companies that provide power production-related services, mineral extraction activities, oil-related activities, or military equipment to the government of Sudan, or are complicit in the genocide in Darfur, given the ongoing genocide in that country, the previous atrocities perpetrated by the government of Sudan, and the abysmal human rights situation in that country.

Sec. 2. NEW SECTION. 12A.2 DEFINITIONS.

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

- 1. "Active business operations" means all business operations that are not inactive business operations.
- 2. "Business operations" means engaging in commerce in any form in Sudan, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.
- 3. "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly-owned subsidiaries, ma-

jority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for profit-making purposes.

- 4. "Complicit" means taking actions during any preceding twenty-month period which have directly supported or promoted the genocidal campaign in Darfur, including but not limited to preventing Darfur's victimized population from communicating with each other; encouraging Sudanese citizens to speak out against an internationally approved security force for Darfur; actively working to deny, cover up, or alter the record on human rights abuses in Darfur; or other similar actions.
- 5. "Direct holdings" in a company means all securities of that company held directly by the public fund or in an account or fund in which the public fund owns all shares or interests.
- 6. "Government of Sudan" means the government in Khartoum, Sudan, which is led by the National Congress Party or any successor government formed on or after October 13, 2006, including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan and does not include the regional government of southern Sudan.
- 7. "Inactive business operations" means the mere continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for such purpose.
- 8. "Indirect holdings" in a company means all securities of that company held in an account or fund managed by one or more persons not employed by the public fund, in which the public fund owns shares or interests together with other investors not subject to the provisions of this chapter. Indirect holdings include but are not limited to mutual funds, fund of funds, private equity funds, hedge funds, and real estate funds.
- 9. "Marginalized populations of Sudan" include but are not limited to the portion of the population in the Darfur region that has been genocidally victimized; the portion of the population of southern Sudan victimized by Sudan's north-south civil war; the Beja, Rashidiya, and other similarly underserved groups of eastern Sudan; the Nubian and other similarly underserved groups in Sudan's Abyei, Southern Blue Nile, and Nuba Mountain regions; and the Amri, Hamadab, Manasir, and other similarly underserved groups of northern Sudan.
- 10. "Military equipment" means weapons, arms, military supplies, and equipment that readily may be used for military purposes, including but not limited to radar systems or military-grade transport vehicles, or supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.
- 11. "Mineral extraction activities" include exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals or associated metal alloys or oxides, including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc, as well as facilitating such activities, including by providing supplies or services in support of such activities.
- 12. "Oil-related activities" include but are not limited to owning rights to oil blocks; exporting, extracting, producing, refining, processing, exploring for, transporting, selling, or trading of oil; constructing, maintaining, or operating a pipeline, refinery, or other oil field infrastructure; and facilitating such activities, including by providing supplies or services in support of such activities, provided that the mere retail sale of gasoline and related consumer products shall not be considered oil-related activities.
- 13. "Power production activities" means any business operation that involves a project commissioned by the National Electricity Corporation of Sudan or other similar government of Sudan entity whose purpose is to facilitate power generation and delivery, including but not limited to establishing power generating plants or hydroelectric dams, selling or installing components for the project, providing service contracts related to the installation or maintenance of the project, as well as facilitating such activities, including by providing supplies or services in support of such activities.
- 14. "Public fund" means the treasurer of state, the state board of regents, the public safety peace officers' retirement system created in chapter 97A, the Iowa public employees' retirement system created in chapter 97B, the statewide fire and police retirement system created in chapter 411, or the judicial retirement system created in chapter 602.

- 15. "Scrutinized company" means any company that is not a social development company that meets any of the following criteria:
- a. The company has business operations that involve contracts with or provision of supplies or services to the government of Sudan, companies in which the government of Sudan has any direct or indirect equity share, government of Sudan-commissioned consortiums or projects, or companies involved in government of Sudan-commissioned consortiums or projects; and meets any of the additional following criteria:
- (1) More than ten percent of the company's revenues or assets linked to Sudan involve oil-related activities or mineral extraction activities, less than seventy-five percent of the company's revenues or assets linked to Sudan involve contracts with or provision of oil-related or mineral extracting products or services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government, and the company has failed to take substantial action.
- (2) More than ten percent of the company's revenues or assets linked to Sudan involve power production activities, less than seventy-five percent of the company's power production activities include projects whose intent is to provide power or electricity to the marginalized populations of Sudan, and the company has failed to take substantial action.
 - b. The company is complicit in the Darfur genocide.
- c. The company supplies military equipment within Sudan, unless it clearly shows that the military equipment cannot be used to facilitate offensive military actions in Sudan or the company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict, for example, through post-sale tracking of such equipment by the company, certification from a reputable and objective third party that such equipment is not being used by a party participating in armed conflict in Sudan, or sale of such equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.
- 16. "Social development company" means a company that is not complicit in the Darfur genocide whose primary purpose in Sudan is to provide humanitarian goods or services, including medicine or medical equipment, agricultural supplies or infrastructure, educational opportunities, journalism-related activities, information or information materials, spiritual-related activities, services of a purely clerical or reporting nature, food, clothing, or general consumer goods that are unrelated to oil-related activities, mineral extraction activities, or power production activities.
- 17. "Substantial action" means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new business operations; undertaking significant humanitarian efforts on behalf of one or more marginalized populations of Sudan; or through engagement with the government of Sudan, materially improving conditions for the genocidally victimized population in Darfur.

Sec. 3. NEW SECTION. 12A.3 IDENTIFICATION OF COMPANIES — NOTICE.

- 1. a. By July 1, 2007, the public fund shall make its best efforts to identify all scrutinized companies in which the public fund has direct or indirect holdings or could possibly have such holdings in the future and shall create and make available to the public a scrutinized companies list for that public fund. The list shall further identify whether the company has inactive business operations or active business operations. The public fund shall review and update, if necessary, the scrutinized companies list and the determination of whether a company has inactive or active business operations on a quarterly basis thereafter.
- b. In making its best efforts to identify scrutinized companies and companies with inactive business operations or active business operations, the public fund may review and rely, in the best judgment of the public fund, on publicly available information regarding companies with business operations in Sudan, such as information provided by the Sudan divestment task force, and including other information that may be provided by nonprofit organizations, research firms, international organizations, and government entities. The public fund may also contact asset managers and institutional investors for the public fund to identify scrutinized

companies based upon industry recognized lists of such companies that the public fund may have indirect holdings in.

- 2. a. For each company on the scrutinized companies list with only inactive business operations in which the public fund has direct or indirect holdings, the public fund shall send a written notice informing the company of the requirements of this chapter and encouraging it to continue to refrain from initiating active business operations in Sudan until it is able to avoid scrutinized business operations. The public fund shall continue to provide such written notice on an annual basis if the company remains a scrutinized company with inactive business operations.
- b. For each company on the scrutinized companies list with active business operations in which the public fund has direct or indirect holdings, the public fund shall send a written notice informing the company of its status as a scrutinized company with active business operations and that it may become subject to divestment and restrictions on investing in the company by the public fund. The notice shall offer the company the opportunity to clarify its Sudan-related activities and shall encourage the company to either cease its scrutinized business operations or convert such operations to inactive business operations in order to avoid becoming subject to divestment and restrictions on investment in the company by the public fund. The public fund shall continue to provide such written notice on an annual basis if the company remains a scrutinized company with active business operations.

Sec. 4. <u>NEW SECTION</u>. 12A.4 PROHIBITED INVESTMENTS — DIVESTMENT.

- 1. The public fund shall not acquire publicly traded securities of a company on the public fund's most recent scrutinized companies list with active business operations so long as such company remains on the public fund's scrutinized companies list as a company with active business operations as provided in this section.
- 2. a. The public fund shall sell, redeem, divest, or withdraw all publicly traded securities of a company on the public fund's list of scrutinized companies with active business operations, so long as the company remains on that list, no sooner than ninety days, but no later than eighteen months, following the first written notice sent to the scrutinized company with active business operations as required by section 12A.3.
- b. This subsection shall not be construed to require the premature or otherwise imprudent sale, redemption, divestment, or withdrawal of an investment, but such sale, redemption, divestment, or withdrawal shall be completed as provided by this subsection.
 - 3. The requirements of this section shall not apply to the following:
- a. A company which the United States government affirmatively declares to be excluded from its present or any future federal sanctions regime relating to Sudan.
- b. Indirect holdings of a scrutinized company with active business operations. The public fund shall, however, submit letters to the managers of such investment funds containing companies with scrutinized active business operations requesting that they consider removing such companies from the fund or create a similar fund with indirect holdings devoid of such companies. If the manager creates a similar fund, the public fund is encouraged to replace all applicable investments with investments in the similar fund consistent with prudent investing standards.

Sec. 5. NEW SECTION. 12A.5 REPORTS.

- 1. SCRUTINIZED COMPANIES LIST. Each public fund shall, within thirty days after the scrutinized companies list is created or updated as required by section 12A.3, make the list available to the public.
- 2. ANNUAL REPORT. On October 1, 2008, and each October 1 thereafter, each public fund shall make available to the public, and file with the general assembly, an annual report covering the prior fiscal year that includes the following:
 - a. The scrutinized companies list as of the end of the fiscal year.
 - b. A summary of all written notices sent as required by section 12A.3 during the fiscal year.

c. All investments sold, redeemed, divested, or withdrawn as provided in section 12A.4 during the fiscal year.

Sec. 6. NEW SECTION. 12A.6 LEGAL OBLIGATIONS.

With respect to actions taken in compliance with this chapter, including all good faith determinations regarding companies as required by this chapter, the public fund shall be exempt from any conflicting statutory or common law obligations, including any such obligations in respect to choice of asset managers, investment funds, or investments for the public fund's securities portfolios.

Sec. 7. NEW SECTION. 12A.7 APPLICABILITY.

The requirements of sections 12A.3, 12A.4, and 12A.5 of this chapter shall not apply upon the occurrence of any of the following:

- 1. The Congress or president of the United States declares that the Darfur genocide has been halted for at least twelve months.
 - 2. The United States revokes all sanctions imposed against the government of Sudan.
- 3. The Congress or president of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this chapter interferes with the conduct of United States foreign policy.
- 4. A controlling circuit or district court of the United States issues an opinion that declares the mandatory divestment of the type provided for in this chapter or similar statutes of other states is preempted by the federal law of the United States.
- Sec. 8. Section 12.8, unnumbered paragraph 1, Code 2007, is amended to read as follows: The treasurer of state shall invest or deposit, subject to chapter 12A and as provided by law, any of the public funds not currently needed for operating expenses and shall do so upon receipt of monthly notice from the director of the department of administrative services of the amount not so needed. In the event of loss on redemption or sale of securities invested as prescribed by law, and if the transaction is reported to the executive council, neither the treasurer nor director of the department of administrative services is personally liable but the loss shall be charged against the funds which would have received the profits or interest of the investment and there is appropriated from the funds the amount so required.
 - Sec. 9. Section 97A.7, subsection 1, Code 2007, is amended to read as follows:
- 1. The board of trustees shall be the trustees of the several funds created by this chapter as provided in section 97A.8 and shall have full power to invest and reinvest such funds subject to the terms, conditions, limitations, and restrictions imposed by subsection 2 of this section and chapter 12A, and subject to like terms, conditions, limitations, and restrictions said trustees shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities and investments in which any of the funds created herein shall have been invested, as well as of the proceeds of said investments and any moneys belonging to said funds. The board of trustees may authorize the treasurer of state to exercise any of the duties of this section. When so authorized the treasurer of state shall report any transactions to the board of trustees at its next monthly meeting.
 - Sec. 10. Section 97B.4, subsection 5, Code 2007, is amended to read as follows:
- 5. INVESTMENTS. The system, through the chief investment officer, shall invest, <u>subject to chapter 12A and</u> in accordance with the investment policy and goal statement established by the board, the portion of the retirement fund which, in the judgment of the system, is not needed for current payment of benefits under this chapter subject to the requirements of section 97B.7A.
- Sec. 11. Section 262.14, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The board may invest funds belonging to the institutions, subject to <u>chapter 12A and</u> the following regulations:

Sec. 12. Section 411.7, subsection 1, Code 2007, is amended to read as follows:

1. The board of trustees is the trustee of the fire and police retirement fund created in section 411.8 and shall annually establish an investment policy to govern the investment and reinvestment of the moneys in the fund, subject to the terms, conditions, limitations, and restrictions imposed by subsection 2 <u>and chapter 12A</u>. Subject to like terms, conditions, limitations, and restrictions the system has full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities and investments in which the fund has been invested, as well as of the proceeds of the investments and any moneys belonging to the fund.

Sec. 13. Section 602.9111, subsection 1, Code 2007, is amended to read as follows:

1. So much of the judicial retirement fund as may not be necessary to be kept on hand for the making of disbursements under this article shall be invested by the treasurer of state in any investments authorized for the Iowa public employees' retirement system in section 97B.7A and subject to the requirements of chapter 12A, and the earnings therefrom shall be credited to the fund. The treasurer of state may execute contracts and agreements with investment advisors, consultants, and investment management and benefit consultant firms in the administration of the judicial retirement fund.

Approved April 4, 2007

CHAPTER 40

PROPERTY TAX COLLECTION — LIMITATIONS OF ACTIONS S.F. 450

AN ACT relating to limitations of actions as applied to county collection of delinquent real property taxes.

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

Section 1. Section 614.1, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 14. COUNTY COLLECTION OF TAXES. No time limitation shall apply to an action brought by a county under section 445.3 to collect delinquent real property taxes levied on or after April 1, 1992.

Approved April 4, 2007

CHAPTER 41

UNIFORM COMMERCIAL CODE — MISCELLANEOUS CHANGES

S.F. 535

AN ACT relating to general provisions of the uniform commercial code relating to the construction and application of its subject matter, and providing for a contingent effective date.

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

DIVISION I
REVISION TO ARTICLE 1
ARTICLE 1
GENERAL PROVISIONS
PART 1
SHORT TITLE, CONSTRUCTION, APPLICATION,
AND SUBJECT MATTER OF THE CHAPTER
GENERAL PROVISIONS

Section 1. Section 554.1101, Code 2007, is amended to read as follows: 554.1101 SHORT TITLE TITLES.

- 1. This chapter shall be known and may be cited as the Uniform Commercial Code.
- 2. This Article may be cited as Uniform Commercial Code General Provisions.
- Sec. 2. NEW SECTION. 554.1102A SCOPE OF ARTICLE.

This Article applies to a transaction to the extent that it is governed by another Article of this chapter.

- Sec. 3. Section 554.1103, Code 2007, is amended to read as follows:
- 554.1103 SUPPLEMENTARY GENERAL PRINCIPLES OF LAW APPLICABLE CONSTRUCTION OF THIS CHAPTER TO PROMOTE ITS PURPOSES AND POLICIES APPLICABILITY OF SUPPLEMENTAL PRINCIPLES OF LAW.
- 1. This chapter must be liberally construed and applied to promote its underlying purposes and policies, which are:
 - a. to simplify, clarify, and modernize the law governing commercial transactions;
- b. to permit the continued expansion of commercial practices through custom, usage, and agreement of the parties; and
 - c. to make uniform the law among the various jurisdictions.
- $\underline{2}$. Unless displaced by the particular provisions of this chapter, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or and other validating or invalidating cause shall supplement its provisions.
 - Sec. 4. Section 554.1104, Code 2007, is amended to read as follows: 554.1104 CONSTRUCTION AGAINST IMPLICIT IMPLIED REPEAL.

This chapter being a general act <u>Act</u> intended as a unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

Sec. 5. Section 554.1105, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

554.1105 TERRITORIAL APPLICABILITY — PARTIES' POWER TO CHOOSE APPLICABLE LAW.

- 1. Except as otherwise provided in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties.
- 2. In the absence of an agreement effective under subsection 1, and except as provided in subsection 3, this chapter applies to transactions bearing an appropriate relation to this state.
- 3. If one of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law so specified:
 - a. Section 554.2402;
 - b. Section 554.4102;
 - c. Section 554.5116;
 - d. Section 554.8110;
 - e. Sections 554.9301 through 554.9307;
 - f. Section 554.12507;
 - g. Sections 554.13105 and 554.13106.
 - Sec. 6. Section 554.1106, subsection 1, Code 2007, is amended to read as follows:
- 1. The remedies provided by this chapter shall <u>must</u> be liberally administered to the end that the aggrieved party may be put in as good a position as if the other party had fully performed but neither consequential or special <u>damages</u> nor penal damages may be had except as specifically provided in this chapter or by other rule of law.
 - Sec. 7. <u>NEW SECTION</u>. 554.1106A USE OF SINGULAR AND PLURAL GENDER. In this chapter, unless the statutory context otherwise requires:
- words in the singular number include the plural, and those in the plural include the singular; and
- 2. words of any gender also refer to any other gender.
- Sec. 8. Section 554.1107, Code 2007, is amended to read as follows:

554.1107 WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER BREACH.

Any A claim or right arising out of an alleged breach ean <u>may</u> be discharged in whole or in part without consideration by a <u>written waiver or renunciation signed and delivered by agreement of</u> the aggrieved party <u>in an authenticated record</u>.

Sec. 9. Section 554.1108, Code 2007, is amended to read as follows: 554.1108 SEVERABILITY.

If any provision or clause of this chapter or <u>its</u> application thereof to any person or <u>circumstances</u> is held invalid, <u>such the</u> invalidity <u>shall does</u> not affect other provisions or applications of <u>the this</u> chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are <u>declared to be</u> severable.

Sec. 10. <u>NEW SECTION</u>. 554.1108A RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

This Article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. \$ 7001 et seq., except that nothing in this Article modifies, limits, or supersedes \$ 7001(c) of that Act or authorizes electronic delivery of any of the notices described in \$ 7003(b) of that Act.

PART 2 GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION

Sec. 11. Section 554.1201, Code 2007, is amended to read as follows: 554.1201 GENERAL DEFINITIONS.

1. Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other Articles of this chapter that apply to particular Articles or Parts thereof, have the meanings stated.

- <u>2.</u> Subject to additional definitions contained in the subsequent other Articles of this chapter which are applicable that apply to specific particular Articles or Parts thereof, and unless the context otherwise requires, in this chapter:
- 1. a. "Action" in the sense of a judicial proceeding, includes recoupment, counterclaim, set-off, suit in equity, and any other proceedings in which rights are determined.
 - 2. <u>b.</u> "Aggrieved party" means a party entitled to resort to <u>pursue</u> a remedy.
- 3. c. "Agreement", as distinguished from "contract", means the bargain of the parties in fact, as found in their language or by implication inferred from other circumstances, including course of performance, course of dealing, or usage of trade or course of performance as provided in this chapter (sections 554.1205 and 554.2208) section 554.1303. Whether an agreement has legal consequences is determined by the provisions of this chapter, if applicable; otherwise by the law of contracts (section 554.1103). (Compare "Contract".)
- 4. d. "Bank" means any a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company.
- 5. e. "Bearer" means the a person in possession of an a negotiable instrument, document of title, or certificated security that is payable to bearer or endorsed indorsed in blank.
- 6. <u>f.</u> "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.
 - 7. g. "Branch" includes a separately incorporated foreign branch of a bank.
- <u>8. h.</u> "Burden of establishing" a fact means the burden of persuading the <u>triers trier</u> of fact that the existence of the fact is more probable than its nonexistence.
- 9. i. "Buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a pre-existing preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Article 2 may be a buyer in ordinary course of business. A "Buyer in ordinary course of business" does not include a person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in ordinary course of business.
- 10. j. "Conspicuous":— A, with reference to a term, or clause is conspicuous when it is means so written, displayed, or presented that a reasonable person against whom which it is to operate ought to have noticed it. A printed heading in capitals (as: "Nonnegotiable Bill of Lading") is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous". Whether a term or clause is "conspicuous" or not is for a decision by for the court. Conspicuous terms include the following:
- (1) a heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and
- (2) language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.
- k. "Consumer" means an individual who enters into a transaction primarily for personal, family, or household purposes.
- 11. <u>l.</u> "Contract", <u>as distinguished from "agreement"</u>, means the total legal obligation which that results from the parties' agreement as <u>affected determined</u> by this chapter and <u>as supplemented by</u> any other applicable rules of law <u>laws</u>. (Compare "Agreement".)

- 12. <u>m.</u> "Creditor" includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.
- 13. n. "Defendant" includes a person in the position of defendant in a cross-action or counterclaim, cross-claim, or third-party claim.
- 14. o. "Delivery", with respect to instruments an instrument, documents document of title, or chattel paper, or certificated securities means voluntary transfer of possession.
- 15. p. "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold, and dispose of the document and the goods it covers. To be a document of title, a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.
 - 16. q. "Fault" means a default, breach, or wrongful act, or omission or breach.
 - 17. r. "Fungible" with respect to goods or securities "Fungible goods" means:
- (1) goods or securities of which any unit is, by nature or usage of trade, is the equivalent of any other like unit-: or
- (2) Goods which goods that by agreement are not fungible shall be deemed fungible for the purposes of this chapter to the extent that under a particular agreement or document unlike units are treated as equivalents equivalent.
 - 18. s. "Genuine" means free of forgery or counterfeiting.
- 19. <u>t.</u> "Good faith", <u>except as otherwise provided in Article 5</u>, means honesty in fact in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing.
 - 20. u. "Holder", with respect to a negotiable instrument, means:
- (1) the person in possession if the <u>of a negotiable</u> instrument <u>that</u> is payable <u>either</u> to bearer or, in the <u>case of an instrument payable</u> to an identified person, if the <u>identified that is the</u> person <u>is</u> in possession; <u>or</u>
- (2) "Holder" with respect to a document of title means the person in possession of a document of title if the goods are deliverable either to bearer or to the order of the person in possession
- 21. To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.
- 22. v. "Insolvency proceedings" proceeding" includes any assignment for the benefit of creditors or other proceedings proceeding intended to liquidate or rehabilitate the estate of the person involved.
 - 23. w. A person is "insolvent" who either has "Insolvent" means:
- (1) having generally ceased to pay that person's debts in the ordinary course of business or cannot pay that person's debts other than as a result of a bona fide dispute;
 - (2) being unable to pay debts as they become due; or
 - (3) is being insolvent within the meaning of the federal bankruptcy law.
- 24. <u>x.</u> "Money" means a medium of exchange <u>currently</u> authorized or adopted by a domestic or foreign government <u>and</u>. <u>The term</u> includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more <u>nations</u> <u>countries</u>.
 - 25. A person has "notice" of a fact when
 - a. the person has actual knowledge of it; or
 - b. the person has received a notice or notification of it; or
- c. from all the facts and circumstances known to the person at the time in question the person has reason to know that it exists. A person "knows" or has "knowledge" of a fact when that person has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this chapter.

- 26. A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when
 - a. it comes to that person's attention; or
- b. it is duly delivered at the place of business through which the contract was made or at any other place held out by that person as the place for receipt of such communications.
- 27. Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to that individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of that individual's regular duties or unless the individual has reason to know of the transaction and that the transaction would be materially affected by the information.
- 28. <u>y.</u> "Organization" includes <u>means</u> a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any <u>person</u> other <u>legal or commercial entity than an individual</u>.
- 29. z. "Party", as distinct distinguished from "third party", means a person who that has engaged in a transaction or made an agreement within subject to this chapter.
- 30. <u>aa.</u> "Person" <u>includes means</u> an individual, <u>or an organization</u> (See section 554.1102) <u>corporation</u>, <u>business trust</u>, <u>estate</u>, <u>trust</u>, <u>partnership</u>, <u>limited liability company</u>, <u>association</u>, <u>joint venture</u>, <u>government</u>, <u>governmental subdivision</u>, <u>agency</u>, <u>or instrumentality</u>, <u>public corporation</u>, <u>or any other legal or commercial entity</u>.
- 31. "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.
- ab. "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.
- 32. <u>ac.</u> "Purchase" means <u>any voluntary transaction creating an interest in property, including taking by sale, <u>lease</u>, discount, negotiation, mortgage, pledge, <u>voluntary</u> lien, security interest, issue, <u>or</u> reissue, or gift, <u>or any other voluntary transaction creating an interest in property.</u></u>
 - 33. ad. "Purchaser" means a person who takes by purchase.
- ae. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- 34. af. "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.
- 35. ag. "Representative" includes means a person empowered to act for another, including an agent, an officer of a corporation or association, and a trustee, executor, or administrator of an estate, or any other person empowered to act for another.
 - 36. ah. "Rights" "Right" includes remedies remedy.
- 37. a. <u>ai.</u> "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The term also "Security interest" includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to Article 9. The "Security interest" does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under section 554.2401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with Article 9. Except as otherwise provided in section 554.2505,

the right of a seller or lessor of goods under Article 2 or 13 to retain or acquire possession of the goods is not a "security interest", but a seller or lessor may also acquire a "security interest" by complying with Article 9. The retention or reservation of title by a seller of goods notwith-standing shipment or delivery to the buyer (section 554.2401) under section 554.2401 is limited in effect to a reservation of a "security interest". Whether

- b. Whether a transaction in the form of a lease creates a lease or security interest "security interest" is determined by the facts of each case; however, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and
- (1) the original term of the lease is equal to or greater than the remaining economic life of the goods,
- (2) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods,
- (3) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement, or
- (4) the lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement pursuant to section 554.1203.
 - c. A transaction does not create a security interest merely because it provides that
- (1) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into,
- (2) the lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods,
 - (3) the lessee has an option to renew the lease or to become the owner of the goods,
- (4) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed, or
- (5) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.
 - d. For purposes of this subsection:
- (1) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;
- (2) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and
- (3) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.
 - 38. ai. "Send" in connection with any a writing, record, or notice means:
- (1) to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances; or

- (2) The receipt of <u>in</u> any writing <u>other way to cause to be received any record</u> or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.
- 39. <u>ak.</u> "Signed" includes <u>using</u> any symbol executed or adopted by a party with present intention to <u>authenticate</u> <u>adopt or accept</u> a writing.
- al. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
 - 40. am. "Surety" includes a guarantor or other secondary obligor.
- 41. "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.
 - 42. an. "Term" means that portion of an agreement which that relates to a particular matter.
- 43. <u>ao.</u> "Unauthorized" signature "Unauthorized signature" means one <u>a signature</u> made without actual, implied, or apparent authority and. The term includes a forgery.
- 44. "Value". Except as otherwise provided with respect to negotiable instruments and bank collections (sections 554.3303, 554.4210, and 554.4211) a person gives "value" for rights if the person acquires them
- a. in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection: or
 - b. as security for or in total or partial satisfaction of a pre-existing claim; or
 - c. by accepting delivery pursuant to a pre-existing contract for purchase; or
 - d. generally, in return for any consideration sufficient to support a simple contract.
- 45. ap. "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.
- 46. aq. "Written" or "writing" "Writing" includes printing, typewriting, or any other intentional reduction to tangible form. "Written" has a corresponding meaning.
 - Sec. 12. Section 554.1202, Code 2007, is amended to read as follows:
 - 554.1202 PRIMA FACIE EVIDENCE BY THIRD-PARTY THIRD-PARTY DOCUMENTS.

A document in due form purporting to be a bill of lading, policy or certificate of insurance, official weigher's or inspector's certificate, consular invoice, or any other document authorized or required by the contract to be issued by a third party shall be is prima facie evidence of its own authenticity and genuineness and of the facts stated in the document by the third party.

Sec. 13. <u>NEW SECTION</u>. 554.1202A NOTICE — KNOWLEDGE.

- 1. Subject to subsection 6, a person has "notice" of a fact if the person:
- a. has actual knowledge of it;
- b. has received a notice or notification of it; or
- c. from all the facts and circumstances known to the person at the time in question, has reason to know that it exists.
 - 2. "Knowledge" means actual knowledge. "Knows" has a corresponding meaning.
- 3. "Discover", "learn", or words of similar import refer to knowledge rather than to reason to know.
- 4. A person "notifies" or "gives" a notice or notification to another person by taking such steps as may be reasonably required to inform the other person in ordinary course, whether or not the other person actually comes to know of it.
 - 5. Subject to subsection 6, a person "receives" a notice or notification when:
 - a. it comes to that person's attention; or
- b. it is duly delivered in a form reasonable under the circumstances at the place of business through which the contract was made or at another location held out by that person as the place for receipt of such communications.
- 6. Notice, knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction and, in any event, from the time it would have been brought to the individual's

attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

Sec. 14. <u>NEW SECTION</u>. 554.1203A LEASE DISTINGUISHED FROM SECURITY INTEREST.

- 1. Whether a transaction in the form of a lease creates a lease or security interest is determined by the facts of each case.
- 2. A transaction in the form of a lease creates a security interest if the consideration that the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease and is not subject to termination by the lessee, and:
- a. the original term of the lease is equal to or greater than the remaining economic life of the goods;
- b. the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;
- c. the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement; or
- d. the lessee has an option to become the owner of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement.
 - 3. A transaction in the form of a lease does not create a security interest merely because:
- a. the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;
 - b. the lessee assumes risk of loss of the goods;
- c. the lessee agrees to pay, with respect to the goods, taxes, insurance, filing, recording, or registration fees, or service or maintenance costs;
 - d. the lessee has an option to renew the lease or to become the owner of the goods;
- e. the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or
- f. the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.
- 4. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised. Additional consideration is not nominal if:
- a. when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or
- b. when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed.
- 5. The "remaining economic life of the goods" and "reasonably predictable" fair market rent, fair market value, or cost of performing under the lease agreement must be determined with reference to the facts and circumstances at the time the transaction is entered into.
 - Sec. 15. Section 554.1204, Code 2007, is amended to read as follows:
 - 554.1204 TIME REASONABLE TIME "SEASONABLY" SEASONABLENESS.
- 1. Whenever this chapter requires any action to be taken within a reasonable time, any time which is not manifestly unreasonable may be fixed by agreement.

- 2. What is Whether a reasonable time for taking any an action required by this chapter is reasonable depends on the nature, purpose, and circumstances of such the action.
- 3. 2. An action is taken "seasonably" when seasonably if it is taken at or within the time agreed or, if no time is agreed, at or within a reasonable time.

Sec. 16. NEW SECTION. 554.1204A VALUE.

Except as otherwise provided in Articles 3, 4, and 5, a person gives value for rights if the person acquires them:

- 1. in return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection;
 - 2. as security for, or in total or partial satisfaction of, a preexisting claim;
 - 3. by accepting delivery under a preexisting contract for purchase; or
 - 4. in return for any consideration sufficient to support a simple contract.

Sec. 17. Section 554.1205, Code 2007, is amended to read as follows:

554.1205 <u>COURSE OF PERFORMANCE</u>, COURSE OF DEALING, AND USAGE OF TRADE.

- 1. A "course of performance" is a sequence of conduct between the parties to a particular transaction that exists if:
- a. the agreement of the parties with respect to the transaction involves repeated occasions for performance by a party; and
- b. the other party, with knowledge of the nature of the performance and opportunity for objection to it, accepts the performance or acquiesces in it without objection.
- 1. 2. A course of dealing "course of dealing" is a sequence of previous conduct concerning previous transactions between the parties to a particular transaction which that is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.
- 2. 3. A usage of trade "usage of trade" is any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage are to must be proved as facts. If it is established that such a usage is embodied in a written trade code or similar writing record, the interpretation of the writing record is for the court a question of law.
- 3. 4. A course of performance or course of dealing between the parties and any or usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware give particular meaning to and supplement or qualify terms of an is relevant in ascertaining the meaning of the parties' agreement, may give particular meaning to specific terms of the agreement, and may supplement or qualify the terms of the agreement. A usage of trade applicable in the place in which part of the performance under the agreement is to occur may be so utilized as to that part of the performance.
- 4. <u>5.</u> The Except as otherwise provided in subsection 6, the express terms of an agreement and <u>an any</u> applicable course of dealing, or usage of trade <u>shall must</u> be construed wherever reasonable as consistent with each other; <u>but when.</u> If such <u>a</u> construction is unreasonable:
- <u>a.</u> express terms control both <u>prevail over course of performance</u>, course of dealing, and usage of trade;
 - b. course of performance prevails over course of dealing and usage of trade; and
 - c. course of dealing controls prevails over usage of trade.
- 5. 6. An applicable usage of trade in the place where any part Subject to section 554.2209, a course of performance is to occur shall be used in interpreting the agreement as to that part relevant to show a waiver or modification of any term inconsistent with the course of the performance.
 - 6. 7. Evidence of a relevant usage of trade offered by one party is not admissible unless and

until that party has given the other party such notice as that the court finds sufficient to prevent unfair surprise to the latter other party.

Sec. 18. NEW SECTION. 554.1206A PRESUMPTIONS.

Whenever this chapter creates a "presumption" with respect to a fact, or provides that a fact is "presumed", the trier of fact must find the existence of the fact unless and until evidence is introduced that supports a finding of its nonexistence.

- Sec. 19. Section 554.1207, subsection 1, Code 2007, is amended to read as follows:
- 1. A party who, that with explicit reservation of rights, performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as "without prejudice", "under protest", or the like are sufficient.
 - Sec. 20. Section 554.1208, Code 2007, is amended to read as follows:

554.1208 OPTION TO ACCELERATE AT WILL.

A term providing that one party or that party's successor in interest may accelerate payment or performance or require collateral or additional collateral "at will" or "when when the party deems "deems itself insecure" or in words of similar import shall be construed to mean, means that that party shall have has power to do so only if that party in good faith believes that the prospect of payment or performance is impaired. The burden of establishing lack of good faith is on the party against whom which the power has been exercised.

Sec. 21. Section 554.1209, Code 2007, is amended to read as follows:

554.1209 SUBORDINATED OBLIGATIONS.

An obligation may be issued as subordinated to payment performance of another obligation of the person obligated, or a creditor may subordinate the creditor's its right to payment performance of an obligation by agreement with either the person obligated or another creditor of the person obligated. Such a subordination Subordination does not create a security interest as against either the common debtor or a subordinated creditor. This section shall be construed as declaring the law as it existed prior to the enactment of this section and not as modifying it.

PART 3 TERRITORIAL APPLICABILITY AND GENERAL RULES

Sec. 22. NEW SECTION. 554.1302 VARIATION BY AGREEMENT.

- 1. Except as otherwise provided in subsection 2 or elsewhere in this chapter, the effect of provisions of this chapter may be varied by agreement.
- 2. The obligations of good faith, diligence, reasonableness, and care prescribed by this chapter may not be disclaimed by agreement. The parties, by agreement, may determine the standards by which the performance of those obligations is to be measured if those standards are not manifestly unreasonable. Whenever this chapter requires an action to be taken within a reasonable time, a time that is not manifestly unreasonable may be fixed by agreement.
- 3. The presence in certain provisions of this chapter of the phrase "unless otherwise agreed", or words of similar import, does not imply that the effect of other provisions may not be varied by agreement under this section.

DIVISION II CONFORMING AMENDMENTS TO OTHER ARTICLES PART A ARTICLE 2

Sec. 23. Section 554.2103, subsection 1, paragraph b, Code 2007, is amended by striking the paragraph.

Sec. 24. Section 554.2202, subsection a, Code 2007, is amended to read as follows:

a. by <u>course of performance</u>, course of dealing, or usage of trade (section 554.1205) <u>554.1303)</u> or by course of performance (section 554.2208); and

PART B ARTICLE 3

- Sec. 25. Section 554.3103, subsection 1, paragraph d, Code 2007, is amended by striking the paragraph.
- Sec. 26. $Code^1$ 554.3103, subsection 1, paragraph j, Code 2007, is amended to read as follows:
- j. "Prove" with respect to a fact means to meet the burden of establishing the fact (section 554.1201, subsection 8) 2, paragraph "h").

PART C ARTICLE 4

Sec. 27. Section 554.4104, subsection 3, Code 2007, is amended to read as follows:

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

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"Acceptance"	Section 554.3409
"Alteration"	Section 554.3407
"Cashier's check"	Section 554.3104
"Certificate of deposit"	Section 554.3104
"Certified check"	Section 554.3409
"Check"	Section 554.3104
"Good faith"	Section 554.3103
"Holder in due course"	Section 554.3302
"Instrument"	Section 554.3104
"Notice of dishonor"	Section 554.3503
"Order"	Section 554.3103
"Ordinary care"	Section 554.3103
"Person entitled	
to enforce"	Section 554.3301
"Presentment"	Section 554.3501
"Promise"	Section 554.3103
"Prove"	Section 554.3103
"Teller's check"	Section 554.3104
"Unauthorized signature"	Section 554.3403

PART D ARTICLE 5

- Sec. 28. Section 554.5103, subsection 3, Code 2007, is amended to read as follows:
- 3. With the exception of this subsection, subsections 1 and 4, section 554.5102, subsection 1, paragraphs "i" and "j", section 554.5106, subsection 4, and section 554.5114, subsection 4, and except to the extent prohibited in section 554.1102, subsection 3, 554.1302 and section 554.5117, subsection 4, the effect of this Article may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this Article.

PART E ARTICLE 8

Sec. 29. Section 554.8102, subsection 1, paragraph j, Code 2007, is amended by striking the paragraph.

¹ The word "Section" probably intended

PART F ARTICLE 9

Sec. 30. Section 554.9102, subsection 1, paragraph aq, Code 2007, is amended by striking the paragraph.

PART G ARTICLE 12

- Sec. 31. Section 554.12105, subsection 1, paragraph f, Code 2007, is amended by striking the paragraph.
- Sec. 32. Section 554.12105, subsection 1, paragraph g, Code 2007, is amended to read as follows:
- g. "Prove" with respect to a fact means to meet the burden of establishing the fact as defined in section 554.1201, subsection 8 2, paragraph "h".
 - Sec. 33. Section 554.12106, subsection 1, Code 2007, is amended to read as follows:
- 1. The time of receipt of a payment order or communication canceling or amending a payment order is determined by the rules applicable to receipt of a notice stated in section 554.1201, subsection 27 554.1202. A receiving bank may establish a cut-off time or times on a funds-transfer business day for the receipt and processing of payment orders, and communications canceling or amending payment orders. Different cut-off times may apply to payment orders, cancellations, or amendments, or to different categories of payment orders, cancellations, or amendments. A cut-off time may apply to senders generally, or different cut-off times may apply to different senders or categories of payment orders. If a payment order or communication canceling or amending a payment order is received after the close of a funds-transfer business day or after the appropriate cut-off time on a funds-transfer business day, the receiving bank may treat the payment order or communication as received at the opening of the next funds-transfer business day.
 - Sec. 34. Section 554.12204, subsection 2, Code 2007, is amended to read as follows:
- 2. Reasonable time under subsection 1 may be fixed by agreement as provided in section $554.1204 \ \underline{554.1302}$, subsection $1 \ \underline{2}$, but the obligation of a receiving bank to refund payment as stated in subsection 1 may not otherwise be varied by agreement.

PART H ARTICLE 13

- Sec. 35. Section 554.13501, subsection 4, Code 2007, is amended to read as follows:
- 4. Except as otherwise provided in section $554.1106\underline{554.1305}$, subsection 1, of <u>or</u> this Article or the lease agreement, the rights and remedies referred to in subsections 2 and 3 are cumulative.
 - Sec. 36. Section 554.13518, subsection 2, Code 2007, is amended to read as follows:
- 2. Except as otherwise provided with respect to damages liquidated in the lease agreement (section 554.13504) or otherwise determined pursuant to agreement of the parties (sections 554.1302, subsection 3, 554.1302 and 554.13503), if a lessee's cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages (i) the present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement, and (ii) any incidental or consequential damages, less expenses saved in consequence of the lessor's default.

Sec. 37. Section 554.13519, subsection 1, Code 2007, is amended to read as follows:

1. Except as otherwise provided with respect to damages liquidated in the lease agreement (section 554.13504) or otherwise determined pursuant to agreement of the parties (sections 554.13504), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under section 554.13518, subsection 2, or is by purchase or otherwise, the measure of damages for nondelivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

Sec. 38. Section 554.13527, subsection 2, Code 2007, is amended to read as follows:

2. Except as otherwise provided with respect to damages liquidated in the lease agreement (section 554.13504) or otherwise determined pursuant to agreement of the parties (sections 554.1302, subsection 3, 554.1302 and 554.13503), if the disposition is by lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages (i) accrued and unpaid rent as of the date of the commencement of the term of the new lease agreement, (ii) the present value, as of the same date, of the total rent for the remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement, and (iii) any incidental damages allowed under section 554.13530, less expenses saved in consequence of the lessee's default.

Sec. 39. Section 554.13528, subsection 1, Code 2007, is amended to read as follows:

1. Except as otherwise provided with respect to damages liquidated in the lease agreement (section 554.13504) or otherwise determined pursuant to agreement of the parties (sections 554.1302, subsection 3, 554.1302 and 554.13503), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under section 554.13527, subsection 2, or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in section 554.13523, subsection 1, or section 554.13523, subsection 3, paragraph "a", or, if agreed, for other default of the lessee, (i) accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor, (ii) the present value as of the date determined under clause (i) of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term, and (iii) any incidental damages allowed under section 554.13530, less expenses saved in consequence of the lessee's default.

PART I PROVISIONS OUTSIDE THE UNIFORM COMMERCIAL CODE

Sec. 40. Section 3.3, Code 2007, is amended to read as follows:

3.3 HEADNOTES AND HISTORICAL REFERENCES.

Proper headnotes may be placed at the beginning of a section of a bill or a Code section, and at the end of a Code section there may be placed a reference to the section number of the Code, or any Iowa Act from which the matter of the Code section was taken. However, except as provided in for the uniform commercial code, pursuant to section 554.1109 554.1107, neither said headnotes nor said historical shall not be considered as part of the law as enacted. Historical references shall be considered as a part of the law as enacted.

- Sec. 41. Section 537.3603, subsection 6, Code 2007, is amended to read as follows:
- 6. A lease or agreement which constitutes a security interest as defined in section 554.1201, subsection 37.2.
- Sec. 42. Section 554D.104, subsection 2, paragraph b, Code 2007, is amended to read as follows:
- b. Chapter 554 other than articles 2 and 13 and sections 554.1107 and 554.1206 section 554.1306.

DIVISION III CONTINGENT PROVISIONS

- Sec. 43. Section 554.1201, subsections 5, 6, 14, 15, 20, and 45, Code 2007, are amended to read as follows:
- 5. e. "Bearer" means the a person in control of a negotiable electronic document of title or a person in possession of an a negotiable instrument, negotiable tangible document of title, or certificated security that is payable to bearer or endorsed indorsed in blank.
- 6. f. "Bill of lading" means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill. The term does not include a warehouse receipt.
- 14. <u>o.</u> "Delivery", with respect to <u>instruments an electronic document of title means voluntary transfer of control and with respect to an instrument, documents a tangible document of title, <u>or</u> chattel paper, <u>or certificated securities</u> means voluntary transfer of possession.</u>
- 15. p. "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which means a record (i) that in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of it the record is entitled to receive, control, hold, and dispose of the document record and the goods it the record covers and (ii) that purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt, and order for delivery of goods. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of information that is inscribed on a tangible medium.
 - 20. u. "Holder", with respect to a negotiable instrument, means:
- (1) the person in possession if the of a negotiable instrument that is payable either to bearer or, in the case of an instrument payable to an identified person, if the identified that is the person is in possession.
- (2) "Holder" with respect to a document of title means the person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession.; or
 - (3) the person in control of a negotiable electronic document of title.
- 45. $\underline{ap.}$ "Warehouse receipt" means a receipt document of title issued by a person engaged in the business of storing goods for hire.

Sec. 44. CONFLICTING PROVISIONS.

- 1. If 2007 Iowa Acts, House File 716² is enacted, notwithstanding section 4.1,³ all of the following apply:
 - a. The amendments to section 554.1201, subsections 5, 6, 14, 15, 20, and 45, Code 2007, as

² Chapter 30 herein

³ See chapter 215, §262 herein

enacted in this division of this Act, prevail over conflicting amendments to section 554.1201, subsections 5, 6, 14, 15, 20, and 45, Code 2007, as enacted in division I of this Act.

- b. The amendments to section 554.1201, subsections 25, 26, and 27, as enacted in division I of this Act, prevail over conflicting amendments to section 554.1201, subsections 25, 26, and 27, Code 2007, as enacted in 2007 Iowa Acts, House File 716.4
- c. The amendments to section 554.1201, subsections 5, 6, 14, 15, 20, and 45, Code 2007, as enacted in this division of this Act, prevail over conflicting amendments to section 554.1201, subsections 5, 6, 14, 15, 20, and 45, Code 2007, as enacted in 2007 Iowa Acts, House File 716.⁵
- 2. If 2007 Iowa Acts, House File 716^6 is not enacted, notwithstanding section 4.8, the amendments to section 554.1201, subsections 5, 6, 14, 15, 20, and 45, Code 2007, as enacted in division I of this Act, prevail over conflicting amendments to section 554.1201, subsections 5, 6, 14, 15, 20, and 45, Code 2007, as enacted in this division of this Act.

DIVISION IV TRANSFERS AND RECODIFICATIONS

- Sec. 45. Section 554.1105, Code 2007, is transferred to section 554.1301.
- Sec. 46. Section 554.1106, Code 2007, is transferred to section 554.1305.
- Sec. 47. Section 554.1107, Code 2007, is transferred to section 554.1306.
- Sec. 48. Section 554.1108, Code 2007, is transferred to section 554.1105.
- Sec. 49. Section 554.1109, Code 2007, is transferred to section 554.1107.
- Sec. 50. Section 554.1202, Code 2007, is transferred to section 554.1307.
- Sec. 51. Section 554.1203, Code 2007, is transferred to section 554.1304.
- Sec. 52. Section 554.1204, Code 2007, is transferred to section 554.1205.
- Sec. 53. Section 554.1205, Code 2007, is transferred to section 554.1303.
- Sec. 54. Section 554.1207, Code 2007, is transferred to section 554.1308.
- Sec. 55. Section 554.1208, Code 2007, is transferred to section 554.1309.
- Sec. 56. Section 554.1209, Code 2007, is transferred to section 554.1310.

Sec. 57. CODIFICATION.

- 1. The Code editor shall codify the following new Code sections, as enacted in this Act, into the following Code sections, which existed immediately prior to the effective date of this Act and which are repealed or transferred elsewhere by this Act:
 - a. Section 554.1102A to section 554.1102 following its repeal in this Act.
 - b. Section 554.1106A to section 554.1106 following its transfer in this Act.
 - c. Section 554.1108A to section 554.1108 following its transfer in this Act.
 - d. Section 554.1202A to section 554.1202 following its transfer in this Act.
 - e. Section 554.1203A to section 554.1203 following its transfer in this Act.
 - f. Section 554.1204A to section 554.1204 following its transfer in this Act.
 - g. Section 554.1206A to section 554.1206 following its transfer in this Act.
 - 2. The Code editor may transfer section 554.1110 to section 554.1110A.

⁴ Chapter 30 herein

⁵ Chapter 30 herein

⁶ Chapter 30 herein

DIVISION V REPEALS

- Sec. 58. Section 554.1102, Code 2007, is repealed.
- Sec. 59. Section 554.1206, Code 2007, is repealed.
- Sec. 60. Section 554.2208, Code 2007, is repealed.
- Sec. 61. Section 554.13207, Code 2007, is repealed.

Approved April 4, 2007

CHAPTER 42

SCHOOL DISTRICT ACCREDITATION AND FISCAL REVIEW

H.F. 317

AN ACT relating to an on-site fiscal review to be conducted under phase II of the accreditation process upon recommendation by the school budget review committee.

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

Section 1. Section 256.11, subsection 10, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. e. The school budget review committee submits to the department a recommendation for a fiscal review pursuant to section 257.31, subsection 18.

Sec. 2. Section 257.31, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 18. If a school district exceeds its authorized budget or carries a negative unspent balance for two or more consecutive years, the committee may recommend that the department implement a phase II on-site visit to conduct a fiscal review pursuant to section 256.11, subsection 10, paragraph "e".

Approved April 4, 2007

CHAPTER 43

IOWA GREAT PLACES PROJECTS — DESIGNATION — STATE ASSISTANCE

H.F. 647

AN ACT relating to the designation of Iowa great places and financial and technical assistance to projects in Iowa great places.

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

Section 1. Section 303.3C, subsection 1, paragraph c, Code 2007, is amended to read as follows:

c. Initially, three Iowa great places projects shall be identified by the Iowa great places board. The board may identify up to six additional Iowa great places for participation under the program when places develop dimensions and meet readiness criteria for participation under the program.

Sec. 2. Section 303.3C, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 4. Notwithstanding any restriction, requirement, or duty to the contrary, in considering an application for a grant, loan, or other financial or technical assistance for a project identified in an Iowa great places agreement developed pursuant to section 303.3C, a state agency shall give additional consideration or additional points in the application of rating or evaluation criteria to such applications. This subsection applies to applications filed within three years of the Iowa great places board's identification of the project for participation in the program.

Approved April 4, 2007

CHAPTER 44

ANATOMICAL GIFTS

S.F. 509

AN ACT relating to a revised uniform anatomical gift Act, and providing penalties.

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

DIVISION I REVISED UNIFORM ANATOMICAL GIFT ACT

Section 1. Section 142C.1, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

142C.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Revised Uniform Anatomical Gift Act".

Sec. 2. Section 142C.2, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

142C.2 DEFINITIONS.

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

1. "Adult" means an individual who is eighteen years of age or older.

- 2. "Agent" means an individual who meets any of the following conditions:
- a. Is authorized to make health care decisions on the principal's behalf by a durable power of attorney for health care pursuant to chapter 144B.
- b. Is expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.
- 3. "Anatomical gift" or "gift" means a donation of all or part of the human body effective after the donor's death, for the purposes of transplantation, therapy, research, or education.
- 4. "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift and includes a stillborn infant.
- 5. "Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or any other adult who exhibited special care and concern for the individual. "Disinterested witness" does not include a person who may receive an anatomical gift pursuant to section 142C.5.
- 6. "Document of gift" means a donor card or other record used to make an anatomical gift, including a statement or symbol on a driver's license or identification card, or an entry in a donor registry.
 - 7. "Donor" means an individual whose body or part is the subject of an anatomical gift.
- 8. "Donor registry" means a database that contains records of anatomical gifts and amendments of anatomical gifts.
- 9. "Driver's license" means a license or permit issued by the state department of transportation to operate a vehicle, whether or not conditions are attached to the license or permit.
- 10. "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.
- 11. "Forensic pathologist" means a pathologist who is further certified in the subspecialty of forensic pathology by the American board of pathology.
- 12. "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual, but does not include a guardian ad litem.
- 13. "Hospital" means a hospital licensed under chapter 135B, or a hospital licensed, accredited, or approved under federal law or the laws of any other state, and includes a hospital operated by the federal government, a state, or a political subdivision of a state, although not required to be licensed under state laws.
- 14. "Identification card" means a nonoperator's identification card issued by the state department of transportation pursuant to section 321.190.
- 15. "Iowa donor network" means the nonprofit organization certified by the centers for Medicare and Medicaid services of the United States department of health and human services as the single organ procurement agency serving the state and which also serves as the tissue recovery agency for the state.
- 16. "Iowa donor registry" means the Iowa donor registry administered by the Iowa donor network.
 - 17. "Know" means to have actual knowledge.
- 18. "Medical examiner" means an individual who is appointed as a medical examiner pursuant to section 331.801 or 691.5.
 - 19. "Minor" means an individual who is less than eighteen years of age.
- 20. "Organ procurement organization" means a person designated by the United States secretary of health and human services as an organ procurement organization.
 - 21. "Parent" means a parent whose parental rights have not been terminated.
- 22. "Part" means an organ, an eye, or tissue of a human being, but does not include the whole body of a human being.
- 23. "Pathologist" means a licensed physician who is certified in anatomic or clinical pathology by the American board of pathology.
 - 24. "Person" means person as defined in section 4.1.

- 25. "Physician" means an individual authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state.
- 26. "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.
- 27. "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education, but does not include an individual who has made a refusal.
- 28. "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.
- 29. "Recipient" means an individual into whose body a decedent's part has been transplanted or is intended for transplant.
- 30. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- 31. "Refusal" means a record created pursuant to section 142C.3 that expressly states an individual's intent to prohibit other persons from making an anatomical gift of the individual's body or part.
- 32. "Sign" means to do any of the following with the present intent to authenticate or adopt a record:
 - a. Execute or adopt a tangible symbol.
 - b. Attach to or logically associate with the record an electronic symbol, sound, or process.
- 33. "State" means any state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- 34. "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law and includes an enucleator.
- 35. "Tissue" means a portion of the human body other than an organ or an eye, but does not include blood unless the blood is donated for the purpose of research or education.
- 36. "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue
- 37. "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.
- Sec. 3. Section 142C.3, Code 2007, is amended by striking the section and inserting in lieu thereof the following:
- 142C.3 PERSONS WHO MAY MAKE MANNER OF MAKING AMENDING OR RE-VOKING — REFUSAL TO MAKE ANATOMICAL GIFT BEFORE DONOR'S DEATH — PRE-CLUSIVE EFFECT.
- 1. WHO MAY MAKE. Subject to subsection 5, an anatomical gift of a donor's body or part may be made during the life of the donor for the purposes of transplantation, therapy, research, or education in the manner prescribed in subsection 2 by any of the following:
 - a. The donor if the donor is any of the following:
 - (1) An adult.
 - (2) A minor, if the minor is emancipated.
- (3) A minor, if the minor is authorized under state law to apply for a driver's license or identification card because the minor is at least 14 years of age, and the minor authorizes a statement or symbol indicating an anatomical gift on a driver's license, identification card, or donor registry entry with the signed approval of a parent or guardian.
- b. An agent of the donor, unless the durable power of attorney for health care or other record prohibits the agent from making the anatomical gift.
 - c. A parent of the donor, if the donor is an unemancipated minor.

- d. The guardian of the donor.
- 2. MANNER OF MAKING.
- a. A donor may make an anatomical gift by any of the following means:
- (1) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card.
 - (2) In a will.
- (3) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness.
 - (4) As provided in paragraph "b".
- b. (1) A donor or other person authorized to make an anatomical gift under subsection 1 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on the donor registry.
- (2) If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall meet all of the following requirements:
- (a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or other person.
- (b) State that the record has been signed and witnessed as provided in subparagraph subdivision (a).
- c. Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which an anatomical gift is indicated shall not invalidate the gift.
- d. An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.
 - 3. AMENDING OR REVOKING GIFT BEFORE DONOR'S DEATH.
- a. Subject to subsection 5, a donor or other person authorized to make an anatomical gift under subsection 1 may amend or revoke an anatomical gift by any of the following means:
 - (1) A record signed by any of the following:
 - (a) The donor.
 - (b) The other person authorized to make an anatomical gift.
- (c) Subject to paragraph "b", another individual acting at the direction of the donor or the other authorized person if the donor or other person is physically unable to sign the record.
- (2) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.
- b. A record signed pursuant to paragraph "a", subparagraph (1), subparagraph subdivision (c), shall comply with all of the following:
- (1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other authorized person.
 - (2) State that the record has been signed and witnessed as provided in subparagraph (1).
- c. Subject to subsection 5, a donor or other person authorized to make an anatomical gift under subsection 1 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.
- d. A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.
- e. A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in paragraph "a".
 - 4. REFUSAL TO MAKE.
- a. An individual may refuse to make an anatomical gift of the individual's body or part by any of the following means:
 - (1) A record signed by any of the following:
 - (a) The individual.

- (b) Subject to paragraph "b", another individual acting at the direction of the individual if the individual is physically unable to sign the record.
- (2) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death.
- (3) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.
- b. A record signed pursuant to paragraph "a", subparagraph (1), subparagraph subdivision (b), shall comply with all of the following:
- (1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual.
 - (2) State that the record has been signed and witnessed as provided in subparagraph (1).
- c. An individual who has made a refusal may amend or revoke the refusal in accordance with any of the following:
 - (1) In the manner provided in paragraph "a" for making a refusal.
- (2) By subsequently making an anatomical gift pursuant to subsection 2 that is inconsistent with the refusal.
- (3) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.
- d. Except as otherwise provided in subsection 5, paragraph "h", in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part prohibits all other persons from making an anatomical gift of the individual's body or part.
 - 5. PRECLUSIVE EFFECT.
- a. DONOR GIFT OR AMENDMENT SUBSEQUENT ACTIONS BY OTHERS PROHIBIT-ED. Except as otherwise provided in paragraph "g", and subject to paragraph "f", in the absence of a contrary indication by the donor, a person other than the donor is prohibited from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under subsection 2 or an amendment to an anatomical gift of the donor's body or part under subsection 3.
- b. DONOR REVOCATION NOT A REFUSAL. A donor's revocation of an anatomical gift of the donor's body or part under subsection 3 is not a refusal and does not prohibit another person specified in subsection 1 or section 142C.4 from making an anatomical gift of the donor's body or part under subsection 2 or section 142C.4.
- c. GIFT ON AMENDMENT BY ANOTHER SUBSEQUENT ACTIONS BY OTHERS PRO-HIBITED. If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under subsection 2, or an amendment to an anatomical gift of the donor's body or part under subsection 3, another person may not make, amend, or revoke the gift of the donor's body or part under section 142C.4.
- d. REVOCATION BY ANOTHER NOT PROHIBITIVE OF OTHER GIFT. A revocation of an anatomical gift of a donor's body or part under subsection 3 by a person other than the donor does not prohibit another person from making an anatomical gift of the body or part under subsection 2 or section 142C.4.
- e. GIFT OF PART NOT PROHIBITIVE OF GIFT OF ANOTHER PART. In the absence of a contrary indication by the donor or other person authorized to make an anatomical gift under subsection 1, an anatomical gift of a part is neither a refusal to donate another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another authorized person.
- f. GIFT FOR ONE PURPOSE NOT PROHIBITIVE OF ANOTHER PURPOSE. In the absence of a contrary indication by the donor or other person authorized to make an anatomical gift under subsection 1, an anatomical gift of a part for one or more of the purposes specified in subsection 1 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under subsection 2 or section 142C.4.
- g. UNEMANCIPATED MINOR GIFT PARENT REVOCATION. If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

- h. UNEMANCIPATED MINOR REFUSAL PARENT REVOCATION OR AMEND-MENT. If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.
- Sec. 4. Section 142C.4, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

142C.4 WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S BODY OR PART — AMENDING OR REVOKING GIFT.

- 1. Subject to subsection 2, and unless prohibited by section 142C.3, subsection 4 or 5, an anatomical gift of a decedent's body or part for purposes of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed.
- a. An agent of the decedent at the time of death who could have made an anatomical gift under section 142C.3, subsection 1, immediately before the decedent's death.
 - b. The spouse of the decedent.
 - c. Adult children of the decedent.
 - d. Parents of the decedent.
 - e. Adult siblings of the decedent.
 - f. Adult grandchildren of the decedent.
 - g. Grandparents of the decedent.
 - h. An adult who exhibited special care and concern for the decedent.
 - i. Any persons who were acting as guardians of the decedent at the time of death.
 - j. Any other person having the authority to dispose of the decedent's body.
- 2. a. If there is more than one member of a class listed in subsection 1, paragraph "a", "c", "d", "e", "f", "g", or "i", entitled to make an anatomical gift, an anatomical gift may be made by one member of the class unless that member or a person to whom the gift may pass under section 142C.5 knows of an objection by another member of the class. If an objection is known, the gift shall be made only by a majority of the members of the class who are reasonably available.
- b. A person shall not make an anatomical gift if, at the time of the death of the decedent, a person in a prior class under subsection 1 is reasonably available to make or to object to the making of an anatomical gift.
- 3. A person authorized to make an anatomical gift under subsection 1 may make an anatomical gift by a document of gift signed by the person making the gift or by the person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the recipient of the oral communication.
- 4. Subject to subsection 5, an anatomical gift by a person authorized under subsection 1 may be amended or revoked orally or in a record by any member of the prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under subsection 1 may be:
- a. Amended only if a majority of the reasonably available members agree to the amending of the gift.
- b. Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.
- 5. A revocation under subsection 4 is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.
- Sec. 5. Section 142C.4A, Code 2007, is amended by striking the section and inserting in lieu thereof the following:
- 142C.4A COOPERATION BETWEEN MEDICAL EXAMINER AND ORGAN PROCURE-MENT ORGANIZATION — FACILITATION OF ANATOMICAL GIFT FROM DECEDENT WHOSE BODY IS UNDER JURISDICTION OF MEDICAL EXAMINER.

- 1. A medical examiner shall cooperate with procurement organizations to maximize the opportunity to recover organs for the purpose of transplantation when the recovery of organs does not interfere with a death investigation.
- 2. If a medical examiner receives notice from a procurement organization that an organ might be or was made available with respect to a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination will be performed, unless the medical examiner denies recovery in accordance with this section, the medical examiner or designee shall conduct a postmortem examination of the body or the organ in a manner and within a period compatible with its preservation for the purposes of the gift. Every reasonable effort shall be made to accomplish the mutual goals of organ donation and a thorough death investigation.
- 3. An organ shall not be removed from the body of a decedent under the jurisdiction of a medical examiner for transplantation unless the organ is the subject of an anatomical gift. This subsection does not preclude a medical examiner from performing a medicolegal investigation pursuant to subsection 5 upon the body or organs of a decedent under the jurisdiction of the medical examiner.
- 4. Upon request of an organ procurement organization, a medical examiner shall release to the organ procurement organization the name and contact information of a decedent whose body is under the jurisdiction of the medical examiner. If the decedent's organs are medically suitable for transplantation, the pathologist or medical examiner shall release to the organ procurement organization the postmortem examination results, limited to cause and manner of death and any evidence of infection or other disease process, which might preclude safe transplantation of recovered organs. The organ procurement organization may make a subsequent disclosure of the postmortem examination results only if relevant to transplantation.
- 5. The medical examiner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, X rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the medical examiner, which the medical examiner determines may be relevant to the investigation.
- 6. A person who has any information requested by a medical examiner pursuant to subsection 5 shall provide that information as expeditiously as possible to allow the medical examiner to conduct the medicolegal investigation within a period compatible with the preservation of organs for the purpose of transplantation.
- 7. If an anatomical gift has been or might be made of an organ of a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination is not required, or the medical examiner determines that a postmortem examination is required but that the recovery of the organ that is the subject of an anatomical gift will not interfere with the examination, the medical examiner and organ procurement organization shall cooperate in the timely removal of the organ from the decedent for the purpose of transplantation.
- 8. a. If an anatomical gift of an organ from a decedent under the jurisdiction of the medical examiner has been or might be made, but the pathologist or medical examiner initially believes that the recovery of the organ could interfere with the postmortem investigation into the decedent's cause or manner of death, the pathologist or medical examiner shall consult with the organ procurement organization or physician or technician designated by the organ procurement organization about the proposed recovery.
- b. Ancillary clinical tests such as a magnetic resonance imaging (MRI), a computed tomography (CT) scan, or skeletal survey may be required by the pathologist prior to determination of suitability of organ procurement. These tests shall be performed and interpreted by the appropriate physician at the pathologist's request, and reported in a timely fashion. All expenses for such tests shall be the responsibility of the organ procurement organization regardless of outcome.
- c. After consultation pursuant to paragraph "a" and any preliminary investigation pursuant to paragraph "b", the pathologist or medical examiner may allow recovery, depending on the nature of the case and the availability of a pathologist to view the body prior to recovery.

- 9. If the manner of death may be homicide or has the potential for litigation, the organ recovery shall be approved by the forensic pathologist, and the forensic pathologist may examine the body prior to organ recovery and document by diagrams and photographs all visible injuries.
- 10. a. If the medical examiner or designee allows recovery of an organ under subsection 7, 8, or 9, the organ procurement organization, upon request, shall cause the physician or technician who removes the organ to provide the medical examiner with a record describing the condition of the organ, a biopsy, a photograph, and any other information and observations that would assist in the postmortem examination.
- b. Arrangements for the examination of bodies of such decedents shall be coordinated between the organ procurement organization and the state medical examiner.
- c. If applicable, and whenever possible, the forensic pathologist who examined the decedent's body prior to recovery of the organ shall perform the autopsy. If the forensic pathologist is unable to accommodate examination of the body due to scheduling or staffing, the request for organ donation may be denied.
- 11. If a medical examiner or designee is required to be present at a removal procedure under subsection 9, upon request, the organ procurement organization requesting the recovery of the organ shall reimburse the medical examiner or designee for the additional costs incurred in complying with subsection 9.
- 12. A physician or technician who removes an organ at the direction of the organ procurement organization may be called to testify about findings from the surgical recovery of organs at no cost to taxpayers if the decedent is under the jurisdiction of the medical examiner.
- 13. a. The medical examiner or pathologist with jurisdiction over the body of a decedent has discretion to grant or deny permission for organ or tissue recovery.
- b. If the recovery of organs or tissues may hinder the determination of cause or manner of death or if evidence may be destroyed by the recovery, permission may be denied.
- c. The medical examiner or a pathologist performing state autopsies shall work closely with procurement organizations in an effort to balance the needs of the public and the decedent's next of kin.
- Sec. 6. Section 142C.5, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

142C.5 PERSONS WHO MAY RECEIVE ANATOMICAL GIFTS AND PURPOSES FOR WHICH ANATOMICAL GIFTS MAY BE MADE.

- 1. An anatomical gift may be made to the following persons named in a document of gift:
- a. A hospital, accredited medical or osteopathic medical school, dental school, college, or university, organ procurement organization, or other appropriate person for research or education.
 - b. An eye bank or tissue bank.
- c. Subject to subsection 2, an individual designated by the person making the anatomical gift if the individual is the recipient of the part.
- 2. If an anatomical gift to an individual under subsection 1, paragraph "c", cannot be transplanted into the individual, the part passes in accordance with subsection 7 in the absence of an express, contrary indication by the person making the anatomical gift.
- 3. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection 1 but identifies the purpose for which an anatomical gift may be used, the following rules apply:
- a. If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.
- b. If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.
- c. If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

- d. If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.
- 4. For the purpose of subsection 3, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.
- 5. If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection 1 and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection 7.
- 6. If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor", or "body donor", or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection 7.
 - 7. For the purposes of subsections 2, 5, and 6, the following rules shall apply:
 - a. If the part is an eye, the gift passes to the appropriate eye bank.
 - b. If the part is tissue, the gift passes to the appropriate tissue bank.
- c. If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.
- 8. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection 1, paragraph "c", passes to the organ procurement organization as custodian of the organ.
- 9. If an anatomical gift does not pass pursuant to subsections 1 through 8, or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.
- 10. A person shall not accept an anatomical gift if the person knows that the gift was not effectively made under section 142C.3, subsection 2, or section 142C.4, or if the person knows that the decedent made a refusal under section 142C.3, subsection 4, that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.
- 11. Except as otherwise provided in subsection 1, paragraph "c", nothing in this chapter shall affect the allocation of organs for transplantation or therapy.

Sec. 7. <u>NEW SECTION</u>. 142C.5A SEARCH AND NOTIFICATION.

- 1. The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:
- a. A law enforcement officer, fire fighter, paramedic, or other emergency rescuer finding the individual.
- b. If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.
- 2. If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection 1, paragraph "a", and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall deliver the document of gift or refusal to the hospital.
- 3. A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.
- Sec. 8. Section 142C.6, Code 2007, is amended by striking the section and inserting in lieu thereof the following:
 - 142C.6 DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED RIGHT TO EXAMINE.
 - 1. A document of gift does not require delivery during the donor's lifetime to be effective.
 - 2. Upon or after an individual's death, a person in possession of the document of gift or a

refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or the refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to whom the gift could pass under section 142C.5.

Sec. 9. Section 142C.7, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

142C.7 CONFIDENTIAL INFORMATION.

A hospital, licensed or certified health care professional pursuant to chapter 148, 148C, 150A, or 152, or medical examiner may release patient information to a procurement organization as part of a referral or retrospective review of the patient as a potential donor. Any information regarding a patient, including the patient's identity, however, constitutes confidential medical information and under any other circumstances is prohibited from disclosure without the written consent of the patient or the patient's legal representative.

Sec. 10. Section 142C.8, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

142C.8 RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATIONS AND DONORS.

- 1. When a hospital refers an individual at or near death to a procurement organization, the procurement organization shall make a reasonable search of the records of the state department of transportation and any donor registry that the hospital knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.
- 2. A procurement organization shall be allowed reasonable access to information in the records of the state department of transportation to ascertain whether an individual at or near death is a donor.
- 3. When a hospital refers an individual at or near death to a procurement organization, the procurement organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part shall not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.
- 4. Unless prohibited by law other than this chapter, at any time after a donor's death, the person to whom a part passes under section 142C.5 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.
- 5. Unless prohibited by law other than this chapter, an examination under subsection 3 or 4 may include an examination of all medical and dental records of the donor or prospective donor.
- 6. Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.
- 7. Upon referral by a hospital under subsection 1, a procurement organization shall make a reasonable search for any person listed in section 142C.4 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, the procurement organization shall promptly advise the other person of all relevant information.
- 8. Subject to section 142C.5, subsection 9, the rights of a person to whom a part passes under section 142C.5 are superior to the rights of all other persons with respect to the part.
- 9. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person who accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of the remains in a funeral service. If the gift is of a part, the person to whom the part passes under section 142C.5, upon the

death of the donor and prior to embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

- 10. The physician who attends the decedent at death and the physician who determines the time of death shall not participate in the procedures for removing or transplanting a part from the decedent.
- 11. A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.
- Sec. 11. Section 142C.9, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

142C.9 COORDINATION OF PROCUREMENT AND USE.

Each hospital in the state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

Sec. 12. Section 142C.10, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

142C.10 SALE OR PURCHASE OF PARTS PROHIBITED — PENALTY.

- 1. A person shall not knowingly, for valuable consideration, purchase or sell a part for transplantation or therapy, if removal of the part is intended to occur after the death of the decedent.
- 2. Valuable consideration does not include reasonable payment for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.
 - 3. A person who violates this section commits a class "C" felony.

Sec. 13. NEW SECTION. 142C.10A OTHER PROHIBITED ACTS — PENALTY.

A person who, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal, commits a class "C" felony.

Sec. 14. Section 142C.11, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

142C.11 IMMUNITY.

- 1. A person who complies with this chapter in good faith or with the applicable anatomical gift law of another state, or who attempts in good faith to comply, is immune from liability in any civil action, criminal prosecution, or administrative proceeding.
- 2. An individual who makes an anatomical gift pursuant to this chapter and the individual's estate are not liable for any injury or damages that may result from the making or the use of the anatomical gift, if the gift is made in good faith.
- 3. In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely upon representations of an individual listed in section 142C.4, subsection 1, paragraph "b", "c", "d", "e", "f", "g", or "h", relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.
- Sec. 15. <u>NEW SECTION</u>. 142C.12A LAW GOVERNING VALIDITY, CHOICE OF LAW, PRESUMPTION OF VALIDITY.
 - 1. A document of gift is valid if executed in accordance with any of the following:
 - a. This chapter.
 - b. The laws of the state or country where the document of gift was executed.
- c. The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.
- 2. If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.
- 3. A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

Sec. 16. <u>NEW SECTION</u>. 142C.12B EFFECT OF ANATOMICAL GIFT ON ADVANCE HEALTH CARE DIRECTIVE.

- 1. As used in this section:
- a. "Advance health care directive" means a durable power of attorney for health care pursuant to chapter 144B or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health care decision for the prospective donor.
- b. "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.
- c. "Health care decision" means any decision regarding the health care of the prospective donor.
- 2. a. If a prospective donor has a declaration or advance health care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict.
- b. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive or, if no agent exists or the agent is not reasonably available, another person, authorized by law other than this chapter to make health care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The agent or other person shall resolve the conflict consistent with the desires of the donor as expressed in a declaration executed in accordance with chapter 144A, or a durable power of attorney for health care executed in accordance with chapter 144B, or as otherwise known, or if not known, consistent with the donor's best interest.
 - c. The conflict shall be resolved as expeditiously as possible.
- d. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 142C.4. Prior to resolution of the conflict, measures necessary to ensure the medical suitability of the part shall not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care.
- Sec. 17. Section 142C.13, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

142C.13 TRANSITIONAL PROVISIONS.

This chapter applies to an anatomical gift, or amendment to, revocation of, or refusal to make an anatomical gift whenever made.

Sec. 18. Section 142C.14, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

142C.14 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

This chapter shall be applied and construed with consideration given to the need to promote uniformity of the law with respect to anatomical gifts among states, which enact this law.

Sec. 19. <u>NEW SECTION</u>. 142C.14A ELECTRONIC SIGNATURES.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or authorize electronic delivery of any of the notices described in § 103(b) of that Act, 15 U.S.C. § 7003(b).

- Sec. 20. Section 142C.15, subsection 4, paragraph a, Code 2007, 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 re-

maining 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 the Iowa 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. 21. Section 142C.16, subsection 1, paragraph e, Code 2007, is amended to read as follows:
 - e. A bank or storage procurement organization.
- Sec. 22. Section 142C.16, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. The state medical examiner.

- Sec. 23. Section 142C.16, subsection 2, Code 2007, is amended to read as follows:
- 2. Members shall serve staggered terms of two years. Appointments of members of the committee shall comply with sections section 69.16 and but are not subject to section 69.16A. Vacancies shall be filled by the original appointing authority and in the manner of the original appointment.
- Sec. 24. Section 142C.18, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

142C.18 IOWA DONOR REGISTRY.

- 1. The director of public health shall contract with and recognize the Iowa donor registry for the purpose of indicating on the donor registry all relevant information regarding a donor's making or amending of an anatomical gift.
- 2. The state department of transportation shall cooperate with a person that administers the Iowa donor registry for the purpose of transferring to the donor registry all relevant information regarding a donor's making of an anatomical gift.
 - 3. The Iowa donor registry shall do all of the following:
- a. Allow a donor or other person authorized under section 142C.3 to include on the donor registry a statement or symbol that the donor has made or amended an anatomical gift.
- b. Be accessible to a procurement organization to allow the procurement organization to obtain relevant information on the donor registry to determine, at or near the death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.
- c. Be accessible for purposes of paragraphs "a" and "b" seven days a week on a twenty-four-hour per day basis.
- d. Provide a centralized, automated system to compile donation information received by the state department of transportation, county treasurers, and the Iowa donor network.
- e. Provide educational materials regarding the making, amending, or revoking of an anatomical gift or a refusal to make an anatomical gift.
- 4. Personally identifiable information on the donor registry about a donor or prospective donor shall not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near the death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

DIVISION II CONFORMING AMENDMENTS

- Sec. 25. Section 141A.7, subsection 2, paragraph a, Code 2007, is amended to read as follows:
 - a. The performance by a health care provider or health facility of an HIV-related test when

the health care provider or health facility procures, processes, distributes, or uses a human body part donated for a purpose specified under the <u>revised</u> uniform anatomical gift Act as provided in chapter 142C, or semen provided prior to July 1, 1988, for the purpose of artificial insemination, or donations of blood, and such test is necessary to ensure medical acceptability of such gift or semen for the purposes intended.

Sec. 26. Section 142.4, unnumbered paragraph 2, Code 2007, is amended to read as follows:

This section shall not apply to bodies given under authority of the <u>revised</u> uniform anatomical gift Act as provided in chapter 142C.

Sec. 27. Section 142.8, unnumbered paragraph 2, Code 2007, is amended to read as follows:

This section shall not apply to bodies given under authority of the <u>revised</u> uniform anatomical gift Act as provided in chapter 142C.

- Sec. 28. Section 321.178, subsection 1, paragraph a, subparagraph (3), Code 2007, is amended to read as follows:
- (3) Instruction relating to becoming an organ donor under the <u>revised</u> uniform anatomical gift Act as provided in chapter 142C.
 - Sec. 29. Section 321.189, subsection 4, Code 2007, is amended to read as follows:
- 4. SYMBOLS. Upon the request of a licensee, the department shall indicate on the license the presence of a medical condition, that the licensee is a donor under the <u>revised</u> uniform anatomical gift Act as provided in chapter 142C, or that the licensee has in effect a medical advance directive. For purposes of this subsection, a medical advance directive includes, but is not limited to, a valid durable power of attorney for health care as defined in section 144B.1. The license may contain such other information as the department may require by rule.

Approved April 5, 2007

CHAPTER 45

GENERATION IOWA COMMISSION

H.F. 617

AN ACT creating a generation Iowa commission.

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

Section 1. NEW SECTION. 15.411 GENERATION IOWA COMMISSION.

- 1. The generation Iowa commission is established within the department for purposes of advising and assisting in the retention and attraction of the young adult population in the state in both urban and rural areas.
- 2. a. The commission shall consist of fifteen voting members appointed by the governor, subject to confirmation by the senate. At the time of appointment or reappointment, a member shall be at least eighteen years of age, but less than thirty-five years of age. The voting membership shall reflect diversity within all of the following areas:
 - (1) Geographic location within the state.

- (2) Public, private, and nonprofit sector employment.
- (3) Location of secondary and higher education within and outside Iowa.
- (4) Urban and rural residents.
- (5) Multicultural diversity.
- b. Four members of the general assembly shall serve as nonvoting, ex officio members of the commission with two from the senate and two from the house of representatives and not more than one member from each chamber being from the same political party. The two senators shall be designated by the president of the senate after consultation with the majority and minority leaders of the senate. The two representatives shall be designated by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives.
- 3. The voting members shall be appointed in compliance with the requirements of sections 69.16, 69.16A, and 69.19, and shall serve staggered, three-year terms as designated by the governor. Members may be reappointed by the governor provided the requirements of subsection 2 are met.
- 4. The commission shall annually elect a chairperson and a vice chairperson from the voting members of the commission.
 - 5. The commission shall do all of the following:
- a. (1) By January 15, 2008, the commission shall submit a written report to the governor and the general assembly. The report shall include findings and recommendations of the commission regarding the status of efforts to attract and retain the young adult population in the state, career opportunities and educational needs of young adults, and the movement of the young adult population between rural areas and urban areas and between Iowa and other states. The commission shall submit an updated report to the governor and the general assembly by January 15, 2009, and by January 15 in every odd-numbered year thereafter.
- (2) By January 15 in years when the report required in subparagraph (1) is not updated, the commission shall submit to the governor and the general assembly a written status report which shall include an analysis of progress made during the previous calendar year on any recommendations in the report and any available updates on data included in the report.
- b. Advise and assist the department in activities designed to retain and attract the young adult population.
- c. Develop and make available best practices guidelines for employers to attract and retain young adult employees.

Approved April 5, 2007

CHAPTER 46

BEER KEG REGULATION AND SALES

H.F. 650

AN ACT relating to the sales of beer kegs by requiring an identification number on each keg of beer, recording of the purchase of beer by the keg, and providing penalties.

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

Section 1. Section 123.50, subsection 1, Code 2007, is amended to read as follows:

1. Any person who violates any of the provisions of section 123.49, except subsection 2, par-

agraph "h", or who fails to affix upon sale, defaces, or fails to record a keg identification sticker or produce a record of keg identification stickers pursuant to section 123.138, shall be guilty of a simple misdemeanor. A person who violates section 123.49, subsection 2, paragraph "h", commits a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 2.

- Sec. 2. Section 123.138, Code 2007, is amended to read as follows: 123.138 BOOKS OF ACCOUNT REQUIRED KEG IDENTIFICATION STICKER.
- 1. Each class "A" or special class "A" permittee shall keep proper books of account and records showing the amount of beer sold by the permittee, and these books of account shall be at all times open to inspection by the administrator and to other persons pursuant to section 123.30, subsection 1. Each class "B" and class "C" permittee shall keep proper books of account and records showing each purchase of beer made by the permittee, and the date and the amount of each purchase and the name of the person from whom each purchase was made, which books of account and records shall be open to inspection pursuant to section 123.30, subsection 1, during normal business hours of the permittee.
- 2. a. Each class "B", "C", or special class "C" liquor control licensee and class "B" or "C" beer permittee who sells beer for off-premises consumption shall affix to each keg of beer an identification sticker provided by the administrator. The sticker provided shall allow for its full removal when common external keg cleaning procedures are performed. For the purposes of this subsection, "keg" means all durable and disposable containers with a liquid capacity of five gallons or more. Each class "B", "C", or special class "C" liquor control licensee and class "B" or "C" beer permittee shall also keep a record of the identification sticker number of each keg of beer sold by the licensee or permittee with the name and address of the purchaser and the number of the purchaser's driver's license, nonoperator's identification card, or military identification card, if the military identification card contains a picture and signature. This information shall be retained by the licensee or permittee for a minimum of ninety days. The records kept pursuant to this subsection shall be available for inspection by any law enforcement officer during normal business hours.
- b. The division shall provide the keg identification stickers described in paragraph "a" and shall, prior to utilizing a sticker, notify licensed brewers and licensed beer importers of the type of sticker to be utilized. Each sticker shall contain a number and the following statement: "It is unlawful to sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person under legal age. Any person who defaces this sticker shall be guilty of criminal mischief punishable pursuant to section 716.6 and shall cause the forfeiture of any deposit, if applicable." The identification sticker shall be placed on the keg at the time of retail sale. The licensee or permittee shall purchase the stickers referred to in this subsection from the division and shall remit to the division deposits forfeited pursuant to this lettered paragraph due to defacement. The cost of the stickers to licensees and permittees shall not exceed the division's cost of producing and distributing the stickers. The moneys collected by the division relating to the sale of stickers and forfeited deposits shall be credited to the beer and liquor control fund.
- c. The provisions of this subsection shall be implemented uniformly throughout the state. The provisions of this subsection shall preempt any local county or municipal ordinance regarding keg registration or the sale of beer in kegs. In addition, a county or municipality shall not adopt or continue in effect an ordinance regarding keg registration or the sale of beer in kegs.
- d. The division shall establish by rule procedures relating to the forfeiture and remittance of deposits pursuant to paragraph "b".

CHAPTER 47

RESERVE PEACE OFFICERS — TRAINING AND CERTIFICATION

S.F. 110

†AN ACT relating to the standardized training and state certification of reserve peace officers.

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

Section 1. Section 80D.1A, Code 2007, is amended to read as follows: 80D.1A DEFINITIONS.

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

- 1. "Academy" means the Iowa law enforcement academy.
- 2. "Council" means the Iowa law enforcement academy council.
- 1. 3. "Minimum training course" means a curriculum of one hundred fifty hours of training and instruction required for certification as a reserve peace officer, excluding weapons training basic training requirements developed by the academy pursuant to the academy's rulemaking authority that a reserve peace officer must complete within a prescribed time period to become state certified as a reserve peace officer. The minimum training course does not include required weapons training.
- $\frac{2}{4}$. "Reserve force" means an organization of reserve peace officers established as provided in this chapter.
- 3. 5. "Reserve peace officer" means a volunteer, nonregular, sworn member of a law enforcement agency who serves with or without compensation, has regular police powers while functioning as a law enforcement agency's representative, and participates on a regular basis in the law enforcement agency's activities including crime prevention and control, preservation of the peace, and enforcement of law.
 - Sec. 2. Section 80D.3, Code 2007, is amended to read as follows: 80D.3 TRAINING STANDARDS.
- 1. Each person appointed to serve as a reserve peace officer shall satisfactorily complete a minimum training course as provided in this section established by academy rules. In addition, if a reserve peace officer is authorized to carry weapons, the officer shall satisfactorily complete the same training course in the use of weapons as is required for basic training of regular peace officers by the Iowa law enforcement academy. The minimum training course for reserve peace officers must shall be satisfactorily completed within four years from the date of appointment the time period prescribed by academy rules. If reserve Academy-approved reserve peace officer training received before July 1, 1990, meets the requirements of this section, the training 2007, may be applied to meet the minimum training course requirements of this section established by academy rules.
- 2. A reserve peace officer who does not carry a weapon shall not be required to complete a weapons training course, but the officer shall comply with all other training requirements.
- 3. A person appointed to serve as a reserve peace officer, who has received basic training as a peace officer and has been certified by the Iowa law enforcement academy pursuant to chapter 80B and rules adopted pursuant to chapter 80B, may be exempted from completing the minimum training course at the discretion of the appointing authority. if the officer meets one of the following qualifications:
- a. The appointee is serving as a regular peace officer with a bona fide law enforcement agency when the application for a reserve peace officer appointment is made.
- b. The appointee has served as a regular peace officer with a bona fide law enforcement agency within three years of the date of application for appointment as a reserve peace officer. However, such a person appointed to serve as a reserve peace officer shall meet mandatory in-service training requirements established by academy rules if the person has not served as

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

an active peace officer within one hundred eighty days of appointment as a reserve peace officer.

- 4. The minimum training course required for a reserve peace officer shall be conducted pursuant to sections 80D.4 and 80D.7, and the following training schedule:
- a. During the first year, thirty hours of general law enforcement training is required as provided in section 80D.4 and as prescribed by the Iowa law enforcement academy council. If weapons are to be carried, a reserve peace officer shall complete a weapons training course having the same number of hours of training as is required of regular peace officers in basic training pursuant to section 80D.7.
- b. During the second through the fourth year, forty hours of training shall be provided each year. Ten hours annually shall be obtained by each reserve peace officer working with a regular peace officer. The remaining thirty hours annually shall be selected by the appointing authority from the approved basic training curriculum established by the Iowa law enforcement academy for use in training regular peace officers.
- c. Notwithstanding the time schedule provided in this subsection, a \underline{A} person is eligible for state certification as a reserve peace officer upon satisfactory completion of the one hundred fifty hours of training required for certification and testing requirements specified by academy rules. A reserve peace officer enrolled in an academy-approved minimum course of training prior to July 1, 2007, shall obtain state certification by July 1, 2012.
 - Sec. 3. Section 80D.4, Code 2007, is amended to read as follows: 80D.4 TRAINING.

Training for individuals appointed as reserve peace officers shall be provided by that law enforcement agency, but may be obtained instructors in a community college or other facility, including a law enforcement agency, selected by the individual and approved by the law enforcement agency and the academy. Upon satisfactory completion of training required by the lowa law enforcement academy, the chief of police, sheriff, commissioner of public safety, or director of the judicial district department of correctional services academy shall certify the individual as a reserve peace officer.

Sec. 4. <u>NEW SECTION</u>. 80D.4A TRAINING AND CERTIFICATION REQUIREMENTS. The director of the academy, subject to the approval of the council, shall promulgate rules in accordance with the provisions of this chapter and chapter 17A, giving due consideration to varying factors and special requirements of law enforcement agencies relative to the standardized training and state certification of reserve peace officers.

Approved April 10, 2007

CHAPTER 48

REGULATION OF RACING AND GAMING — HORSE RACING S.F. 129

AN ACT relating to the racing and gaming commission by modifying provisions regulating horses involved in horse racing and providing an effective date.

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

Section 1. Section 99D.25, subsections 5 and 9, Code 2007, are amended to read as follows: 5. Every horse which suffers a breakdown on the racetrack, in training, or in competition,

and is destroyed, and every other horse which expires while stabled on the racetrack under the jurisdiction of the commission, shall undergo a postmortem examination by a veterinarian or a veterinary pathologist at a time and place acceptable to the commission veterinarian to determine the injury or sickness which resulted in euthanasia or natural death. Test samples shall may be obtained from the carcass upon which the postmortem examination is conducted and shall be sent to a laboratory approved by the commission for testing for foreign substances and natural substances at abnormal levels. When practical, blood and urine test samples should be procured prior to euthanasia. The owner of the deceased horse is responsible for payment of any charges due to conduct the postmortem examination. A record of every postmortem shall be filed with the commission by the veterinarian or veterinary pathologist who performed the postmortem within seventy-two hours of the death. Each owner and trainer accepts the responsibility for the postmortem examination provided herein as a requisite for maintaining the occupational license issued by the commission.

- 9. The commission shall conduct random tests of bodily substances of horses entered to race each day of a race meeting to aid in the detection of any unlawful drugging. The tests may be conducted both prior to and after a race. The commission shall may also test any horse that breaks down during a race and shall perform an autopsy on any horse that is killed or subsequently destroyed as a result of an accident during a race. When practical, blood and urine test samples should be procured prior to euthanasia.
- Sec. 2. Section 99D.25A, subsection 1, paragraph a, Code 2007, is amended to read as follows:
 - a. "Bleeder" means, according to its context, either any of the following:
- (1) A horse which, during a race or exercise, is observed by the commission veterinarian or designee a licensed practicing veterinarian to be shedding blood from one or both nostrils and in which no upper airway injury is noted during an examination by the commission veterinarian or a licensed practicing veterinarian immediately following such a race or exercise;
- (2) A horse which, within one and one-half hours of such a race or exercise, is observed by the commission veterinarian or a licensed practicing veterinarian, through visual or endoscopic examination, to be shedding blood from the lower airway; or.
 - (3) A horse which has been certified as a bleeder in another state.
 - (4) A horse which has furosemide listed on its most recent past performance.
- (5) A horse which, by recommendation of a licensed practicing veterinarian, is prescribed furosemide to control or prevent bleeding from the lungs.
 - Sec. 3. Section 99D.25A, subsection 2, Code 2007, is amended to read as follows:
- 2. Phenylbutazone shall not be administered to a horse in dosages which would result in concentrations of more than two point two five micrograms of the substance or its metabolites per milliliter of blood.
 - Sec. 4. Section 99D.25A, subsection 4, Code 2007, is amended to read as follows:
- 4. If a test detects concentrations of phenylbutazone in the system of a horse in excess of the level permitted in this section, the commission shall assess a civil penalty against the trainer of at least two hundred dollars for the first offense and at least five hundred dollars for a second offense. The penalty for a third or subsequent offense shall be in the discretion of the commission. A penalty assessed under this subsection shall not affect the placing of the horse in the race.
 - Sec. 5. Section 99D.25A, subsection 7, Code 2007, is amended to read as follows:
- 7. A horse entered to race with furosemide must be treated at least four hours prior to post time. The furosemide shall be administered intravenously by a veterinarian employed by the owner or trainer of the horse. The commission shall adopt rules to ensure that furosemide is administered as provided in this section. The commission shall require that the practicing veterinarian deliver an affidavit signed by the veterinarian which certifies information regarding

the treatment of the horse. The affidavit must be delivered to a commission veterinarian within twenty minutes following the treatment. The statement must at least include the name of the practicing veterinarian, the tattoo number of the horse, the location of the barn and stall where the treatment occurred, the race number of the horse, the name of the trainer, and the time that the furosemide was administered. Furosemide shall only be administered in a dose level of two no less than one hundred fifty milligrams and no more than five hundred milligrams.

- Sec. 6. Section 99F.6, subsection 8, paragraph a, Code 2007, is amended to read as follows: a. The licensee or a holder of an occupational license shall consent to the search, without a warrant, by agents of the division of criminal investigation of the department of public safety or commission employees designated by the secretary administrator of the commission, of the licensee's or holder's person, personal property, and effects, and premises which are located on the excursion gambling boat or adjacent facilities under control of the licensee, in order to inspect or investigate for violations of this chapter or rules adopted by the commission pursuant to this chapter. The department or commission may also obtain administrative search warrants under section 808.14.
- Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 10, 2007

CHAPTER 49

STATE PAYMENT OF MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES FUNDING

S.F. 169

AN ACT providing for county eligibility for state payment of certain mental health, mental retardation, and developmental disabilities services funding and providing effective and retroactive applicability dates.

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

Section 1. SERVICES FUND TRANSFER — ALLOWED GROWTH PAYMENT.

- 1. For the purposes of this section, "services fund" means a county's mental health, mental retardation, and developmental disabilities services fund created under section 331.424A.
- 2. If a county failed to levy the maximum dollar amount allowed for the county's services fund for the fiscal year beginning July 1, 2006, the county shall qualify for the per capita expenditure target pool allowed growth payment under section 426B.5, subsection 1, made in that fiscal year provided all of the following conditions are met:
- a. The county has a population of more than 10,600 but less than 10,700, according to the 2005 population estimate issued by the federal government.
- b. On the enactment date of this Act, the county has an unobligated or unencumbered balance in the undesignated portion of the general fund of the county under section 331.427 in an amount at least equal to the difference between the actual dollar amount the county levied for the county's services fund for the fiscal year and the maximum dollar amount allowed to be levied for the county's services fund for the fiscal year.

- c. The county makes a one-time permanent transfer from the general fund of the county to the county's services fund in the amount identified under paragraph "a". The county is authorized to make the transfer described in this paragraph notwithstanding section 331.424A or any other provision of law to the contrary.
- d. The county auditor certifies to the department of human services that the one-time permanent transfer from the general fund of the county has been made in the specified amount to the county's services fund and that the conditions of this subsection have been met.
- 3. Upon receiving the certification required under subsection 2, the county shall be deemed to have met the requirement under section 426B.5, subsection 1, paragraph "c", subparagraph (1), to be levying the maximum amount allowed for the county's services fund for the fiscal year beginning July 1, 2006, and the department of human services shall authorize adjustment of the allowed growth payment to the county accordingly, subject to any other adjustments required under 2005 Iowa Acts, chapter 179, section 1, as amended by 2006 Iowa Acts, chapter 1184, section 73.
- Sec. 2. STATE PAYMENT TO ELIGIBLE COUNTIES. Notwithstanding section 331.439, subsection 1, paragraph "a", a county that accurately reported the county's expenditures for mental health, mental retardation, and developmental disabilities services for the previous fiscal year on the forms prescribed by the department of human services, and the report was received after December 1, 2006, and on or before March 15, 2007, shall be eligible for state payment, as defined in section 331.438, in accordance with section 331.439 and other law providing for the state payment in the fiscal year beginning July 1, 2006.
- Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2006.

Approved April 10, 2007

CHAPTER 50

UNANNOUNCED EMPLOYEE DRUG OR ALCOHOL TESTING S.F. 284

AN ACT concerning employees subject to unannounced drug or alcohol testing.

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

Section 1. Section 730.5, subsection 8, paragraph a, Code 2007, is amended to read as follows:

- a. Employers may conduct unannounced drug or alcohol testing of employees who are selected from any of the following pools of employees:
- (1) The entire employee population at a particular work site of the employer except for employees not subject to testing pursuant to a collective bargaining agreement, or employees who are not scheduled to be at work at the time the testing is conducted because of the status of the employees or who have been excused from work pursuant to the employer's work policy prior to the time the testing is announced to employees.
- (2) The entire full-time active employee population at a particular work site except for employees not subject to testing pursuant to a collective bargaining agreement, or employees who are not scheduled to be at work at the time the testing is to be conducted because of the

status of the employee, or who have been excused from work pursuant to the employer's working policy.

(3) All employees at a particular work site who are in a pool of employees in a safety-sensitive position and who are scheduled to be at work at the time testing is conducted, other than employees not subject to testing pursuant to a collective bargaining agreement, or employees who are not scheduled to be at work at the time the testing is to be conducted or who have been excused from work pursuant to the employer's work policy prior to the time the testing is announced to employees.

Approved April 10, 2007

CHAPTER 51

USED MOTOR VEHICLE DEALER EDUCATION REQUIREMENTS

S.F. 358

AN ACT establishing prelicensing and continuing education requirements for used motor vehicle dealers.

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

Section 1. Section 322.4, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 8A. If the applicant is applying for a used motor vehicle dealer license, certification that the applicant has met the educational requirements for licensure under section 322.7A. The certification may be transmitted to the department by the education provider in electronic format.

- Sec. 2. Section 322.7, subsection 4, Code 2007, is amended to read as follows:
- 4. The motor vehicle dealer license provided for in this chapter shall be renewed upon application in the form and content prescribed by the department and upon payment of the required fee. A used motor vehicle dealer license shall not be renewed for an applicant who is subject to continuing education requirements until the licensee certifies completion of the educational requirements for license renewal under section 322.7A. The certification may be transmitted to the department by the education provider in electronic format. 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. 3. <u>NEW SECTION</u>. 322.7A USED MOTOR VEHICLE DEALER EDUCATION PROGRAM.
- 1. An applicant for a license as a used motor vehicle dealer shall complete a minimum of eight hours of prelicensing education program courses pursuant to this section prior to submitting an application to the department.
- 2. A person seeking renewal of a used motor vehicle dealer license shall complete a minimum of five hours of continuing education program courses over a two-year period pursuant to this section prior to submitting an application for license renewal. However, an applicant for renewal of a used motor vehicle dealer license who has met the prelicensing education requirement under subsection 1 within the preceding twelve months is exempt from the continuing education requirement for license renewal.

- 3. To meet the requirements of this section, at least one individual who is associated with the used motor vehicle dealer as an owner, principal, corporate officer, director, or member or partner of a limited liability company or limited liability partnership shall complete the education program courses.
- 4. The Iowa independent automobile dealers association, in consultation with the state department of transportation, the department of education, the attorney general, and the Iowa association of community college trustees, shall develop the prelicensing and continuing education course curricula for the used motor vehicle dealer education program, which shall include but not be limited to examination of federal and state laws applicable to the motor vehicle industry and federal and state regulations pertaining to used motor vehicle dealers. The education program courses shall be provided by community colleges as defined in section 260C.2 or by the Iowa independent automobile dealers association in conjunction with a community college. The department of education shall adopt rules establishing reasonable fees to be charged for the prelicensing education courses and the continuing education courses.
- 5. A community college shall issue a certificate to each person who successfully completes the prelicensing education program or a continuing education program under this section. The current certificate of completion, or a copy of the certificate, shall be posted conspicuously in the principal office of the licensee.
- 6. The provisions of this section apply to all used motor vehicle dealers, including but not limited to individuals, corporations, and partnerships, except for the following:
 - a. Motor vehicle rental companies having a national franchise.
 - b. National motor vehicle auction companies.
 - c. Wholesale dealer-only auction companies.
 - d. Used car dealerships owned by a franchise motor vehicle dealer.
 - e. Banks, credit unions, and savings and loan associations.
- 7. Each community college providing used motor vehicle dealer education program courses shall transmit a report on the program annually by December 31 to the director of transportation, the director of the department of education, the attorney general, and the president of the Iowa association of community college trustees.
- Sec. 4. USED MOTOR VEHICLE DEALER EDUCATION PROGRAM NOTICE. The department of transportation shall provide reasonable notice to current used motor vehicle dealer licensees of the need to meet continuing education requirements as a condition for future license renewal.

Approved April 10, 2007

CHAPTER 52

MORTGAGE RELEASE CERTIFICATES ISSUED BY IOWA FINANCE AUTHORITY — APPLICABILITY

S.F. 400

AN ACT relating to mortgage release certificates issued by the Iowa finance authority.

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

Section 1. Section 16.92, subsection 1, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. aa. "Division board" means the board of directors of the title guaranty division of the Iowa finance authority.

- Sec. 2. Section 16.92, subsection 1, paragraph b, Code 2007, is amended to read as follows: b. "Mortgage" means a mortgage or mortgage lien on an interest in real property in this state given to secure a loan in an original principal amount of five hundred thousand dollars or less equal to or less than the maximum amount as determined by the division board.
- Sec. 3. Section 16.92, subsection 3, paragraph b, Code 2007, is amended to read as follows: b. A statement that the original mortgage principal was in an amount of five hundred thousand dollars or less equal to or less than the maximum amount as determined by the division board and adopted by the authority pursuant to chapter 17A.
 - Sec. 4. Section 16.92, subsection 8, Code 2007, is amended to read as follows:
- 8. APPLICATION. This section applies only to a mortgage in an original principal amount of five hundred thousand dollars or less equal to or less than the maximum amount as determined by the division board and adopted by the authority pursuant to chapter 17A.

Approved April 10, 2007

CHAPTER 53

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS — FEES $\,$

S.F. 405

AN ACT relating to national pollutant discharge elimination system permits for disposal systems.

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

Section 1. Section 455B.197, subsection 3, paragraph b, Code 2007, is amended to read as follows:

- b. For a minor municipal facility, two hundred ten dollars. For a city with a population of two hundred fifty or less, the maximum fee shall be two hundred ten dollars regardless of how many national pollutant discharge elimination system individual permits for nonstorm water the city holds.
 - Sec. 2. Section 455B.197, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 4. A single family home shall not be charged a fee under this section.

Approved April 10, 2007

CHAPTER 54

IOWA FINANCE AUTHORITY — MISCELLANEOUS CHANGES S.F. 431

AN ACT relating to programs, funds, authority, and duties of the Iowa finance authority.

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

Section 1. Section 8A.201, subsection 4, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. The Iowa finance authority, including the title guaranty division.

- Sec. 2. Section 16.1, subsections 3 and 5, Code 2007, are amended to read as follows:
- 3. "Bond" means a bond issued by the authority pursuant to sections 16.26 to 16.30, and includes a note or other instrument evidencing a debt authorized or referred to in this chapter.
- 5. "Cost" as applied to Iowa small business economic development loan program projects means the cost of acquisition, construction, or both including the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for acquisition, construction, or both. It also means the cost of demolishing or removing structures on acquired land, the cost of access roads to private property, including the cost of land or easements, and the cost of all machinery, furnishings, and equipment, financing charges, and interest prior to and during construction and for no more than the greater of eighteen months or the period authorized to be capitalized under applicable provisions of the Internal Revenue Code after completion of construction. Cost also means the cost of engineering, legal expenses, plans, specifications, surveys, estimates of cost and revenues, as well as other expenses incidental to determining the feasibility or practicability of acquiring or constructing a project. It also means other expenses incidental to the acquisition or construction of the project, the financing of the acquisition or construction, including the amount authorized in the resolution of the authority providing for the issuance of bonds, to be paid into any special funds from the proceeds of the bonds, and the financing of the placing of a project in operation to be paid into any special funds from the proceeds of bonds issued for the project, and the financing of the placing of a project in operation. It also means all grants, payments, and amounts necessary to pay or refund outstanding bonds and all costs for which federally tax-exempt bonds may be issued under the Internal Revenue Code.
- Sec. 3. Section 16.1, subsections 11 and 12, Code 2007, are amended by striking the subsections.
- Sec. 4. Section 16.1, Code 2007, is amended by adding the following new subsections: <u>NEW SUBSECTION</u>. 14. "Goals" means legislative goals and policies as articulated in this chapter.

NEW SUBSECTION. 14A. "Guiding principles" means the principles provided in section 16.4 which shall be considered for amplification and interpretation of the goals of the authority.

- Sec. 5. Section 16.1, subsections 20 and 21, Code 2007, are amended by striking the subsections and inserting in lieu thereof the following:
- 20. "Internal Revenue Code" means the Internal Revenue Code of the United States as it may exist at the time of its applicability to the provisions of this chapter.
- 21. "Legislative findings" or "findings" means the findings established by the general assembly with respect to the authority as provided in this chapter.
 - Sec. 6. Section 16.1, subsection 29, Code 2007, is amended to read as follows:
- 29. "Note" means a bond anticipation note or a housing development fund note issued by the authority pursuant to this chapter. "Note" also includes bonds.

Sec. 7. Section 16.1, Code 2007, is amended by adding the following new subsections:

<u>NEW SUBSECTION</u>. 29B. "Powers" means all of the general and specific powers of the authority as provided in this chapter and shall be broadly and liberally interpreted to authorize the authority to act in accordance with the goals of the authority and in a manner consistent with the legislative findings and guiding principles which are reasonably necessary.

<u>NEW SUBSECTION</u>. 29C. "Programs" means any program administered by the authority or any program in which the authority is directed or authorized to participate pursuant to any statute, executive order, or interagency agreement, or any other program participation or administration of which the authority finds useful and convenient to further the goals and purposes of the authority. "Program" shall include but not be limited to all of the following:

- a. The housing assistance payments program.
- b. The rent supplements program.
- c. The emergency housing fund program.
- d. The special housing assistance program.
- e. The single-family housing program.
- f. The multifamily housing program.
- g. The title guaranty program.
- h. The housing improvement fund program.
- i. The economic development loan program.
- j. The Iowa economic development bond bank program.
- k. The sewage treatment and drinking facilities financing program.
- l. The Iowa tank assistance bond program.
- m. The residential treatment facilities program.
- n. The E-911 program.
- o. The community college dormitory program.
- p. The prison infrastructure program.
- q. The wastewater treatment financial assistance program.
- r. Any other program established by the authority which the authority finds useful and convenient to further goals of the authority and which is consistent with the legislative findings. Such additional programs shall be administered in accordance with the guiding principles of the authority after such notice and hearing as is determined to be reasonable by the authority under the circumstances. Such additional programs shall be administered in accordance with rules, if any, which the authority determines useful and convenient to adopt pursuant to chapter 17A.
- Sec. 8. Section 16.1, subsection 30, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
 - 30. "Project" means any of the following:
- a. Real or personal property connected with a facility to be acquired, constructed, financed, refinanced, improved, or equipped pursuant to one or more of the programs.
- b. Refunds, loans, refinancings, grants, or other assistance or programs which the authority finds useful and convenient to carry out and further the goals of the authority and the Iowa economic development bond program. In furtherance thereof and not in limitation, "project" shall include projects for which bonds or notes may be issued by a city or a county pursuant to any power so long as the authority finds it is consistent with the goals and legislative findings of the authority and the Iowa economic development bond program.
- c. Any project for which tax exempt financing is authorized by the Internal Revenue Code which the authority finds furthers the goals of the authority and is consistent with the legislative findings.
- Sec. 9. Section 16.1, subsections 33, 34, 35, and 36, Code 2007, are amended by striking the subsections.
 - Sec. 10. Section 16.1, unnumbered paragraph 2, Code 2007, is amended to read as follows: The authority shall may establish by rule further definitions applicable to this chapter, and

clarification of the definitions in this section, as <u>it deems convenient and</u> necessary <u>including</u> <u>any rules necessary</u> to assure eligibility for funds available under federal housing laws, or to assure compliance with federal tax laws relating to the issuance of tax exempt <u>mortgage subsidy</u> bonds pursuant to <u>the</u> Internal Revenue Code § 103A, or relating to the issuance of tax exempt residential rental property bonds for qualified residential housing under Internal Revenue Code § 103, or relating to the allowance of low income credits under Internal Revenue Code § 42.

Sec. 11. Section 16.2, subsection 1, Code 2007, is amended to read as follows:

1. The Iowa finance authority is established, and constituted a public instrumentality and agency of the state exercising public and essential governmental functions, to undertake programs which assist in attainment of adequate housing for low or moderate income families, elderly families, and families which include one or more persons with disabilities, and to undertake the Iowa homesteading program, the small business loan program, the export business finance program, and other various finance programs. The powers of the authority are vested in and shall be exercised by a board of nine members appointed by the governor subject to confirmation by the senate. No more than five members shall belong to the same political party. As far as possible the governor shall include within the membership persons who represent community and housing development industries, housing finance industries, the real estate sales industry, elderly families, minorities, lower income families, very low income families, families which include persons with disabilities, average taxpayers, local government, business and international trade interests, and any other person specially interested in community housing, finance, or small business, or export business development.

A title guaranty division is created within the authority. The powers of the division relating to the issuance of title guaranties are vested in and shall be exercised by a division board of five members appointed by the governor subject to confirmation by the senate. The membership of the board shall include an attorney, an abstractor, a real estate broker, a representative of a mortgage-lender, and a representative of the housing development industry. The executive director of the authority shall appoint an attorney as director of the title guaranty division who shall serve as an ex officio member of the board. The appointment of and compensation for the division director are exempt from the merit system provisions of chapter 8A, subchapter IV.

- a. Members of the board of the division shall be appointed by the governor for staggered terms of six years beginning and ending as provided in section 69.19. A person shall not serve on the division board while serving on the authority board. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term. A member is eligible for reappointment. A member of the division board may be removed from office by the governor for misfeasance, malfeasance or willful neglect of duty or for other just cause, after notice and hearing, unless notice and hearing is expressly waived in writing.
- b. Three members of the board shall constitute a quorum. An affirmative vote of a majority of the appointed members is necessary for any substantive action taken by the division.
- c. Members of the board are entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties as members and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.
- d. Members of the board and the director shall give bond as required for public officers in chapter 64.
- e. Meetings of the board shall be held at the call of the chair of the board or on written request of two members.
- f. Members shall elect a chair and vice chair annually and other officers as they determine. The director shall serve as secretary to the board.
- g. The net earnings of the division, beyond that necessary for reserves, backing, guaranties issued or to otherwise implement the public purposes and programs authorized, shall not inure to the benefit of any person other than the state and are subject to subsection 8.

Sec. 12. <u>NEW SECTION</u>. 16.2A TITLE GUARANTY DIVISION.

- 1. A title guaranty division is created within the authority. The powers of the division relating to the issuance of title guaranties are vested in and shall be exercised by a division board of five members appointed by the governor subject to confirmation by the senate. The membership of the board shall include an attorney, an abstractor, a real estate broker, a representative of a mortgage lender, and a representative of the housing development industry. The executive director of the authority shall appoint an attorney as director of the title guaranty division, who shall serve as an ex officio member of the board. The appointment of and compensation for the division director are exempt from the merit system provisions of chapter 8A, subchapter IV.
- 2. Members of the board of the division shall be appointed by the governor for staggered terms of six years beginning and ending as provided in section 69.19. A person shall not serve on the division board while serving on the authority board. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term. A member is eligible for reappointment. A member of the division board may be removed from office by the governor for misfeasance, malfeasance, or willful neglect of duty or for other just cause, after notice and hearing, unless notice and hearing is expressly waived in writing.
- 3. Three members of the board shall constitute a quorum. An affirmative vote of a majority of the appointed members is necessary for any substantive action taken by the division.
- 4. Members of the board are entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties as members and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.
- 5. Members of the board and the director shall give bond as required for public officers in chapter 64.
- 6. Meetings of the board shall be held at the call of the chair of the board or on written request of two members.
- 7. Members shall elect a chair and vice chair annually and other officers as they determine. The director shall serve as secretary to the board.
- 8. The net earnings of the division, beyond that necessary for reserves, backing, guaranties issued, or to otherwise implement the public purposes and programs authorized, shall not inure to the benefit of any person other than the state and are subject to section 16.2, subsection 8.
- Sec. 13. Section 16.3, Code 2007, is amended by adding the following new subsections: NEW SUBSECTION. 16. Economic development and expansion of business, industry, and farming in the state is dependent upon the availability of financing of the development and expansion at affordable interest rates.

<u>NEW SUBSECTION</u>. 17. The pooling of private financing enhances the marketability of the obligations involved and increases access to other state, regional, and national credit markets.

<u>NEW SUBSECTION</u>. 18. The creation of an Iowa economic development bond bank program as provided in section 16.102 will make the pooling of private financing available to small businesses, farmers, agricultural landowners and operators, and commercial, industrial, and other business enterprises at favorable interest rates with reduced marketing costs.

<u>NEW SUBSECTION</u>. 19. All of the purposes stated in this section are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned, or granted.

Sec. 14. NEW SECTION. 16.3A CONFLICTS OF INTEREST.

1. If a member or employee of the authority other than the executive director of the authority has an interest, either direct or indirect, in a contract to which the authority is, or is to be, a party, or in a mortgage lender requesting a loan from, or offering to sell mortgage loans to, the authority, the interest shall be disclosed to the authority in writing and shall be set forth in the minutes of the authority. The member or employee having the interest shall not participate in any action of the authority with respect to that contract or mortgage lender.

A violation of a provision of this subsection is misconduct in office under section 721.2. However, a resolution of the authority is not invalid because of a vote cast by a member in violation of this subsection unless the vote was decisive in the passage of the resolution.

For the purposes of this subsection, "action of the authority with respect to that contract or mortgage lender" means only an action directly affecting a separate contract or mortgage lender, and does not include an action which benefits the general public or which affects all or a substantial portion of the contracts or mortgage lenders included in a program of the authority.

- 2. Nothing in this section shall be deemed to limit the right of a member, officer, or employee of the authority to acquire an interest in bonds or notes of the authority or to limit the right of a member or employee other than the executive director to have an interest in a bank or other financial institution in which the funds of the authority are, or are to be, deposited or which is, or is to be, acting as trustee or paying agent under a trust indenture to which the authority is a party.
- 3. The executive director shall not have an interest in a bank or other financial institution in which the funds of the authority are, or are to be, deposited or which is, or is to be, acting as trustee or paying agent under a trust indenture to which the authority is a party. The executive director shall not receive, in addition to fixed salary or compensation, any money or valuable thing, either directly or indirectly, or through any substantial interest in any other corporation or business unit, for negotiating, procuring, recommending, or aiding in any purchase or sale of property, or loan, made by the authority, nor shall the executive director be pecuniarily interested, either as principal, coprincipal, agent, or beneficiary, either directly or indirectly, or through any substantial interest in any other corporation or business unit, in any such purchase, sale, or loan.
- Sec. 15. Section 16.4, unnumbered paragraph 1, Code 2007, is amended to read as follows: In the performance of its duties and implementation of its powers, and in the selection of specific programs and projects to receive its assistance, the authority shall be guided by the following <u>precatory</u> principles:
- Sec. 16. Section 16.4, subsections 1, 2, 3, and 5, Code 2007, are amended to read as follows:

 1. The authority shall not become an owner of real property constituting a project under any program, except on a temporary basis where necessary in order to implement its programs, protect its investments by means of foreclosure or other means, or to facilitate transfer of real property for the use of low or moderate income families.
- 2. The authority shall <u>strive to</u> function in cooperation with local governmental units and local or regional housing agencies, and in fulfillment of local or regional housing plans, and to that end shall provide technical assistance to local governmental units and local or regional agencies in need of that assistance.
- 3. A When feasible, a local contributing effort shall may be required of each project assisted by the authority. As used in this subsection, "project" includes one or more programs authorized under the provisions of this chapter. The local contribution may be provided by local governmental units or by local or regional agencies, public or private. Unless otherwise specified in this chapter, the The percentage and type of local contribution shall be determined by the authority, and may include, but should not be limited to, cash match, land contribution, tax abatement, or ancillary facilities. The authority shall seek to encourage ingenuity and creativity in local effort.
- 5. The authority shall <u>seek to</u> encourage cooperative housing efforts at the local level, both with respect to the cooperation of public bodies with private enterprise and civic groups, and with respect to the formation of regional or multicity units engaged in housing.
- Sec. 17. Section 16.4, subsection 6, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Wherever With respect to programs relating to housing, wherever practicable, the authority shall give preference to the following types of programs:

- Sec. 18. Section 16.4, subsection 8, Code 2007, is amended by striking the subsection.
- Sec. 19. Section 16.5, Code 2007, is amended to read as follows:
- 16.5 GENERAL POWERS.
- 1. The authority has all of the general any and all powers needed necessary and convenient to carry out its purposes and duties, and exercise its specific powers, including but not limited to the power to:
- 1. <u>a.</u> Issue its negotiable bonds and notes as provided in sections 16.26 to 16.30 this chapter in order to finance its programs.
 - 2. b. Sue and be sued in its own name.
 - 3. c. Have and alter a corporate seal.
- 4. <u>d.</u> Make and alter bylaws for its management consistent with the provisions of this chapter.
- 5. e. Make and execute agreements, contracts, and other instruments of any and all types on such terms and conditions as the authority may find necessary or convenient to the purposes of the authority, with any public or private entity, including but not limited to contracts for goods and services. All political subdivisions, public housing agencies, other public agencies and state departments and agencies may enter into contracts and otherwise co-operate cooperate with the authority.
- f. By rule, the board shall adopt procedures relating to competitive bidding, including the identification of those circumstances under which competitive bidding by the authority, either formally or informally, shall be required. In any bidding process, the authority may administer its own bidding and procurement or may utilize the services of the department of administrative services or any other agency. Except when such rules apply, the authority and all contracts made by it in carrying out its public and essential governmental functions with respect to any of its programs shall be exempt from the provisions and requirements of all laws or rules of the state which require competitive bids in connection with the letting of such contracts.
- 6. g. Acquire, hold, improve, mortgage, lease, and dispose of real and personal property, including, but not limited to, the power to sell at public or private sale, with or without public bidding, any such property, mortgage loan, or other obligation held by it.
- 7. <u>h.</u> Procure insurance against any loss in connection with its operations and property interests.
 - 8. i. Fix and collect fees and charges for its services.
- 9. j. Subject to an agreement with bondholders or noteholders, invest or deposit moneys of the authority in a manner determined by the authority, notwithstanding chapter 12B or 12C.
- 10. <u>k.</u> Accept appropriations, gifts, grants, loans, or other aid from public or private entities. A record of all gifts or grants, stating the type, amount and donor, shall be clearly set out in the authority's annual report along with the record of other receipts.
- 11. <u>l.</u> Provide technical assistance and counseling related to the authority's purposes, to public and private entities.
- 12. m. In cooperation with other local, state, or federal governmental agencies, conduct research studies, develop estimates of unmet housing needs, and gather and compile data useful to facilitate decision making and enter into agreements to carry out programs within or without the state which the authority finds to be consistent with the goals of the authority.
 - 13. n. Cooperate in the development of, and initiate housing demonstration projects.
- 14. o. Contract with architects, engineers, attorneys, accountants, housing construction and finance experts, and other advisors. However, the authority may enter into contracts or agreements for such services with local, state, or federal governmental agencies.
- 15. p. Through the title guaranty division, make and issue title guaranties on Iowa real property in a form acceptable to the secondary market, to fix and collect the charges for the guaranties and to procure reinsurance against any loss in connection with the guaranties.
- q. Own or acquire intellectual property rights including but not limited to copyrights, trademarks, service marks, and patents, and enforce the rights of the authority with respect to such intellectual property rights.

- 16. Provide moneys to the shelter assistance fund created in section 15.349.
- 17. r. Make, alter, and repeal rules consistent with the provisions of this chapter, and subject to chapter 17A.
- 18. <u>s.</u> Establish one or more funds within the state treasury under the control of the authority and invest moneys of the authority therein. Notwithstanding section 8.33 or 12C.7, or any other provision to the contrary, moneys invested by the treasurer of state pursuant to this subsection shall not revert to the general fund of the state and interest accrued on the moneys shall be moneys of the authority and shall not be credited to the general fund. For purposes of this <u>subsection paragraph</u>, the treasurer of state shall enter into an agreement with the authority to carry out the provisions of this <u>subsection paragraph</u>.
- t. Select projects to receive assistance by the exercise of diligence and care and apply customary and acceptable business and lending standards in the selection and subsequent implementation of such projects.
- u. Exercise generally all powers typically exercised by private enterprises engaged in business pursuits unless the exercise of such a power would violate the terms of this chapter or the Constitution of the State of Iowa.
- 2. Notwithstanding any other provision of law, any purchase or lease of real property, other than on a temporary basis, when necessary in order to implement the programs of the authority, protect the investments of the authority by means of foreclosure or other means, or to facilitate the transfer of real property for the use of low or moderate income families, shall require written notice from the authority to the government oversight standing committees of the general assembly and the prior approval of the executive council.
- 3. The powers enumerated in this section are cumulative of and in addition to those powers enumerated elsewhere in this chapter and no such powers limit or restrict any other powers of the authority.
- 4. Notwithstanding any other provision of law, the authority may elect whether to utilize any or all of the goods or services available from other state agencies in the conduct of its affairs. Departments, boards, commissions, or other agencies of the state shall provide reasonable assistance and services to the authority upon the request of the executive director.

Sec. 20. <u>NEW SECTION</u>. 16.5C SPECIFIC PROGRAM POWERS.

In addition to the general powers of the authority, the authority shall have all powers convenient and necessary to carry out its programs, including but not limited to the power to:

- 1. Make property improvement loans and mortgage loans, including but not limited to mortgage loans insured, guaranteed, or otherwise secured by the federal government or by private mortgage insurers, to housing sponsors to provide financing of adequate housing for low or moderate income families, elderly families, families which include one or more persons with disabilities, child foster care facilities, and health care facilities.
- 2. Provide down payment grants on behalf of low and moderate income families to nonprofit sponsors to defray all or part of the down payment on real property that is transferred by such sponsors to such families under the terms of the lease-purchase program.
- 3. Make grants and temporary loans, at interest rates and on terms as determined convenient and necessary by the authority, to defray the local contribution requirement for housing sponsors who apply for rent supplement assistance, to defray temporary housing costs that result from displacement by natural or other disaster, and to defray a portion of the expenses required to develop and initiate housing which deals creatively with housing problems of low or moderate income families, elderly families, and families which include one or more persons with disabilities.
- 4. Make temporary loans, at interest rates and on terms as determined convenient and necessary by the authority, to defray development costs for housing for low or moderate income families including but not limited to payments for options on sites; deposits on contracts and payments for purchase; legal and organizational expenses including attorney fees, project manager, clerical, and other staff salaries, office rent, and other additional expenses; payment of fees for preliminary feasibility studies and advances for planning, engineering, and archi-

tectural work; expenses for tenant surveys and market analysis; and necessary application and other fees.

- 5. Make or participate in the making of property improvement loans or mortgage loans for rehabilitation or preservation of existing dwellings. The authority may issue housing assistance fund notes payable solely from the housing assistance fund.
- 6. Renegotiate a mortgage loan or loan to a mortgage lender in default; waive a default or consent to the modification of the terms of a mortgage loan or a loan to a mortgage lender; forgive or forbear all or part of a mortgage loan or a loan to a mortgage lender; and commence, prosecute, and enforce a judgment in any action, including but not limited to a foreclosure action, to protect or enforce any right conferred upon the authority by law, mortgage loan agreement, contract or other agreement, and in connection with any such action, bid for and purchase the property or acquire or take possession of it, complete, administer, and pay the principal of and interest on any obligations incurred in connection with the property, and dispose of and otherwise deal with the property in a manner as the authority deems advisable to protect its interests.
- 7. Designate areas of economic distress for purposes of section 103A(k)(3)(A)(i) of the Internal Revenue Code.
- 8. Purchase, and make advance commitments to purchase, residential mortgage loans from mortgage lenders at prices and upon terms and conditions it determines consistent with its goals and legislative findings. However, the total purchase price for all residential mortgage loans which the authority commits to purchase from a mortgage lender at any one time shall not exceed the total of the unpaid principal balances of the residential mortgage loans purchased. Mortgage lenders are authorized to sell residential mortgage loans to the authority in accordance with this section and the rules of the authority. The authority may charge a mortgage lender a commitment fee or other fees as set by rule as a condition for the authority purchasing residential mortgage loans.
- 9. Sell or make advanced commitments to sell residential mortgage loans in the organized or unorganized secondary mortgage market. The authority may issue and sell securities that are secured by residential mortgage loans held by the authority. The authority may aggregate the residential mortgage loans sold in the secondary market or used as security on the mortgage-backed securities. The amount of mortgage-backed securities sold shall not exceed the principal of the mortgages retained by the authority as security.
- 10. File a lien on property where appropriate, convenient, and necessary in carrying out a program.
 - Sec. 21. Section 16.10, subsection 1, Code 2007, is amended to read as follows:
- 1. Moneys declared by the authority to be surplus moneys which are not required to service bonds and notes issued by the authority, to pay administrative expenses of the authority, or to accumulate necessary operating or loss reserves, shall be used by the authority to provide grants, subsidies, and services to lower income families and very low income families through the programs authorized in this chapter or to provide funds for the residential mortgage interest reduction program established pursuant to section 16.81 and consistent with legislative findings and guiding principles. In addition, the authority may use such surplus moneys to provide assistance to the local housing assistance program established in sections 15.351 through 15.354 for purposes of providing assistance to low and moderate income families. Surplus moneys shall not be used for infrastructure or administration purposes under the local housing assistance program.
 - Sec. 22. Section 16.15, subsection 1, Code 2007, is 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, as amended by section 201 of the Housing and Community Development Act of 1974, 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 ur-

ban 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.

- Sec. 23. Section 16.15, subsections 2, 3, 4, 5, 6, 7, and 8, Code 2007, are amended by striking the subsections.
- Sec. 24. Section 16.40, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

16.40 HOUSING ASSISTANCE FUND.

- 1. A housing assistance fund is created within the authority. The moneys in the fund shall be used by the authority to protect, preserve, create, and improve access to safe and affordable housing. The authority shall establish programs utilizing the fund by administrative rules adopted pursuant to chapter 17A and provide the requirements for the proper administration of the programs.
- 2. Moneys in the fund, including moneys which are annually appropriated to the authority, may be allocated for any use authorized by this chapter unless otherwise specified.
- 3. The authority may use moneys in the fund to provide financial assistance to a housing sponsor or an individual in the form of a loan, loan guarantee, grant, or interest subsidy, or by other means under the general powers of the authority.
 - 4. Moneys in the fund may be used for but are not limited to the following purposes:
 - a. Home ownership programs including all of the following:
- (1) Authority bond issues and loans to facilitate and ensure equal access across the state to funds for first-time homebuyers programs.
- (2) Home ownership incentive programs not restricted to first-time homebuyers, including down payment and closing costs assistance.
- (3) Programs for home maintenance and repair, new construction, acquisition, and rehabilitation.
 - (4) Support for home ownership education and counseling programs.
- b. Rental programs, including rental subsidy, rehabilitation, preservation, new construction, and acquisition.
- c. Programs that provide a continuum of housing services, including construction, operation, and maintenance of homeless shelters, domestic violence shelters, and transitional housing and supportive services to lower income and very low-income families.
- d. Technical assistance programs that increase the capacity of for-profit and nonprofit housing entities.
- 5. Notwithstanding section 8.33, moneys in the housing assistance fund at the end of each fiscal year shall not revert to the general fund or any other fund but shall remain in the housing assistance fund for expenditure for subsequent fiscal years.
- 6. The authority may establish, by rule adopted pursuant to chapter 17A, an annual administration fee to be charged to the housing assistance fund. The annual fee shall not exceed four percent of the moneys, loans, or other assets held in the fund.
- 7. During each regular session of the general assembly, the authority shall present to the appropriate joint appropriations subcommittee a report concerning the total estimated resources to be available for expenditure under this section for the next fiscal year and the amount the authority proposes to allocate to each program created pursuant to this section.
 - Sec. 25. Section 16.53, Code 2007, is amended to read as follows:

16.53 RESIDENTIAL REVERSE ANNUITY MORTGAGE MODEL PROGRAM.

The authority shall may develop a model reverse annuity mortgage conforming to the requirements of this chapter, and shall may offer reverse annuity mortgages to qualified participants.

Sec. 26. Section 16.73, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The authority shall <u>may</u> adopt rules pursuant to chapter 17A relating to the purchase and sale of residential mortgage loans and the sale of mortgage-backed securities. The rules shall <u>may</u> provide at least for the following:

Sec. 27. Section 16.91, subsection 1, Code 2007, is amended to read as follows:

1. The authority through the title guaranty division shall initiate and operate a program in which the division shall offer guaranties of real property titles in this state. The terms, conditions and form of the guaranty contract shall be forms approved by the division board. The division shall fix a charge for the guaranty in an amount sufficient to permit the program to operate on a self-sustaining basis, including payment of administrative costs and the maintenance of an adequate reserve against claims under the title guaranty program. A title guaranty fund is created in the office of the treasurer of state. Funds collected under this program shall be placed in the title guaranty fund and are available to pay all claims, necessary reserves and all administrative costs of the title guaranty program. Moneys in the fund shall not revert to the general fund and interest on the moneys in the fund shall be transferred to the department of economic development for deposit in the local housing assistance program fund established in section 15.354 and shall not accrue to the general fund. If the authority board in consultation with the division board determines that there are surplus funds in the title guaranty fund after providing for adequate reserves and operating expenses of the division, the surplus funds shall be transferred to the housing program assistance fund created pursuant to section 16.40.

Sec. 28. Section 16.102, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The authority shall may assist the development and expansion of family farming, soil conservation, housing, and business in the state through the establishment of the Iowa economic development bond bank program. The authority may issue its bonds or notes, or series of bonds or notes for the purpose of defraying the cost of one or more projects and make secured and unsecured loans for the acquisition and construction of projects on terms the authority determines. For purposes of this section, projects shall include any of the following:

- Sec. 29. Section 16.102, subsection 1, Code 2007, is amended by striking the subsection.
- Sec. 30. Section 16.106, Code 2007, is amended to read as follows:

16.106 ADOPTION OF RULES.

The board of directors of the authority shall adopt rules pursuant to chapter 17A to implement sections 16.101 16.102 through 16.105.

- Sec. 31. Section 16A.2, subsection 7, Code 2007, is amended by striking the subsection.
- Sec. 32. Section 331.361, subsection 4, Code 2007, is amended to read as follows:
- 4. The board shall not dispose of real property by gift except for a public purpose, as determined by the board, in accordance with other state law. However, the board may dispose of real property for use in an Iowa homesteading program under section 16.14 for a nominal consideration.
 - Sec. 33. Section 364.7, subsection 3, Code 2007, is amended to read as follows:
- 3. A city may not dispose of real property by gift except to a governmental body for a public purpose. However, a city may dispose of real property for use in an Iowa homesteading program under section 16.14 for a nominal consideration, including but not limited to property in an urban renewal area.
 - Sec. 34. Section 403A.3, subsection 10, Code 2007, is amended to read as follows:
 - 10. To co-operate cooperate with the Iowa finance authority, to participate in any of its pro-

grams, to use any of the funds available to the municipality for the uses of this chapter to contribute to such programs in which it participates, and to comply with the provisions of sections 16.1 to 16.36 chapter 16 and the rules of the Iowa finance authority promulgated thereunder.

Sec. 35. Section 422.7, subsection 12, paragraph c, unnumbered paragraph 6, Code 2007, is amended to read as follows:

For purposes of this subsection, "small business" means small business as defined in section 16.1, subsection 36, except that it shall also include the operation of a farm a profit or nonprofit business, including but not limited to an individual, partnership, corporation, joint venture, association, or cooperative, to which the following apply:

- (1) It is not an affiliate or subsidiary of a business dominant in its field of operation.
- (2) It has twenty or fewer full-time equivalent positions and not more than the equivalent of three million dollars in annual gross revenues as computed for the preceding fiscal year or as the average of the three preceding fiscal years.
 - (3) It does not include the practice of a profession.

"Small business" includes an employee-owned business which has been an employee-owned business for less than three years or which meets the conditions of subparagraphs (1) through (3).

For purposes of this definition, "dominant in its field of operation" means having more than twenty full-time equivalent positions and more than three million dollars in annual gross revenues, and "affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least twenty percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalents, of a business dominant in that field of operation.

The department may, by resolution, waive any or all of the requirements of paragraph "b" in connection with a loan to a small business, as defined under applicable federal law and regulations that have been enacted or adopted by April 1, 1983, in which federal assistance, insurance, or guaranties are sought.

Sec. 36. Section 422.35, subsection 6, paragraph c, unnumbered paragraph 4, Code 2007, is amended to read as follows:

For purposes of this subsection, "small business" means small business as defined in section 16.1, subsection 36, except that it shall also include the operation of a farm a profit or nonprofit business, including but not limited to an individual, partnership, corporation, joint venture, association, or cooperative, to which the following apply:

- (1) It is not an affiliate or subsidiary of a business dominant in its field of operation.
- (2) It has either twenty or fewer full-time equivalent positions or not more than the equivalent of three million dollars in annual gross revenues as computed for the preceding fiscal year or as the average of the three preceding fiscal years.
 - (3) It does not include the practice of a profession.

"Small business" includes an employee-owned business which has been an employee-owned business for less than three years or which meets the conditions of subparagraphs (1) through (3).

For purposes of this definition, "dominant in its field of operation" means having more than twenty full-time equivalent positions and more than three million dollars in annual gross revenues, and "affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least twenty percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalents, of a business dominant in that field of operation.

The department may, by resolution, waive any or all of the requirements of paragraph "b" in connection with a loan to a small business, as defined under applicable federal law and regulations that have been enacted or adopted by April 1, 1983, in which federal assistance, insurance, or guaranties are sought.

Sec. 37. Section 446.7, unnumbered paragraph 2, Code 2007, is amended to read as follows:

Parcels against which the county holds a tax sale certificate or a municipality holds a tax sale certificate acquired under section 446.19, parcels of municipal and political subdivisions of the state of Iowa, parcels held by a city or county agency or the Iowa finance authority for use in an Iowa homesteading project, or parcels of the state or its agencies, shall not be offered or sold at tax sale and a tax sale of those parcels is void from its inception. When taxes are owing against parcels owned or claimed by a municipal or political subdivision of the state of Iowa, parcels held by a city or county agency or the Iowa finance authority for use in an Iowa homesteading project, or parcels of the state or its agencies, the treasurer shall give notice to the appropriate governing body which shall then pay the total amount due. If the governing body fails to pay the total amount due, the board of supervisors shall abate the total amount due.

Sec. 38. Section 446.19A, subsection 3, Code 2007, is amended to read as follows:

3. If after the date that a parcel is sold pursuant to this chapter, or after the date that a parcel is sold under section 446.18, or 446.38, or 446.39, the parcel assessed as residential property or as commercial multifamily housing property is identified as abandoned or as a vacant lot pursuant to a verified statement filed with the county treasurer by a city or county in the form set forth in subsection 2, a city or county may require the assignment of the tax sale certificate that had been issued for such parcel by paying to the holder of such certificate the total amount due on the date the assignment of the certificate is made to the county or city and recorded with the county treasurer. If a certificate holder fails to assign the certificate of purchase to the city or county, the county treasurer is authorized to issue a duplicate certificate of purchase, which shall take the place of the original certificate, and assign the duplicate certificate to the city or county. If the certificate is not assigned by the county or city pursuant to subsection 4, the county or city, whichever is applicable, is liable for the tax sale interest that was due the certificate holder pursuant to section 447.1, as of the date of assignment.

Sec. 39. Section 447.9, subsection 1, Code 2007, 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. 40. Section 447.12, Code 2007, 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 before a redemption is complete shall not be collected by the treasurer before a redemption is complete shall not be collected by the treasurer before a redemption is complete shall not be collected by the treasurer before a redemption is complete shall not be collected by the treasurer before a redemption is complete shall not be collected by the treasurer before a redemption is complete shall not be collected by the treasurer before a redemption is complete shall not be collected by the treasurer before a redemption is complete shall not be collected by the treasurer before a redemption is complete shall not be collected by the treasurer before a redemption is complete shall not be collected by the treasurer before a redemption is complete shall not be collected by the treasurer before a redemption is complete shall not be collected by the treasurer before a redemption is complete shall not be collected by the treasurer before a redemption in the collected by the treasurer before a redemption in the collected by the treasurer before a redemption in the collected by the treasurer before a redemption in the collected by the collected by the treasurer before a redemption in the collected by the collected

surer. 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 ninetyday 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. 41. Section 447.13, unnumbered paragraph 2, Code 2007, is amended to read as follows:

The county treasurer shall file the proof of service and statement of costs and record these costs against the parcel. The certificate holder or the holder's agent shall report in writing to the treasurer the amount of authorized costs incurred, and the treasurer shall file the statement. Costs not filed with the treasurer before a redemption is complete shall not be collected by the treasurer and may be recovered through a court action against the parcel owner by the certificate holder. If the parcel is held by a city or county, a city or county agency, or the Iowa finance authority, for use in an Iowa homesteading project, whether or not the parcel is the subject of a conditional conveyance granted under the project, the costs incurred for repairs and rehabilitation work required and undertaken in order to make the parcel meet applicable building or housing code standards shall be added to the amount necessary to redeem.

- Sec. 42. Section 533.16, subsection 6, paragraph c, Code 2007, is amended to read as follows:
- c. A credit union may make loans insured under the provisions of Title XX, United States Code, section 1071 to section 1087 or similar state programs, loans insured by the federal housing administration under Title XII, United States Code, section 1703, and loans to families of low or moderate income as a part of programs authorized in sections 16.1 to 16.36 chapter 16.
 - Sec. 43. Section 654.15, subsection 3, Code 2007, is amended by striking the subsection.
- Sec. 44. HOUSING ASSISTANCE FUND. Upon the creation of the housing assistance fund pursuant to this Act, all of the assets of the authority in the housing program fund created in section 16.40, Code 2007, shall be transferred to the housing assistance fund.
- Sec. 45. Sections 6B.53, 16.5A, 16.5B, 16.11, 16.12, 16.13, 16.14, 16.16, 16.17, 16.18, 16.19, 16.22, 16.23, 16.24, 16.25, 16.29, 16.32, 16.35, 16.36, 16.38, 16.39, 16.43, 16.45, 16.61, 16.62, 16.63, 16.64, 16.65, 16.71, 16.72, 16.81, 16.82, 16.83, 16.84, 16.101, 16.121, 16.122, 16.123, 16.124, 16.125, and 446.39, Code 2007, are repealed.

CHAPTER 55

CITY COUNCILS — NUMBER OF MEMBERS — PROCEDURE H.F. 591

ANACT providing procedures to increase the number of city council members in certain cities.

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

Section 1. Section 372.4, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 5. City council membership reduced from five council members to three may be increased to five council members using the same procedure in subsection 3 or 4, as applicable.

Approved April 10, 2007

CHAPTER 56

ADMINISTRATION OF DRUGS TO WILDLIFE

H.F. 740

AN ACT regulating the administration of drugs to wildlife under the jurisdiction of the department of natural resources and providing a penalty.

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

Section 1. <u>NEW SECTION</u>. 481A.40 USE OF DRUGS ON WILDLIFE — PENALTY.

- 1. For the purposes of this section, "drug" means any chemical substance, other than food, that affects the structure or biological function of any wildlife under the jurisdiction of the department of natural resources.
- 2. Except with written authorization from the director or the director's designee or as otherwise provided by law, a person shall not administer any drug to any wildlife under the jurisdiction of the department of natural resources, including but not limited to drugs used for fertility control, disease prevention or treatment, immobilization, or growth stimulation.
- 3. This section does not prohibit the treatment of sick or injured wildlife by a licensed veterinarian or holder of a wildlife rehabilitation permit.
- 4. This section shall not be construed to limit employees of agencies of the state, the United States, or local animal control officers, licensed animal shelters, or licensed pounds in the performance of their official duties related to public health, wildlife management, or wildlife removal. However, a drug shall not be administered by any person for fertility control or growth stimulation except as provided in subsection 2.
- 5. An officer of the department may take possession of or dispose of any wildlife under the jurisdiction of the department of natural resources that the officer reasonably believes has been administered drugs in violation of this section.
 - 6. A person who violates this section is guilty of a serious misdemeanor.

Approved April 10, 2007

CHAPTER 57

ASSOCIATION GROUP HEALTH PLANS AND WELLNESS INITIATIVES

H.F. 790

AN ACT allowing certain association group health care plans and wellness initiatives, and providing an effective date.

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

DIVISION I ASSOCIATION GROUP HEALTH CARE PLANS

Section 1. Section 509.1, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 7A. A policy of group health insurance coverage, as defined in section 513B.2, issued by a small employer carrier, as defined in section 513B.2, to a bona fide association, subject to the following requirements:

- a. The policy provides group health insurance coverage to eligible employees of members of a bona fide association that are small employers as defined in section 513B.2, and to the spouses and dependents of such employees.
- b. The policy is issued to a bona fide association. For the purposes of this subsection, a bona fide association is an association which meets all of the following requirements:
- (1) The association is a trade, industry, or professional association which is organized in good faith as a nonprofit corporation under chapter 504 for purposes other than obtaining insurance and has been in existence and actively maintained for at least five continuous years at the time the policy is issued.
- (2) The association does not condition membership in the association on the health status of employees of its members or the health status of the spouses and dependents of such employees.
- (3) Group health insurance coverage offered by the association is available to all eligible employees of its members that are small employers as defined in section 513B.2 who choose to participate in the health insurance coverage offered, and to the spouses and dependents of such employees, regardless of the health status of such employees or their spouses and dependents.
- (4) Group health insurance coverage offered by the association is available only to persons who are eligible employees of a small employer as defined in section 513B.2 that is a member of the association, or to the spouses or dependents of such employees.
- Sec. 2. Section 509.1, subsection 8, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A policy issued to a resident of this state under a group life, accident, or health insurance policy issued to a group other than one described in subsections 1 through 7 7A, subject to the following requirements:

- Sec. 3. Section 513B.2, subsection 6, paragraph a, subparagraph (3), Code 2007, is amended by striking the subparagraph and inserting in lieu thereof the following:
- (3) The coverages are provided by a policy of group health insurance coverage through a bona fide association as provided in section 509.1, subsection 7A, which meets the requirements for a class of business under section 513B.4. A small employer carrier may condition coverages under such a policy of group health insurance coverage on any of the following requirements:
- (a) Minimum levels of participation by employees of each member of a bona fide association that offers the coverage to its employees.
- (b) Minimum levels of contribution by each member of a bona fide association that offers the coverage to its employees.

- (c) A specified policy term, subject to annual premium rate adjustments as permitted by section 513B.4.
- Sec. 4. Section 513B.2, subsection 6, paragraph a, Code 2007, is amended by adding the following new subparagraph:
- NEW SUBPARAGRAPH. (4) The coverages are provided by a policy of group health insurance coverage through two or more bona fide associations as provided in section 509.1, subsection 7A, which a small employer carrier has aggregated as a distinct grouping that meets the requirements for a class of business under section 513B.4. After a distinct grouping of bona fide associations is established as a class of business, the small group¹ carrier shall not remove a bona fide association from the class based on the claims experience of that association. A small employer carrier may condition coverages under such a policy of group health insurance coverage on any of the following requirements:
- (a) Minimum levels of participation by employees of each member of a bona fide association in the class that offers the coverage to its employees.
- (b) Minimum levels of contribution by each member of a bona fide association in the class that offers the coverage to its employees.
- (c) A specified policy term, subject to annual premium rate adjustments as permitted by section 513B.4.
- Sec. 5. Section 513B.2, subsection 6, paragraph b, Code 2007, is amended to read as follows:
- b. A small employer carrier may establish no more than two additional groupings under each of the subparagraphs in paragraph "a" on the basis of underwriting criteria which are expected to produce substantial variation in the health care costs.

DIVISION II WELLNESS INITIATIVES

- Sec. 6. Section 513B.4, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 6. Notwithstanding subsection 4, a small employer carrier may offer to transfer a small employer into a different class of business with a lower index rate based upon claims experience, implementation of managed care or wellness programs, or health status improvement of the small employer since issue.
- Sec. 7. <u>NEW SECTION</u>. 513B.4B SMALL EMPLOYER INCENTIVES SUSPENSION OR MODIFICATION OF PREMIUM RATE RESTRICTIONS.
- 1. In order to encourage voluntary participation in wellness or disease management programs, a small employer carrier may offer premium credits or discounts to a small employer for the benefit of eligible employees of that small employer who participate in such a program. An employee shall not be penalized in any way for not participating in such a program.
- 2. The commissioner shall adopt, by rule or order, provisions allowing suspension or modification of premium rate restrictions to enable a small employer carrier to provide premium credits or discounts to a small employer based on measurable reductions in costs of that small employer, including but not limited to tobacco use cessation, participation in established wellness or disease management programs, and economies of acquisition or administration.

DIVISION III EFFECTIVE DATE

Sec. 8. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 10, 2007

¹ See chapter 215, §255 herein

CHAPTER 58

CIVIL SERVICE AND DEPUTY COUNTY SHERIFFS — APPEALS TO DISTRICT COURT

H.F. 803

AN ACT relating to civil service for deputy county sheriffs by allowing a county to appeal certain decisions of the civil service commission.

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

Section 1. Section 341A.12, unnumbered paragraph 2, Code 2007, is amended to read as follows:

If the order of removal, suspension, or demotion is concurred in by a majority of the commission, the The county or the accused may appeal therefrom from the commission's finding and decision to the district court of the county where the accused resides. Such appeal shall be taken by serving upon the commission within thirty days after the entry of its order finding and decision, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to its order finding and decision, be filed by the commission with the court. The commission shall, within ten days after the filing of the notice make, certify, and file such transcript with the court. The court shall proceed to hear and determine the appeal in a summary manner. Such hearing shall be confined to the determination of whether the order of removal, suspension, or demotion made by finding and decision of the commission to affirm, modify, or revoke the order of the sheriff was made in good faith and for cause, and no appeal shall be taken except upon such grounds. The decision of the district court may be appealed to the supreme court.

Approved April 10, 2007

CHAPTER 59

CONDUCT OF ELECTIONS, ABSENTEE VOTING, AND VOTER REGISTRATION

H.F. 848

AN ACT relating to the conduct of elections and voter registration and including effective and applicability date provisions.

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

DIVISION I GENERAL PROVISIONS RELATING TO CONDUCT OF ELECTIONS

Section 1. Section 2.27, Code 2007, is amended to read as follows: 2.27 CANVASS OF VOTES FOR GOVERNOR.

The general assembly shall meet in joint session on the same day the assembly first convenes in January of 1979 and every four years thereafter as soon as both houses have been organized,

and canvass the votes cast for governor and lieutenant governor and determine the election. If an election is necessary under section 69.13 to fill a vacancy in the office of lieutenant governor, the general assembly shall similarly meet on the day it convenes in the January following that election and canvass the vote cast for the office. When the canvass is completed, the oath of office shall be administered to the persons or person so declared elected. Upon being inaugurated the governor shall deliver to the joint assembly any message the governor may deem expedient.

- Sec. 2. Section 43.6, subsection 2, Code 2007, is amended to read as follows:
- 2. When a vacancy occurs in the office of county supervisor or any of the offices listed in section 39.17 and more than seventy days remain in the term of office following the next general election, the office shall be filled for the balance of the unexpired term at that general election unless the vacancy has been filled by a special election called more than seventy-three days before the primary election. If the vacancy occurs more than seventy-three days before the primary election, political party candidates for that office at the next general election shall be nominated at the primary election. If an appointment to fill the vacancy in office is made eighty-eight or more days before the primary election and a petition requesting a special election has not been received within fourteen days after the appointment is made, candidates for the office shall be nominated at the primary election.
 - Sec. 3. Section 43.14, Code 2007, is amended to read as follows:

43.14 FORM OF NOMINATION PAPERS.

- 1. Nomination papers shall include a petition and an affidavit of candidacy. All nomination petitions shall be eight and one-half by eleven inches in size and in substantially the form prescribed by the state commissioner of elections. They shall include or provide spaces for the following information:
- a. A statement identifying the signers of the petition as eligible electors of the appropriate county or legislative district and of the state.
 - b. The name of the candidate nominated by the petition.
- c. For nomination petitions for candidates for the general assembly, a statement that the residence of the candidate is within the appropriate legislative district, or if that is not true, that the candidate will reside there within sixty days before the election. For other offices, a statement of the name of the county where the candidate resides.
 - d. The political party with which the candidate is a registered voter.
 - e. The office sought by the candidate, including the district number, if any.
 - f. The date of the primary election for which the candidate is nominated.
- 2. Signatures on a petition page shall be counted only if the required information required in subsection 1 is written or printed at the top of the page. Nomination papers on behalf of candidates for seats in the general assembly need only designate the number of the senatorial or representative district, as appropriate, and not the county or counties, in which the candidate and the petitioners reside. A signature line shall not be counted if the line lacks the signature of the eligible elector and the signer's address and city. The person examining the petition shall mark any deficiencies on the petition and affidavit. A signature line shall not be counted if the signer's address is obviously outside the boundaries of the district.
- 2. 3. The person examining the petition shall mark any deficiencies on the petition and affidavit. Signed nomination petitions and the signed and notarized affidavit of candidacy shall not be altered to correct deficiencies noted during examination. If the nomination petition lacks a sufficient number of acceptable signatures, the nomination petition shall be rejected and shall be returned to the candidate.
 - 4. The nomination papers shall be rejected if the affidavit lacks any of the following:
 - a. The candidate's name.
 - b. The name of the office sought, including the district, if any.
 - c. The political party name.
 - d. The signature of the candidate.

- e. The signature of a notary public or other officer empowered to witness oaths.
- <u>5.</u> The candidate may replace a deficient affidavit with a corrected affidavit only if the replacement affidavit is filed before the filing deadline. The candidate may resubmit a nomination petition that has been rejected by adding a sufficient number of pages or signatures to correct the deficiency. A nomination petition and affidavit filed to replace rejected nomination papers shall be filed together before the deadline for filing.
 - Sec. 4. Section 45.5, Code 2007, is amended to read as follows:

45.5 FORM OF NOMINATION PAPERS.

- 1. Nomination papers shall include a petition and an affidavit of candidacy. All nomination petitions shall be eight and one-half by eleven inches in size and shall be in substantially the form prescribed by the state commissioner of elections. They shall provide spaces for the following information:
- a. A statement identifying the signers of the petition as eligible electors of the appropriate ward, city, county, school district or school district director district, or legislative district and of the state of Iowa.
 - b. The name of the candidate nominated by the petition.
- c. A statement that the candidate is or will be a resident of the appropriate ward, city, county, school district, or legislative or other district as required by section 39.27.
 - d. The office sought by the candidate, including the district number, if any.
 - e. The name and date of the election for which the candidate is nominated.
- 2. Signatures on a petition page shall be counted only if the required information required in subsection 1 is written or printed at the top of the page. Nomination papers on behalf of candidates for seats in the general assembly need only designate the number of the senatorial or representative district, as appropriate, and not the county or counties, in which the candidate and the petitioners reside. A signature line in a nomination petition shall not be counted if the line lacks the signature of the eligible elector and the signer's address and city. The person examining the petition shall mark any deficiencies on the petition. A signature line shall not be counted if the signer's address is obviously outside the boundaries of the appropriate ward, city, school district or school district director district, legislative district, or other district.
- 2. 3. The pages of the petition shall be securely fastened together to form a single bundle. Nomination petitions that are not bound shall be returned without further examination. The state commissioner shall prescribe by rule the acceptable methods for binding nomination petitions.
- 3. 4. The person examining the petition shall mark any deficiencies on the petition. Signed nomination petitions and the signed and notarized affidavit of candidacy shall not be altered to correct deficiencies noted during the examination. If the nomination petition lacks a sufficient number of acceptable signatures, the nomination papers shall be rejected and returned to the candidate.
 - 5. The nomination papers shall be rejected if the affidavit lacks any of the following:
 - a. The candidate's name.
 - b. The name of the office sought, including the district, if any.
 - c. The signature of the candidate.
 - d. The signature of a notary public or other officer empowered to witness oaths.
- <u>6.</u> The candidate may replace a deficient affidavit with a corrected one only if the replacement is filed before the filing deadline. The candidate may resubmit a nomination petition that has been rejected by adding a sufficient number of pages or signatures to correct the deficiency. A nomination petition and affidavit filed to replace rejected nomination papers shall be filed together before the deadline for filing.
 - Sec. 5. Section 45.6, subsection 3, Code 2007, is amended to read as follows:
- 3. All signers, for all nominations, of each separate part of a nomination petition, shall reside in the appropriate ward, city, county, school district <u>or school district director district</u>, or legislative <u>district</u>, or other district as required by section 45.1.

Sec. 6. Section 49.8, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 6A. Precinct boundaries established by a city council pursuant to section 49.5 or 49.6 and not changed under subsections 1 through 5 since the most recent federal decennial census, may be redrawn by the city council in accordance with sections 49.3 and 49.5 once during the period beginning January 1 of the second year following a year in which a federal decennial census is taken and ending June 30 of the year immediately following the year in which the next succeeding federal decennial census is taken, if the commissioner recommends that the change will effect a substantial savings in election costs. Changes made under this subsection shall be made not later than ninety-nine days before a city primary or runoff

election, unless the changes will not take effect until January 1 of the next odd-numbered year.

- Sec. 7. Section 49.14, subsection 1, Code 2007, is amended to read as follows:
- 1. The commissioner may appoint substitute precinct election officials as alternates for election board members. A majority of the original election board members shall be present at the precinct polling place at all times; at partisan elections such majority shall include at least one precinct election official from each political party. If the chairperson leaves the polling place, the chairperson shall designate another member of the board to serve as chairperson until the chairperson returns. The responsibilities and duties of a precinct election official, other than the chairperson, present at the time the polling place was opened on the day of an election may be assumed at any later time that day by a substitute appointed as an alternate. The substitute shall serve either for the balance of that election day or for any shorter period of time the commissioner may designate. At partisan elections, a substitute precinct election official assuming the duties of a precinct election official shall be a member of the same political party as the precinct election official whose duties are being assumed.
 - Sec. 8. Section 49.57, subsections 2 and 3, Code 2007, are amended to read as follows:
- 2. In the area of the general election ballot for straight party voting, the party <u>or organization</u> names shall be printed in <u>capital upper case</u> and <u>lower case</u> letters of <u>using a uniform font size</u>, in <u>for each political party or nonparty political organization</u>. The <u>font size shall be</u> not less than twelve point type. After the name of each candidate for a partisan office the name of the candidate's political party shall be printed in at least six point type. The names of political parties and nonparty political organizations may be abbreviated on the remainder of the ballot if both the full name and the abbreviation appear in the "Straight Party" and "Other Political Party" areas of the ballot.
- 3. The names of candidates shall be printed in <u>eapital upper case and lower case</u> letters, <u>of using a uniform font</u> size throughout the ballot, <u>in</u>. The font size shall be not less than ten point type.
- Sec. 9. Section 49.57, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 3A. In no case shall the font size for public measures, constitutional amendments, and constitutional convention questions, and summaries thereof, be less than ten point type.
 - Sec. 10. Section 49.57, subsection 5, Code 2007, is amended to read as follows:
- 5. A portion of the ballot, which can be shown to the precinct officials without revealing any of the marks made by the voter, shall include the words "Official ballot", a designation of the ballot rotation, if any the unique identification number or name assigned by the commissioner to the ballot style, the date of the election, and a facsimile of the signature of the commissioner who has caused the ballot to be printed pursuant to section 49.51.
- Sec. 11. Section 49.73, subsection 1, paragraph e, Code 2007, is amended to read as follows:
- e. The <u>Any election conducted for the</u> unincorporated area of <u>any a</u> county <u>voting on a local</u> option sales and services tax pursuant to section 423B.1.

Sec. 12. Section 49.79, Code 2007, is amended to read as follows: 49.79 CHALLENGES.

- 1. Any person offering to vote may be challenged as unqualified by any precinct election official or registered voter. It is the duty of each official to challenge any person offering to vote whom the official knows or suspects is not duly qualified. A ballot shall be received from a voter who is challenged, but only in accordance with section 49.81.
 - 2. A person may be challenged for any of the following reasons:
 - a. The challenged person is not a citizen of the United States.
- b. The challenged person is less than eighteen years of age as of the date of the election at which the person is offering to vote.
- c. The challenged person is not a resident at the address where the person is registered. However, a person who is reporting a change of address at the polls on election day pursuant to section 48A.27, subsection 2, paragraph "a", subparagraph (3), shall not be challenged for this reason.
- d. The challenged person is not a resident of the precinct where the person is offering to vote.
- e. The challenged person has falsified information on the person's registration form or on the person's declaration of eligibility.
- f. The challenged person has been convicted of a felony, and the person's voting rights have not been restored.
- g. The challenged person has been adjudged by a court of law to be a person who is incompetent to vote and no subsequent proceeding has reversed that finding.
 - Sec. 13. Section 50.16, Code 2007, is amended to read as follows: 50.16 TALLY LIST OF BOARD.

The tally list shall be prepared in writing by the election board giving, in legibly printed numerals, the total number of people who cast ballots in the precinct, the total number of ballots cast for each officer office, except those rejected, the name of each person voted for, and the number of votes given to each person for each different office. The tally list shall be signed by the precinct election officials, and be substantially as follows:

Attest: (Name)

(Name) Designated (Name) Tally Keepers.

- Sec. 14. Section 50.25, subsection 7, Code 2007, is amended by striking the subsection.
- Sec. 15. Section 50.25, Code 2007, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. The abstract of the votes for each county office is not required to be made on a different sheet.

Sec. 16. Section 52.25, unnumbered paragraph 2, Code 2007, is amended to read as follows:

The entire convention question, amendment, or public measure shall be printed and dis-

played prominently in at least four places within the voting precinct, and inside each voting booth, or on the left-hand side inside the curtain of each voting machine, the printing to be in conformity with the provisions of chapter 49. The question, amendment, or measure, and summaries thereof, shall be printed on the special paper ballots or on the inserts used in the voting machines. In no case shall the font size be less than ten point type. The public measure shall be summarized by the commissioner and in the largest type possible printed on the special paper ballots or inserts used in the voting machines, except that:

Sec. 17. Section 58.1, Code 2007, is amended to read as follows:

58.1 NOTICE — GROUNDS.

The contestant for the office of governor or lieutenant governor shall, within thirty days after the proclamation of the result of the election, deliver to the presiding officer of each house of the general assembly a notice of intent to contest, and a specification of the grounds of such contest, as provided in chapter 62.

Sec. 18. Section 376.11, unnumbered paragraphs 1 and 2, Code 2007, are amended to read as follows:

Write-in votes are permitted to be cast in all elections for city offices. A person who receives a sufficient number of write-in votes to be elected to a city office shall be declared the winner of the election. If a person who was elected by write-in votes chooses not to serve in that office the person shall submit a resignation in writing to the city clerk not later than five o'clock p.m. on the tenth day following the canvass of the election. If a person who was elected by write-in votes resigns at a later time, the office shall be considered vacant at the end of the term and the council shall fill the vacancy pursuant to the provisions of section 372.13, subsection 2.

Except in cities where the council has chosen a runoff election in lieu of a primary, following the resignation of a person who was elected by write-in votes, the city clerk shall notify the person who received the next highest number of votes cast for the office that the person may assume the office. If the person accepts the position, the person shall be considered the duly elected officer unless, within ten days after the clerk has given notice, a petition requesting a special election is filed by eligible electors of the city equal in number to twenty-five percent of the number of persons who voted for the office at the election. If the person declines, the person shall do so in writing to the city clerk within ten days and the office shall be considered vacant at the end of the term. The vacancy shall be filled pursuant to the provisions of section 372.13, subsection 2. If the council chooses to appoint, the appointment may be made before the end of the current term.

Sec. 19. EFFECTIVE AND APPLICABILITY DATES.

- 1. The section of this division of this Act amending section 49.8, being deemed of immediate importance, takes effect upon enactment and applies to elections held on or after January 1, 2008.
- 2. The remainder of this division of this Act applies to elections held on or after January 1, 2008.

DIVISION II ABSENTEE VOTING

- Sec. 20. Section 39A.4, subsection 1, paragraph c, subparagraphs (10), (11), and (12), Code 2007, are amended to read as follows:
- (10) As an incumbent officeholder of, or a candidate for, an office being voted for at the election in progress, serving as a member of a challenging committee or observer under section 49.104, subsection 2, 5, or 6, or section 53.23, subsection 4.
- (11) Returning a voted absentee ballot, by mail or in person, to the commissioner's office and the person returning the ballot is not the voter, <u>an immediate family member authorized by the voter to return the ballot</u>, an absentee ballot courier, a special precinct election official

designated pursuant to section 53.22, subsection 1, or the designee of a voter described in section 53.22, subsection 5.

- (12) Making a false or untrue statement reporting that a voted absentee ballot was returned to the commissioner's office, by mail or in person, by a person other than the voter, an immediate family member authorized by the voter to return the ballot, an absentee ballot courier, a special precinct election official designated pursuant to section 53.22, subsection 1, or the designee of a voter described in section 53.22, subsection 5.1
- Sec. 21. Section 39A.5, subsection 1, paragraph b, subparagraph (2), Code 2007, is amended to read as follows:
- (2) Neglecting or refusing to return an absentee ballot in violation of section 53.35, or violating Violating any other provision of chapter 53 for which another penalty is not provided.
 - Sec. 22. Section 49.63, Code 2007, is amended to read as follows:

49.63 TIME OF PRINTING — INSPECTION AND CORRECTION.

Ballots shall be printed and in the possession of the commissioner in time to enable the commissioner to furnish ballots to absent voters as provided by sections 53.8, 53.10, and 53.11. The printed ballots shall be subject to the inspection of candidates and their agents. If mistakes are discovered, they shall be corrected without delay, in the manner provided in this chapter.

- Sec. 23. Section 53.2, subsections 1 and 4, Code 2007, are amended to read as follows:
- 1. Any registered voter, under the circumstances specified in section 53.1, may on any day, except election day, and not more than seventy days prior to the date of the election, apply in person for an absentee ballot at the commissioner's office or at any location designated by the commissioner. However, for those elections in which the commissioner directs the polls be opened at noon pursuant to section 49.73, a voter may apply in person for an absentee ballot at the commissioner's office from eight a.m. until eleven a.m. on election day.

<u>PARAGRAPH DIVIDED</u>. A registered voter may make written application to the commissioner for an absentee ballot. A written application for an absentee ballot must be received by the commissioner no later than five p.m. on the Friday before the election. A written application for an absentee ballot delivered to the commissioner and received by the commissioner more than seventy days prior to the date of the election shall be retained by the commissioner and processed in the same manner as a written application received not more than seventy days before the date of the election.

- 4. Each application shall contain the name and signature of the registered voter, the registered voter's date of birth, the address at which the voter is registered to vote, and the name or date of the election for which the absentee ballot is requested, and such other information as may be necessary to determine the correct absentee ballot for the registered voter. If insufficient information has been provided, the commissioner shall, by the best means available, obtain the additional necessary information.
 - Sec. 24. Section 53.7, subsection 1, Code 2007, is amended to read as follows:
- 1. It shall be unlawful for any employee of the state or any employee of a political subdivision to solicit any application or request for application for an absentee ballot, or to take an affidavit in connection with any absentee ballot while the employee is on the employer's premises or otherwise in the course of employment. However, any such employee may take such affidavit in connection with an absentee ballot which is cast by the registered voter in person in the office where such employee is employed in accordance with section <u>53.10 or</u> 53.11. This subsection shall not apply to any elected official.
 - Sec. 25. Section 53.8, subsection 2, Code 2007, is amended to read as follows:
- 2. If an application is received so late that it is unlikely that the absentee ballot can be returned in time to be counted on election day, the commissioner shall enclose with the absentee ballot a statement to that effect. The statement shall also point out that it is possible for the applicant, an immediate family member of the applicant, or the applicant's designee if the ab-

¹ See chapter 215, §222 herein

sentee ballot is voted by a voter described in section 53.22, subsection 5, to personally deliver the completed absentee ballot to the office of the commissioner at any time before the closing of the polls on election day. The statement shall also point out that it is possible for an absentee ballot courier to personally deliver the completed absentee ballot to the office of the commissioner within seventy-two hours of retrieving the completed ballot or before the closing of the polls on election day, whichever is earlier.²

Sec. 26. Section 53.8, subsection 3, unnumbered paragraph 3, Code 2007, is amended to read as follows:

Nothing in this subsection nor in section 53.22 shall be construed to prohibit a registered voter who is a hospital patient or resident of a health care facility, or who anticipates entering a hospital or health care facility before the date of a forthcoming election, from casting an absentee ballot in the manner prescribed by section <u>53.10 or</u> 53.11.

- Sec. 27. Section 53.17, subsection 1, paragraph a, Code 2007, is amended to read as follows:
- a. (1) The sealed carrier envelope may be delivered by the registered voter, <u>by an immediate family member of the voter</u>, by the special precinct election officials designated pursuant to section 53.22, subsection 1, or by the voter's designee if the absentee ballot is voted by a voter described in section 53.22, subsection 5, to the commissioner's office no later than the time the polls are closed on election day.
- (2) If the sealed carrier envelope is delivered by an immediate family member of the voter, the immediate family member shall, upon delivery of the envelope to the commissioner, complete a form provided by the commissioner containing the following information:
 - (a) The immediate family member's name and address.
 - (b) The immediate family member's relationship to the voter.
 - (c) The serial number on the sealed carrier envelope.
- (d) An attestation stating that the immediate family member was authorized by the voter to return the sealed carrier envelope.
 - (e) The signature of the immediate family member.3
- Sec. 28. Section 53.22, subsection 1, paragraph a, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A registered voter who has applied for an absentee ballot, in a manner other than that prescribed by section 53.10 or 53.11, and who is a resident or patient in a health care facility or hospital located in the county to which the application has been submitted shall be delivered the appropriate absentee ballot by two special precinct election officers, one of whom shall be a member of each of the political parties referred to in section 49.13, who shall be appointed by the commissioner from the election board panel for the special precinct established by section 53.20. The special precinct election officers shall be sworn in the manner provided by section 49.75 for election board members, shall receive compensation as provided in section 49.20 and shall perform their duties during the ten calendar days preceding the election and on election day if all ballots requested under section 53.8, subsection 3, have not previously been delivered and returned.

Sec. 29. Section 53.23, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The commissioner shall set the convening time for the board, allowing a reasonable amount of time to complete counting all absentee ballots by ten p.m. on election day. The commissioner may direct the board to meet on the day before the election solely for the purpose of reviewing the absentee voters' affidavits appearing on the sealed ballot envelopes. If in the commissioner's judgment this procedure is necessary due to the number of absentee ballots received, the members of the board may open the sealed ballot envelopes and remove the secrecy envelope containing the ballot, but under no circumstances shall a secrecy envelope be opened be-

² See chapter 215, §223 herein

³ See chapter 215, §225 herein

fore the board convenes on election day. If the ballot envelopes are opened before election day, two observers, one appointed by each of the two political parties referred to in section 49.13, subsection 2, shall witness the proceedings. The observers shall be appointed by the county chairperson or, if the county chairperson fails to make an appointment, by the state chairperson. However, if either or both political parties fail to appoint an observer, the commissioner may continue with the proceedings.

Sec. 30. Section 53.31, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Any person qualified to vote at the election in progress may challenge the qualifications of a person casting an absentee ballot by submitting a written challenge to the commissioner no later than five p.m. on the day Friday before the election. It is the duty of the special precinct officials to challenge the absentee ballot of any person whom the official knows or suspects is not duly qualified. Challenges by members of the special precinct election board or observers present pursuant to section 53.23 may be made at any time before the close of the polls on election day. The challenge shall state the reasons for which the challenge is being submitted and shall be signed by the challenger. When a challenge is received the absentee ballot shall be set aside for consideration by the special precinct election board when it meets as required by section 50.22.

- Sec. 31. Section 53.37, Code 2007, is amended to read as follows: 53.37 DEFINITIONS.
- 1. This division is intended to implement the federal Uniform and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff et seq.
- <u>2.</u> The term "armed forces of the United States", as used in this division, shall mean the army, navy, marine corps, coast guard, and air force of the United States.
- <u>3.</u> For the purpose of absentee voting only, there shall be included in the term "armed forces of the United States" the following:
 - 4. a. Spouses and dependents of members of the armed forces while in active service.
- 2. b. Members of the merchant marine of the United States and their spouses and dependents.
- 3. c. Civilian employees of the United States in all categories serving outside the territorial limits of the several states of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them, whether or not the employee is subject to the civil service laws and the Classification Act of 1949, and whether or not paid from funds appropriated by the Congress.
- 4. <u>d.</u> Members of religious groups or welfare agencies assisting members of the armed forces, who are officially attached to and serving with the armed forces, and their spouses and dependents.
- 5. e. Citizens of the United States who do not fall under any of the categories described in subsections 1 to 4,4 but who are entitled to register and vote pursuant to section 48A.5, subsection 4.
- <u>4.</u> For the purposes of this division, "qualified voter" means a person who is included within the term "armed forces of the United States" as described in this section, who would be qualified to register to vote under section 48A.5, subsection 2, except for residency, and who is not disqualified from registering to vote and voting under section 48A.6.
 - Sec. 32. Section 53.38, Code 2007, is amended to read as follows: 53.38 WHAT CONSTITUTES REGISTRATION.

Whenever a ballot is requested pursuant to section 53.39 or 53.45 on behalf of a voter in the armed forces of the United States, the affidavit upon the ballot envelope of such voter, if the voter is found to be an eligible elector of the county to which the ballot is submitted, shall constitute a sufficient registration under chapter 48A. A completed federal postcard registration and federal absentee ballot request form submitted by such eligible elector shall also constitute a sufficient registration under chapter 48A. The commissioner shall place the voter's

⁴ See chapter 215, §243 herein

name on the registration record as a registered voter if it does not already appear there. <u>The identification requirements of section 48A.8 and the verification requirements of section 48A.25A do not apply to persons who register to vote under this division.</u>

- Sec. 33. Section 53.41, Code 2007, is amended to read as follows:
- 53.41 RECORDS BY COMMISSIONER EXCESS REQUESTS OR BALLOTS.
- 1. The commissioner of each county shall establish and maintain a record of all requests for ballots which are made, and of all ballots transmitted, and the manner of transmittal, from and received in the commissioner's office under the provisions of this division.
- <u>2.</u> If more than one request for absent voter's ballot for a particular election is made to the commissioner <u>before the ballots are ready to mail</u> by or on behalf of a voter in the armed forces of the United States, the <u>last</u> request <u>first</u> received shall be honored, except that if one of the requests is made by the voter, and a request on the voter's behalf has not been previously honored, the request of the voter shall be honored in preference to a request made on the voter's behalf by another.
- 3. Not more than one ballot shall be transmitted by the commissioner to any voter for a particular election unless after the ballot has been mailed the voter reports a change in the address to which the ballot should be sent. A ballot shall be mailed using a serial number that indicates that this is a replacement sent to an updated address. The original ballot shall be counted only if the replacement ballot does not arrive. If the commissioner receives more than one absent voter's ballot, provided for by this division, from or purporting to be from any one voter for a particular election, all of the ballots so received from or purporting to be from such voter are void, and the commissioner shall not deliver any of the ballots to the precinct election officials, but shall retain them in the commissioner's office, and preserve them for the period and under the conditions provided for in sections 50.12 through 50.15 and section 50.19.
 - Sec. 34. Section 53.49, Code 2007, is amended to read as follows: 53.49 APPLICABLE TO ARMED FORCES AND OTHER CITIZENS.

The provisions of this division as to absent voting shall apply only to absent voters in the armed forces of the United States as defined for the purpose of absentee voting in section 53.37. The provisions of sections 53.1 through 53.35 53.34 shall apply to all other voters not members of the armed forces of the United States.

- Sec. 35. Section 53.53, subsection 4, paragraph a, Code 2007, is amended to read as follows:
- a. The ballot was submitted from within the United States, <u>unless the voter is a member of the armed forces of the United States as described in section 53.37</u>, subsection 2, on active duty, and away from the voter's county of residence for purposes of serving on active duty.
- Sec. 36. Section 53.53, subsection 4, paragraph b, Code 2007, is amended to read as follows:
- b. The voter's application for a regular absentee ballot was received by the commissioner less than thirty fourteen days prior to the election.
 - Sec. 37. Section 53.35, Code 2007, is repealed.
- Sec. 38. APPLICABILITY DATE. This division of this Act applies to elections held on or after January 1, 2008.

DIVISION III VOTER REGISTRATION

Sec. 39. Section 48A.2, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 6. "Voter registration list" means a compilation of voter registration records produced, upon request, from the electronic voter registration file or by viewing, upon request, the original, completed voter registration applications and forms.

- Sec. 40. Section 48A.5, subsection 2, paragraph c, Code 2007, is amended to read as follows:
- c. Be at least eighteen years of age. Completed registration forms shall be accepted from registrants who are at least seventeen and a half years of age; however, the registration shall not be effective until the registrant reaches the age of eighteen. The commissioner of registration shall ensure that the birth date shown on the registration form is at least seventeen and one-half years earlier than the date the registration is processed.
 - Sec. 41. Section 48A.11, subsection 8, Code 2007, is amended to read as follows:
- 8. A voter registration application lacking the registrant's name, sex, date of birth, or residence address or description, or signature shall not be processed. A voter registration application lacking the registrant's Iowa driver's license number, Iowa nonoperator's identification card number, or the last four digits of the registrant's social security number shall not be processed. A registrant whose registration is not processed pursuant to this subsection shall be notified pursuant to section 48A.26, subsection 3. A registrant who does not have an Iowa driver's license number, an Iowa nonoperator's identification number, or a social security number and who notifies the registrar of such shall be assigned a unique identifying number that shall serve to identify the registrant for voter registration purposes.
- Sec. 42. Section 48A.25A, unnumbered paragraph 3, Code 2007, is amended to read as follows:

This section does not apply to persons <u>described in section 53.37 who are</u> entitled to register to vote and to vote pursuant to section 48.4.5, subsection 4.

Sec. 43. APPLICABILITY DATE. This division of this Act applies to elections held on or after January 1, 2008.

Approved April 10, 2007

CHAPTER 60

DISPOSITION OF UNCLAIMED PROPERTY — MINERAL PROCEEDS

S.F. 41

AN ACT relating to the disposition of unclaimed property concerning minerals.

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

Section 1. Section 556.1, Code 2007, is amended by adding the following new subsections: NEW SUBSECTION. 6A. "Mineral" means gas, oil, and coal; other gaseous, liquid, and solid hydrocarbons; oil shale; cement material; sand and gravel; road material; building stone; chemical raw material; gemstone; fissionable and nonfissionable ores; colloidal and other clays; steam and other geothermal resources; and any other substance defined as a mineral by a law of this state.

<u>NEW SUBSECTION</u>. 6B. "Mineral proceeds" means amounts payable for the extraction, production, or sale of minerals, or upon the abandonment of those payments, all payments that become payable thereafter. "Mineral proceeds" includes amounts payable as follows:

- a. For the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties, and delay rentals.
- b. For the extraction, production, or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments, and production payments.
- c. Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement, and farm-out agreement, relating to the extraction, production, or sale of minerals.

Approved April 16, 2007

CHAPTER 61

CAMPAIGN FINANCE — FILING METHODS AND POLITICAL COMMUNICATIONS S.F. 42

AN ACT relating to campaign finance by revising the requirements for filing reports and for the use of certain resources for political purposes.

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

Section 1. Section 68A.402, subsection 1, Code 2007, is amended to read as follows:

- 1. FILING METHODS. Each committee shall file with the board reports disclosing information required under this section on forms prescribed by rule. Reports shall be filed on or before the required due dates by using any of the following methods: mail bearing a United States postal service postmark, hand-delivery, facsimile transmission, electronic mail attachment, or electronic filing as prescribed by rule. Any report that is required to be filed five days prior to an election must be physically received by the board to be considered timely filed. For purposes of this section, "physically received" means the report is either electronically filed using the board's electronic filing system or is received by the board prior to 4:30 p.m. on the report due date.
 - Sec. 2. Section 68A.503, subsection 2, Code 2007, is amended to read as follows:
- 2. <u>a.</u> Except as provided in subsection 3, it is unlawful for a member of a committee, or its employee or representative, except a ballot issue committee, or for a candidate for office or the representative of the candidate, to solicit, request, or knowingly receive from an insurance company, savings and loan association, bank, credit union, or corporation organized pursuant to the laws of this state, the United States, or any other state, territory, or foreign country, whether for profit or not, or its officer, agent, or representative, any money, property, or thing of value belonging to the insurance company, savings and loan association, bank, or corporation for campaign expenses, or to expressly advocate that the vote of an elector be used to nominate, elect, or defeat a candidate for public office.
- <u>b.</u> This section does not restrain or abridge the freedom of the press or prohibit the consideration and discussion in the press of candidacies, nominations, public officers, or public questions.
- c. This section does not apply to a nonprofit organization communicating with its own members. The board shall adopt rules pursuant to chapter 17A to administer this paragraph.

d. The board shall adopt rules prohibiting the owner, publisher, or editor of a sham newspaper from using the sham newspaper to promote in any way the candidacy of such a person for any public office. As used in this paragraph, "sham newspaper" means a newspaper that does not meet the requirements set forth in section 618.3 and "owner" means a person having an ownership interest exceeding ten percent of the equity or profits of the newspaper.

Approved April 16, 2007

CHAPTER 62

LAW ENFORCEMENT AGENCY ELECTRONIC MAIL AND TELEPHONE BILLING RECORDS

S.F. 140

AN ACT relating to the time period for which peace officers' investigative reports and specific portions of electronic mail and telephone billing records are to be kept confidential.

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

Section 1. Section 22.7, subsection 5, Code 2007, 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 <u>only</u> be kept confidential under this subsection <u>only for as long as if the length of time prescribed for commencement of prosecution or the finding of an indictment or information under the statute of limitations would have run on a respective <u>applicable to the</u> crime that is under investigation <u>has not expired</u>.</u>

Approved April 16, 2007

CONFIDENTIAL PUBLIC RECORDS AND MEETINGS OF GOVERNMENTAL BODIES — SECURITY AND EMERGENCY PREPAREDNESS INFORMATION

S.F. 161

AN ACT relating to the confidentiality of security procedures or emergency preparedness information discussed at a meeting of a governmental body and providing an effective date.

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

Section 1. Section 21.5, subsection 1, paragraph k, Code 2007, is amended to read as follows:

k. To discuss information contained in records in the custody of a public airport, municipal corporation, municipal utility, jointly owned municipal utility, or rural water district organized under chapter 357A, governmental body that are confidential records pursuant to section 22.7, subsection 46 50. This paragraph is repealed effective June 30, 2007.

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

Approved April 16, 2007

CHAPTER 64

HABITUAL TRESPASS BY LIVESTOCK — FENCE ERECTION AND MAINTENANCE

S.F. 200

AN ACT providing for the liability of a landowner of land where livestock are kept or an owner of adjoining land for erecting and maintaining a fence, and providing for the assessment of property taxes.

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

Section 1. Section 169C.1, Code 2007, is amended by adding the following new subsections:

<u>NEW SUBSECTION</u>. 1A. "Fence" means a fence as described in chapter 359A which is lawful and tight as provided in that chapter, including but not limited to a partition fence. For purposes of this chapter, "fence" includes a fence bordering a public road.

<u>NEW SUBSECTION.</u> 8. "Public road" means a thoroughfare and its right-of-way, whether reserved by public ownership or easement, for use by the traveling public.

Sec. 2. NEW SECTION. 169C.6 HABITUAL TRESPASS.

A habitual trespass occurs when livestock trespasses from the land where the livestock are kept onto the land of a neighboring landowner or strays from the land where the livestock are kept onto a public road, and on three or more separate occasions within the prior twelve-month period the same or different livestock kept on that land have trespassed onto the land of the

same neighboring landowner or strayed from the land where the livestock are kept on the same public road.

- 1. The local authority upon its own initiative or upon receipt of a complaint shall determine whether livestock are trespassing or straying from the land where the livestock are kept on a public road, and make a record of its findings.
- 2. a. Once a habitual trespass occurs, a neighboring landowner may request that the responsible landowner of the land where the trespassing or stray livestock are kept erect or maintain a fence on the land. The neighboring landowner shall make the request to the responsible landowner in writing. The responsible landowner may compel an adjacent landowner to contribute to the erection or maintenance of the fence as provided in chapter 359A.
- b. If the responsible landowner does not erect or maintain a fence within thirty days after receiving the request, the neighboring landowner may apply to the fence viewers as provided in chapter 359A as if the matter were a controversy between the responsible landowner and an adjacent landowner, and the matter shall be resolved by an order issued by the fence viewers, subject to appeal, as provided in chapter 359A. The neighboring landowner shall be a party to the controversy as if the neighboring party were an adjacent landowner. The neighboring landowner is not liable for erecting or maintaining the fence, unless the neighboring landowner is an adjacent landowner who is otherwise required to make a contribution under chapter 359A.
- 3. If the fence is not erected or maintained as required in section 359A.6, and upon the written request of the board of township trustees, the board of supervisors of the county where the fence is to be erected or maintained shall act in the same manner as the board of township trustees under that section, including by erecting or maintaining the fence, ordering payment from a defaulted party, and certifying an amount due to the county auditor. The amount due shall include the total costs required to erect or maintain the fence and a penalty equal to five percent of the total costs. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes.

Sec. 3. <u>NEW SECTION</u>. 359A.22A HABITUAL TRESPASS.

A landowner of land where livestock are kept or an owner of adjoining land shall be liable to erect or maintain a fence if the livestock trespasses upon the land of a neighboring landowner or strays from the land where the livestock are kept onto a public road, as provided in section 169C.6.

Approved April 16, 2007

CHAPTER 65

REPORTS BY BALLOT ISSUE POLITICAL COMMITTEES S.F.~351

AN ACT requiring a political committee expressly advocating the passage or defeat of a ballot issue to file five disclosure reports in an election year.

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

Section 1. Section 68A.402, subsection 8, Code 2007, is amended to read as follows: 8. POLITICAL COMMITTEES — BALLOT ISSUES. A political committee expressly advo-

cating the passage or defeat of a ballot issue shall file reports as follows: on the same dates as a candidate's committee is required to file reports under subsection 2, paragraphs "a" and "c" and another report five days before an election covering the period from the previous report or date of initial activity through ten days before the election.

- a. ELECTION YEAR. Five days before the election covering the period of the date of initial activity through ten days before election.
- b. NONELECTION YEAR. On January 19 of the next calendar year that covers the time period of nine days before the election through December 31.

Approved April 16, 2007

CHAPTER 66

SPECIAL PROMOTIONAL NONRESIDENT DEER HUNTING LICENSES S.F. 477

AN ACT authorizing the issuance of additional special nonresident deer hunting licenses.

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

Section 1. Section 483A.24, subsection 3, Code 2007, is amended to read as follows:

3. The director shall provide up to twenty-five seventy-five nonresident deer hunting licenses for allocation as requested by a majority of a committee consisting of the majority leader of the senate, speaker of the house of representatives, and director of the department of economic development, or their designees. The licenses provided pursuant to the subsection shall be in addition to the number of nonresident licenses authorized pursuant to section 483A.8. The purpose of the special nonresident licenses is to allow state officials and local development groups to promote the state and its natural resources to nonresident guests and dignitaries. Photographs, videotapes, or any other form of media resulting from the hunting visitation shall not be used for political campaign purposes. The nonresident licenses shall be issued without application upon payment of the nonresident deer hunting license fee and the wildlife habitat fee. The licenses are valid in all zones open to deer hunting. The hunter safety and ethics education certificate requirement pursuant to section 483A.27 is waived for a nonresident issued a license pursuant to this subsection.

Approved April 16, 2007

COURT-ORDERED OUT-OF-HOME PLACEMENT OF CHILDREN — SIBLING VISITATION OR INTERACTION

S.F. 480

AN ACT relating to children who are subject to a court order for a temporary or permanent out-of-home placement by providing for visitation or ongoing interaction between the children and siblings.

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

Section 1. Section 232.2, subsection 4, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. 1. The provisions involving sibling visitation or interaction required under section 232.108.

- Sec. 2. Section 232.2, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 51A. "Sibling" means an individual who is related to another individual by blood, adoption, or affinity through a common legal or biological parent.
- Sec. 3. Section 232.58, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 5A. With respect to a dispositional order made pursuant to section 232.52, subsection 2, paragraph "d", "e", or "f", for which the court has suspended or terminated sibling visitation or interaction, when a review is made under this section the court shall consider whether the visitation or interaction can be safely resumed and may modify the suspension or termination as appropriate.
- Sec. 4. Section 232.104, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 4A. With respect to a dispositional order providing for transfer of custody of a child and siblings to the department or other agency for placement for which the court has suspended or terminated sibling visitation or interaction, when a review is made under this section the court shall consider whether the visitation or interaction can be safely resumed and may modify the suspension or termination as appropriate.
- Sec. 5. <u>NEW SECTION</u>. 232.108 VISITATION OR ONGOING INTERACTION WITH SIBLINGS.
- 1. If the court orders the transfer of custody of a child and siblings to the department or other agency for placement under this division, under division II, relating to juvenile delinquency proceedings, or under any other provision of this chapter, the department or other agency shall make a reasonable effort to place the child and siblings together in the same placement. The requirement of this subsection remains applicable to custody transfer orders made at separate times and applies in addition to efforts made by the department or agency to place the child with a relative.
- 2. If the requirements of subsection 1 apply but the siblings are not placed in the same placement together, the department or other agency shall provide the siblings with the reasons why and the efforts being made to facilitate such placement, or why making efforts for such placement is not appropriate. Unless visitation or ongoing interaction with siblings is suspended or terminated by the court, the department or agency shall make reasonable effort to provide for frequent visitation or other ongoing interaction between the child and the child's siblings from the time of the child's out-of-home placement until the child returns home or is in a permanent placement.
- 3. A person who wishes to assert a sibling relationship with a child who is subject to an order under this chapter for an out-of-home placement and to request frequent visitation or other ongoing interaction with the child may file a petition with the court with jurisdiction over the

child. Unless the court determines it would not be in the child's best interest, upon finding that the person is a sibling of the child, the provisions of this section providing for frequent visitation or other ongoing interaction between the siblings shall apply. Nothing in this section is intended to provide or expand a right to counsel under this chapter beyond the right provided and persons specified in sections 232.89 and 232.113.

- 4. If the court determines by clear and convincing evidence that visitation or other ongoing interaction between a child and the child's siblings would be detrimental to the well-being of the child or a sibling, the court shall order the visitation or interaction to be suspended or terminated. The reasons for the determination shall be noted in the court order suspending or terminating the visitation or interaction and shall be explained to the child and the child's siblings, and to the parent, guardian, or custodian of the child.
- 5. The case permanency plan of a child who is subject to this section shall comply with all of the following, as applicable:
- a. The plan shall document the efforts being made to provide for the child's frequent visitation or other ongoing interaction with the child's siblings from the time of the child's out-of-home placement until the child returns home or is in a permanent placement. The child's parent, guardian, or custodian may comment on the efforts as documented in the case permanency plan.
- b. If at any point the court determines that the child's visitation or interaction with siblings would be detrimental to the child's well-being and visitation or interaction with siblings is suspended or terminated by the court, the determination shall be noted in the case permanency plan. If the court lifts the suspension or termination, the case permanency plan shall be revised to document the efforts to provide for visitation or interaction as required under paragraph "a".
- c. If one or more of the child's siblings are also subject to an order under this chapter for an out-of-home placement and the siblings are not placed in the same placement together, the plan shall document the reasons why and the efforts being made to facilitate such placement, or why making efforts for such placement is not appropriate.
- 6. If an order is entered for termination of parental rights of a child who is subject to this section, unless the court has suspended or terminated sibling visitation or interaction in accordance with this section, the department or child-placing agency shall do all of the following to facilitate frequent visitation or ongoing interaction between the child and siblings when the child is adopted or enters a permanent placement:
- a. Include in the training provided to prospective adoptive parents information regarding the importance of sibling relationships to an adopted child and counseling methods for maintaining sibling relationships.
- b. Provide prospective adoptive parents with information regarding the child's siblings. The address of a sibling's residence shall not be disclosed in the information unless authorized by court order for good cause shown.
- c. Encourage prospective adoptive parents to plan for facilitating postadoption contact between the child and the child's siblings.
- 7. Any information regarding court-ordered or authorized sibling visitation, interaction, or contact shall be provided to the foster parent, relative caretaker, guardian, prospective adoptive parent, and child as soon as reasonably possible following the entry of the court order or authorization as necessary to facilitate the visitation or interaction.

Sec. 6. Section 238.18, Code 2007, is amended to read as follows: 238.18 DUTY OF LICENSEE.

The licensee A child-placing agency licensed under this chapter shall keep a record and make reports in the form to be prescribed by said the administrator. For a child being placed by the agency, the agency's duties shall include compliance with the requirements of section 232.108 relating to visitation or ongoing interaction between the child and the child's siblings.

CONVEYANCE OR ENCUMBRANCE OF HOMESTEADS — LEGAL DESCRIPTION

H.F. 298

AN ACT relating to the conveyance or encumbrance of a homestead and providing an effective and applicability date.

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

Section 1. Section 561.13, Code 2007, is amended to read as follows: 561.13 CONVEYANCE OR ENCUMBRANCE.

A conveyance or encumbrance of, or contract to convey or encumber the homestead, if the owner is married, is not valid, unless and until the spouse of the owner executes the same or a like instrument, or a power of attorney for the execution of the same or a like instrument, and the instrument or power of attorney sets out the legal description of the homestead. However, when the homestead is conveyed or encumbered along with or in addition to other real estate, it is not necessary to particularly describe or set aside the tract of land constituting the homestead, whether the homestead is exclusively the subject of the contract or not, but the contract may be enforced as to real estate other than the homestead at the option of the purchaser or encumbrancer. If a spouse who holds only homestead rights and surviving spouse's statutory share in the homestead specifically relinquishes homestead rights in an instrument, including a power of attorney constituting the other spouse as the husband's or wife's attorney in fact, as provided in section 597.5, it is not necessary for the spouse to join in the granting clause of the same or a like instrument.

Sec. 2. EFFECTIVE AND APPLICABILITY DATE. This Act, being deemed of immediate importance, takes effect upon enactment and applies to powers of attorney in existence on or after the effective date of this Act.

Approved April 16, 2007

CHAPTER 69

OPERATING NONCOMMERCIAL MOTOR VEHICLES WHILE INTOXICATED — EFFECT ON COMMERCIAL DRIVER'S LICENSE

H.F. 314

AN ACT relating to a peace officer's statements to a person operating a noncommercial motor vehicle and holding a commercial driver's license who has been requested to submit to a chemical test in an operating-while-intoxicated case.

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

Section 1. Section 321J.8, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

a. If the person is operating a commercial motor vehicle as defined in section 321.1 and ei-

ther refuses to submit to the test or submits to the test and the results indicate an alcohol concentration of 0.04 or more, the person is disqualified from operating a commercial motor vehicle for the applicable period under section 321.208 in addition to any revocation of the person's driver's license or nonresident operating privilege which may be applicable under this chapter.

b. If the person is operating a noncommercial motor vehicle and holding a commercial driver's license as defined in section 321.1 and either refuses to submit to the test or operates a motor vehicle while under the influence of an alcoholic beverage or other drug or controlled substance or a combination of such substances, the person is disqualified from operating a commercial motor vehicle for the applicable period under section 321.208 in addition to any revocation of the person's driver's license or nonresident operating privilege which may be applicable under this chapter.

Approved April 16, 2007

CHAPTER 70

ACQUIRED IMMUNE DEFICIENCY SYNDROME AND HUMAN IMMUNODEFICIENCY VIRUS — MISCELLANEOUS CHANGES

H.F. 610

AN ACT relating to acquired immune deficiency syndrome and the human immunodeficiency virus.

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

Section 1. Section 141A.1, subsections 2, 8, and 11, Code 2007, are amended to read as follows:

- 2. "AIDS-related conditions" means the human immunodeficiency virus, or any other condition resulting from the human immunodeficiency virus infection that meets the definition of AIDS as established by the centers for disease control and prevention of the United States department of health and human services.
- 8. "Health care provider" means a person licensed or certified under chapter 148, 148C, 150, 150A, 152, or 153 to provide professional health care service to a person during the person's medical care, treatment, or confinement to practice medicine and surgery, osteopathic medicine and surgery, osteopathy, chiropractic, podiatry, nursing, dentistry, or optometry, or as a physician assistant, dental hygienist, or acupuncturist.
- 11. "HIV-related test" means a diagnostic test conducted by a laboratory approved pursuant to the federal Clinical Laboratory Improvements Act Improvement Amendments for determining the presence of HIV or antibodies to HIV.
- Sec. 2. Section 141A.1, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 10A. "HIV-related condition" means any condition resulting from the human immunodeficiency virus infection.
 - Sec. 3. Section 141A.2, subsections 1, 4, and 6, Code 2007, are amended to read as follows: 1. The department is designated as the lead agency in the coordination and implementation

of the state <u>Iowa</u> comprehensive <u>AIDS-related conditions prevention and intervention <u>HIV</u> plan.</u>

- 4. The department, in cooperation with the department of public safety, and persons who represent those who attend dead bodies shall establish for provide consultation services to all care providers, including paramedics, ambulance personnel, physicians, nurses, hospital personnel, first responders, peace officers, and fire fighters, who provide care services to a person, and for to all persons who attend dead bodies, protocol and procedures for the use of universal precautions regarding standard precautions to prevent the transmission of contagious and infectious diseases.
- 6. The department, with the approval of the state board of health, may conduct epidemiological blinded and nonblinded studies to determine the incidence and prevalence of the HIV infection. Initiation of any new epidemiological studies shall be contingent upon the receipt of funding sufficient to cover all the costs associated with the studies. The informed consent, reporting, and counseling requirements of this chapter shall not apply to blinded studies.
 - Sec. 4. Section 141A.3, Code 2007, is amended to read as follows:
 - 141A.3 DUTIES OF THE DEPARTMENT.
- 1. All federal and state moneys appropriated to the department for AIDS-related <u>HIV-related</u> activities shall be allocated in accordance with a prioritized schedule developed by rule of the department, and grants shall be awarded to the maximum extent feasible to community-based organizations utilized and distributed in a manner consistent with the guidelines established by the United States department of health and human services.
 - 2. The department shall do all of the following:
- a. Provide consultation <u>services</u> to agencies and organizations regarding appropriate policies for testing, education, confidentiality, and infection control.
- b. <u>Conduct Provide</u> health information <u>programs for to</u> the public <u>relating to regarding</u> HIV infection, including information about how the infection is transmitted and how transmittal can be prevented. The department shall prepare, <u>for free distribution</u>, <u>printed and distribute</u> information <u>relating to regarding</u> HIV infection and prevention.
- c. Provide educational programs consultation services concerning HIV infection in the workplace.
- d. Develop and implement Implement HIV education risk-reduction programs for specific populations at high risk for infection.
- e. Provide an informational brochure for patients who provide samples for purposes of performing an HIV test which, at a minimum, shall include a summary of the patient's rights and responsibilities under the law.
- f. In cooperation with the department of education, develop and update a medically correct AIDS recommend evidence-based, medically accurate HIV prevention curriculum curricula for use at the discretion of secondary and middle schools.
- 3. The department shall, in cooperation with the department of education and other agencies, organizations, coalitions, and local health departments, develop and implement a program of public and professional AIDS-related education.
 - Sec. 5. Section 141A.4, Code 2007, is amended to read as follows:
 - 141A.4 TESTING AND COUNSELING EDUCATION.
- 1. HIV testing and counseling education shall be offered to persons who are at risk for HIV infection including all of the following:
 - a. All persons seeking treatment testing positive for a sexually transmitted disease.
- b. All persons seeking treatment for injecting drug abuse or having a history of injecting drug abuse.
 - c. All persons who consider themselves at risk for the HIV infection.
- d. c. Male and female prostitutes sex workers and those who trade sex for drugs, money, or favors.
 - d. Sexual partners of HIV-infected persons.

- e. Persons whose sexual partners are identified in paragraphs "a" through "d".
- 2. <u>a. Pregnant women shall be provided information All pregnant women shall be tested for HIV infection as part of the routine panel of prenatal tests.</u>
- b. A pregnant woman shall be notified that HIV screening is recommended for all prenatal patients and that the pregnant woman will receive an HIV test as part of the routine panel of prenatal tests unless the pregnant woman objects to the test.
- c. If a pregnant woman objects to and declines the test, the decision shall be documented in the pregnant woman's medical record.
- <u>d. Information</u> about HIV prevention, risk reduction, and treatment opportunities to reduce the possible transmission of HIV to a fetus <u>shall be made available to all pregnant women</u>. Pregnant women who report one or more recognized risk factors for HIV shall be strongly encouraged to undergo HIV-related testing. A pregnant woman who requests testing shall be tested regardless of the absence of risk factors.
 - Sec. 6. Section 141A.5, Code 2007, is amended to read as follows:
 - 141A.5 PARTNER NOTIFICATION PROGRAM HIV.
- 1. The department shall maintain a partner notification program for persons known to have tested positive for the HIV infection.
- 2. The department shall initiate the program at alternative testing and counseling sites and at sexually transmitted disease clinics.
 - 3. 2. In administering the program, the department shall provide for the following:
- a. A person who tests positive for the HIV infection shall receive posttest counseling, during which time the person shall be encouraged to refer for counseling and HIV testing any person with whom the person has had sexual relations or has shared drug injecting equipment.
- b. The physician or other health care provider attending the person may provide to the department any relevant information provided by the person regarding any person with whom the tested person has had sexual relations or has shared drug injecting equipment. The department disease prevention staff shall then conduct partner notification in the same manner as that utilized for sexually transmitted diseases consistent with the provisions of this chapter.
- c. Devise a procedure, as a part of the partner notification program, to provide for the notification of an identifiable third party who is a sexual partner of or who shares drug injecting equipment with a person who has tested positive for HIV, by the department or a physician, when all of the following situations exist:
- (1) A physician for the infected person is of the good faith opinion that the nature of the continuing contact poses an imminent danger of HIV infection transmission to the third party.
- (2) When the physician believes in good faith that the infected person, despite strong encouragement, has not and will not warn the third party and will not participate in the voluntary partner notification program.

Notwithstanding subsection 4 <u>3</u>, the department or a physician may reveal the identity of a person who has tested positive for the HIV infection pursuant to this subsection only to the extent necessary to protect a third party from the direct threat of transmission. This subsection shall not be interpreted to create a duty to warn third parties of the danger of exposure to HIV through contact with a person who tests positive for the HIV infection.

The department shall adopt rules pursuant to chapter 17A to implement this paragraph "c". The rules shall provide a detailed procedure by which the department or a physician may directly notify an endangered third party.

- 4. 3. In making contact the department shall not disclose the identity of the person who provided the names of the persons to be contacted and shall protect the confidentiality of persons contacted.
- 5. 4. The department may delegate its partner notification duties under this section to local health authorities unless the local authority refuses or neglects to conduct the contact tracing partner notification program in a manner deemed to be effective by the department.
- 6. 5. In addition to the provisions for partner notification provided under this section and notwithstanding any provision to the contrary, a county medical examiner or deputy medical

examiner performing official duties pursuant to sections 331.801 through 331.805 or the state medical examiner or deputy medical examiner performing official duties pursuant to chapter 691, who determines through an investigation that a deceased person was infected with HIV, may notify directly, or request that the department notify, the immediate family of the deceased or any person known to have had a significant exposure from the deceased of the finding.

- Sec. 7. Section 141A.6, Code 2007, is amended to read as follows:
- 141A.6 AIDS-RELATED HIV-RELATED CONDITIONS SCREENING CONSENT, TEST-ING, AND REPORTING PENALTY.
- 1. Prior to obtaining a sample for the purpose of performing a voluntary undergoing an HIV-related test, a health care provider shall inform the subject of the test that the test is voluntary information shall be available to the subject of the test concerning testing and any means of obtaining additional information regarding HIV infection and risk reduction. If an individual signs a general consent form for the performance of medical tests or procedures, the signing of an additional consent form for the specific purpose of consenting to an HIV-related test is not required during the time in which the general consent form is in effect. If an individual has not signed a general consent form for the performance of medical tests and procedures or the consent form is no longer in effect, a health care provider shall obtain oral or written consent prior to performing an HIV-related test. If an individual is unable to provide consent, the individual's legal guardian may provide consent. If the individual's legal guardian cannot be located or is unavailable, a health care provider may authorize the test when the test results are necessary for diagnostic purposes to provide appropriate urgent medical care.
- <u>2.</u> Within seven days of the receipt of a test result indicating HIV infection which has been confirmed as positive according to prevailing medical technology <u>or immediately after the initial examination or treatment of an individual infected with HIV</u>, the physician or other health care provider at whose request the test was performed <u>or who performed the initial examination or treatment</u> shall make a report to the department on a form provided by the department.
- 2. 3. Within seven days of diagnosing a person as having AIDS or an AIDS-related condition, the diagnosing physician shall make a report to the department on a form provided by the department.
- 3. <u>4.</u> Within seven days of the death of a person resulting from an AIDS-related condition with HIV infection, the attending physician shall make a report to the department on a form provided by the department.
- 4. <u>5.</u> Within seven days of the receipt of a test result indicating HIV infection which has been confirmed as positive according to prevailing medical technology, the director of a blood bank shall make a report to the department on a form provided by the department.
- 5. <u>6.</u> Within seven days of the receipt of a test result indicating HIV infection which has been confirmed as positive according to prevailing medical technology that is indicative of HIV, the director of a clinical laboratory shall make a report to the department on a form provided by the department.
- 6-7. The forms provided by the department shall require inclusion of all of the following information:
 - a. The name of the patient.
 - b. The address of the patient.
 - c. The patient's date of birth.
 - d. The gender of the patient.
 - e. The race and ethnicity of the patient.
 - f. The patient's marital status.
 - g. The patient's telephone number.
- h. The If an HIV-related test was performed, the name and address of the laboratory or blood bank.
- i. The <u>If an HIV-related test was performed, the</u> date the test was found to be positive and the collection date.

- j. The <u>If an HIV-related test was performed, the</u> name of the physician or health care provider who performed the test.
 - k. If the patient is female, whether the patient is pregnant.
- 7. 8. An individual who repeatedly fails to file the report required under this section is subject to a report being made to the licensing board governing the professional activities of the individual. The department shall notify the individual each time the department determines that the individual has failed to file a required report. The department shall inform the individual in the notification that the individual may provide information to the department to explain or dispute the failure to report.
- 8. 9. A public, private, or hospital clinical laboratory that repeatedly fails to make the report required under this section is subject to a civil penalty of not more than one thousand dollars per occurrence. The department shall not impose the penalty under this subsection without prior written notice and opportunity for hearing.
 - Sec. 8. Section 141A.7, subsections 1 and 2, Code 2007, are amended to read as follows:
- 1. Prior to undergoing an HIV-related test, information shall be available to the subject of the test concerning testing and any means of obtaining additional information regarding HIV infection and risk reduction. At any time that the subject of an HIV-related test is informed of confirmed positive test results, counseling concerning the emotional and physical health effects shall be initiated. Particular attention shall be given to explaining the need for the precautions necessary to avoid transmitting the virus. The subject shall be given information concerning additional counseling. If the legal guardian of the subject of the test provides consent to the test pursuant to section 141A.6, the provisions of this subsection shall apply to the legal guardian.
- 2. Notwithstanding subsection 1, the provisions of this section do not apply to any of the following:
- a. The performance by a health care provider or health facility of an HIV-related test when the health care provider or health facility procures, processes, distributes, or uses a human body part donated for a purpose specified under the uniform anatomical gift Act as provided in chapter 142C, or semen provided prior to July 1, 1988, for the purpose of artificial insemination, or donations of blood, and such test is necessary to ensure medical acceptability of such gift or semen for the purposes intended.
 - b. A person engaged in the business of insurance who is subject to section 505.16.
- c. The performance by a health care provider or health facility of an HIV-related test when the subject of the test is deceased and a documented significant exposure has occurred.
- d. The performance by a health care provider or health facility of an HIV-related test when the subject of the test is unable to provide consent and the health care provider or health care facility provides consent for the patient pursuant to section 141A.6.
 - Sec. 9. Section 141A.8, Code 2007, is amended to read as follows: 141A.8 CARE PROVIDER NOTIFICATION.
- 1. a. Notwithstanding any provision of this chapter to the contrary, if a care provider sustains a significant exposure from an individual, the individual to whom the care provider was exposed is deemed to consent to a test to determine the presence of HIV infection in that individual and is deemed to consent to notification of the care provider of the HIV test results of the individual, upon submission of a significant exposure report by the care provider to the hospital or other person specified in this section to whom the individual is delivered by the care provider as provided by rule. The significant exposure report form may be incorporated into the Iowa prehospital care report, the Iowa prehospital advanced care report, or a similar report used by an ambulance, rescue, or first response service or law enforcement agency.
- b. The hospital <u>or clinic in which the exposure occurred</u> or <u>any</u> other person specified in this section to whom the individual is delivered shall conduct the test. If the individual is delivered by the care provider to an institution administered by the Iowa department of corrections, the test shall be conducted by the staff physician of the institution. If the individual is delivered

by the care provider to a jail, the test shall be conducted by the attending physician of the jail or the county medical examiner. The sample and test results shall only be identified by a number and no reports otherwise required by this chapter shall be made which otherwise identify the individual tested.

- c. A hospital, institutions administered by the department of corrections, and jails shall have written policies and procedures for notification of a care provider under this section. The policies and procedures shall include designation of a representative of the care provider to whom notification shall be provided and who shall, in turn, notify the care provider. The identity of the designated representative of the care provider shall not be revealed to the individual tested. The designated representative shall inform the hospital, institution administered by the department of corrections, or jail of those parties who received the notification, and following receipt of this information and upon request of the individual tested, the hospital, institution administered by the department of corrections, or jail shall inform the individual of the parties to whom notification was provided.
- 2. a. If the test results are positive, the hospital or other person performing the test shall notify the subject of the test and ensure the performance of counseling and reporting requirements of this chapter in the same manner as for an individual from whom actual consent was obtained. The report to the department required pursuant to section 141A.6 shall include the name of the individual tested.
- b. If the HIV test results of the subject of the test are positive, the hospital or other person performing the test shall notify the care provider or the designated representative of the care provider who shall then notify the care provider who sustained the exposure.
- c. The notification shall be provided as soon as is reasonably possible following determination that the HIV test results of the subject of the test are positive. The notification shall not include the name of the individual tested for HIV infection unless the individual provides a specific written release. If the care provider who sustained the significant exposure determines the identity of the individual tested, the identity of the individual shall be confidential information and shall not be disclosed by the care provider to any other person unless a specific written release is obtained from the individual tested.
- 3. This section does not require or permit, unless otherwise provided, a hospital, health care provider, or other person to administer a test for the express purpose of determining the presence of HIV infection, except that testing may be performed if the individual consents and if the requirements of this section are satisfied.

- 6. 5. A hospital's or health care provider's duty to notify under this section is not continuing but is limited to the diagnosis of HIV infection made in the course of admission, care, and treatment following the rendering of health care services or other services to the individual with the infection to which notification under this section applies.
- 7. 6. Notwithstanding subsection 6 5, if, following discharge from or completion of care or treatment by a hospital, an individual for whom a significant exposure report was submitted but which report did not result in notification, wishes to provide information regarding the individual's HIV infection status to the care provider who submitted the report, the hospital shall provide a procedure for notifying the care provider.
 - 8. 7. A hospital, health care provider, or other person who is authorized to perform an HIV

test under this section, who performs the HIV test in compliance with this section or who fails to perform an HIV test authorized under this section, is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

- 9. 8. A hospital, health care provider, or other person who is authorized to perform a test under this section has no duty to perform the HIV test authorized.
- 10. 9. The employer of a care provider who sustained a significant exposure under this section shall pay the costs of HIV testing for the individual who is the source of the significant exposure and of the testing and counseling of the care provider, if the significant exposure was sustained during the course of employment. However, the department shall pay the costs of HIV testing for the assist an individual who is the source of the significant exposure and of the testing and counseling of the in finding resources to pay for the cost of the HIV test, and shall assist a care provider who renders direct aid without compensation in finding resources to pay for the cost of the testing and counseling.

Sec. 10. Section 141A.9, Code 2007, is amended to read as follows: 141A.9 CONFIDENTIALITY OF INFORMATION.

- 1. Any information, including reports and records, obtained, submitted, and maintained pursuant to this chapter is strictly confidential medical information. The information shall not be released, shared with an agency or institution, or made public upon subpoena, search warrant, discovery proceedings, or by any other means except as provided in this chapter. A person shall not be compelled to disclose the identity of any person upon whom an HIV-related test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to persons entitled to that information under this chapter.
- <u>2.</u> <u>Information HIV-related test results</u> shall be made available for release to the following individuals or under the following circumstances:
- a. To the subject of the test or the subject's legal guardian subject to the provisions of section 141A.7, subsection 3, when applicable.
- b. To any person who secures a written release of test results executed by the subject of the test or the subject's legal guardian.
- c. To an authorized agent or employee of a health facility or health care provider, if the health facility or health care provider ordered or participated in the testing or is otherwise authorized to obtain the test results, the agent or employee provides patient care or handles or processes samples, and the agent or employee has a medical need to know such information.
- d. To a health care provider providing care to the subject of the test when knowledge of the test results is necessary to provide care or treatment.
- To the department in accordance with reporting requirements for an HIV-related condition.
- f. To a health facility or health care provider which procures, processes, distributes, or uses a human body part from a deceased person with respect to medical information regarding that person, or semen provided prior to July 1, 1988, for the purpose of artificial insemination.
- g. Release may be made of medical or epidemiological information for statistical purposes in a manner such that no individual person can be identified.
- h. Release may be made of medical or epidemiological information to the extent necessary to enforce the provisions of this chapter and related rules concerning the treatment, control, and investigation of HIV infection by public health officials.
- i. Release may be made of medical or epidemiological information to medical personnel to the extent necessary to protect the health or life of the named party.
- j. Release may be made of test results concerning a patient pursuant to procedures established under section 141A.5, subsection 3, paragraph "c".
- k. g. To a person allowed access to a record an HIV-related test result by a court order which is issued in compliance with the following provisions:
- (1) A court has found that the person seeking the test results has demonstrated a compelling need for the test results which need cannot be accommodated by other means. In assessing

compelling need, the court shall weigh the need for disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure due to its deterrent effect on future testing or due to its effect in leading to discrimination.

- (2) Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially in documents not filed with the court.
- (3) Before granting an order, the court shall provide the person whose test results are in question with notice and a reasonable opportunity to participate in the proceedings if the person is not already a party.
- (4) Court proceedings as to disclosure of test results shall be conducted in camera unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.
- (5) Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may gain access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.
- 1. h. To an employer, if the test is authorized to be required under any other provision of law. m. i. To Pursuant to section 915.43, to a convicted or alleged sexual assault offender; the physician or other health care provider who orders the test of a convicted or alleged offender; the victim; the parent, guardian, or custodian of the victim if the victim is a minor; the physician of the victim; the victim counselor or person requested by the victim to provide counseling regarding the HIV-related test and results; the victim's spouse; persons with whom the victim has engaged in vaginal, anal, or oral intercourse subsequent to the sexual assault; members of the victim's family within the third degree of consanguinity; and the county attorney who may use the results as evidence in the prosecution of sexual assault under chapter 915, subchapter IV, or prosecution of the offense of criminal transmission of HIV under chapter 709C. For the purposes of this paragraph, "victim" means victim as defined in section 915.40.
- n. j. To employees of state correctional institutions subject to the jurisdiction of the department of corrections, employees of secure facilities for juveniles subject to the department of human services, and employees of city and county jails, if the employees have direct supervision over inmates of those facilities or institutions in the exercise of the duties prescribed pursuant to section 80.9, subsection 2, paragraph "d".
- 3. Release may be made of medical or epidemiological information for statistical purposes in a manner such that no individual person can be identified.
- 4. Release may be made of medical or epidemiological information to the extent necessary to enforce the provisions of this chapter and related rules concerning the treatment, control, and investigation of HIV infection by public health officials.
- 5. Release may be made of medical or epidemiological information to medical personnel to the extent necessary to protect the health or life of the named party.
- 6. Release may be made of test results concerning a patient pursuant to procedures established under section 141A.5, subsection 2, paragraph "c".
- 2. 7. Medical information secured pursuant to subsection 1 may be shared between employees of the department who shall use the information collected only for the purposes of carrying out their official duties in preventing the spread of the disease or the spread of other reportable diseases as defined in section 139A.2.
 - Sec. 11. Section 915.43, subsection 4, Code 2007, is amended to read as follows:
- 4. Results of a test performed under this subchapter, except as provided in subsection 13, shall be disclosed only to the physician or other practitioner who orders the test of the convicted or alleged offender, the victim, the victim counselor or person requested by the victim to provide counseling regarding the HIV-related test and results, the physician of the victim if requested by the victim, the parent, guardian, or custodian of the victim, if the victim is a minor, and the county attorney who filed the petition for HIV-related testing under this chapter, who may use the results to file charges of criminal transmis-

sion of HIV under chapter 709C. Results of a test performed under this subchapter shall not be disclosed to any other person without the written informed consent of the convicted or alleged offender. A person to whom the results of a test have been disclosed under this subchapter is subject to the confidentiality provisions of section 141A.9, and shall not disclose the results to another person except as authorized by section 141A.9, subsection 1 2, paragraph "m" "i".

Approved April 16, 2007

CHAPTER 71

COURT RECORDS AND RECORDKEEPING — PROCEDURE, FEES, AND COSTS

H.F. 777

AN ACT relating to judicial branch practices and procedures including but not limited to adoption petitions, clerk of the district court duties, and recordkeeping affecting real estate and change of name records.

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

Section 1. Section 600.3, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 4. An adoption petition shall be limited to the adoption of one natural person.

Sec. 2. Section 602.8103, subsection 4, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. k. Complaints, trial informations, and uniform citations and complaints relating to parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, one year after final disposition.

- Sec. 3. Section 602.8105, subsection 1, paragraph a, Code 2007, is amended to read as follows:
- a. For filing and docketing a petition, other than a modification of a dissolution decree to which a written stipulation is attached at the time of filing containing the agreement of the parties to the terms of modification, one hundred dollars. In counties having a population of ninety-eight thousand or over, an additional five dollars shall be charged and collected to be known as the journal publication fee and used for the purposes provided for in section 618.13. For multiple adoption petitions filed at the same time by the same petitioner under section 600.3, the filing fee and any court costs for any petition filed in addition to the first petition filed are waived.
 - Sec. 4. Section 617.10, Code 2007, is amended to read as follows: 617.10 REAL ESTATE ACTION INDEXED.
- 1. When a petition affecting real estate is filed, the clerk of the district court where the petition is filed shall forthwith index same the petition in an index book to be provided therefor, under the tract number which describes the property, entering in each instance the cause case number as a guide to the record of court proceedings which affect such the real estate. If the petition be is amended to include other parties or other lands, same the amended petition shall

be similarly indexed. When the cause is finally a final result is determined in the case, the result shall be indicated in said the index book wherever indexed.

- 2. As used in this section, "book" means any mode of permanent recording, including but not limited to card files, microfilm, microfiche, and electronic records.
 - Sec. 5. Section 654.17, Code 2007, is amended to read as follows: 654.17 RECISION OF FORECLOSURE.
- 1. 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 if the original loan documents are contained in the court file, the mortgagee shall pay a fee of twenty-five dollars for documents filed in the foreclosure action which the plaintiff requests returned to the clerk of the district court. Upon the payment of the fee, the clerk shall make copies of the original loan documents for the court file, and return the original loan documents to the mortgagee.
- <u>2.</u> 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. 6. Section 674.11, Code 2007, is repealed.

Approved April 16, 2007

CHAPTER 72

REGULATION OF REAL ESTATE APPRAISALS AND APPRAISERS

S.F. 137

AN ACT providing for the registration of associate real estate appraisers, prohibiting improper influence over an appraiser's evaluation opinion, and imposing a penalty.

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

Section 1. Section 543D.3, Code 2007, is amended to read as follows: 543D.3 PURPOSES — VOLUNTARY CERTIFICATION.

The purpose of this chapter is to establish standards for real estate appraisals and a procedure for the voluntary certification of real estate appraisers <u>and the mandatory registration of associate real estate appraisers</u>.

A person who is not a certified real estate appraiser under this chapter may appraise real estate for compensation if certification is not required by this chapter or by federal or state law, rule, or policy. However, an employee of the state department of transportation whose duties include appraisals of property pursuant to chapter 6B must be a certified real estate appraiser under this chapter or a registered associate real estate appraiser acting under the direct supervision of a certified real estate appraiser.¹

¹ See chapter 143, §3 herein

Sec. 2. Section 543D.9, Code 2007, is amended to read as follows: 543D.9 EDUCATION AND EXPERIENCE REQUIREMENT.

The board shall determine what real estate appraisal or real estate appraisal review experience and what education shall be required to provide appropriate assurance that an applicant for certification is competent to perform the certified appraisal work which is within the scope of practice defined by the board. All experience required for initial certification shall be performed as a registered associate real estate appraiser acting under the direct supervision of a certified real estate appraiser, except as the board may provide by rule. The board shall prescribe a required minimum number of tested hours of education relating to the provisions of this chapter, the uniform appraisal standards, and other rules issued in accordance with this chapter.

- Sec. 3. Section 543D.18, subsection 1, Code 2007, is amended to read as follows:
- 1. A certified real estate appraiser shall comply with the uniform appraisal standards adopted under this chapter. The reliance of the public in general and of the financial business community in particular on sound, reliable real estate appraisal practices imposes on persons engaged in the practice of real estate appraising as certified real estate appraisers or as registered associate real estate appraisers certain obligations both to their clients and to the public. These obligations include the obligation to maintain independence in thought and action, to adhere to the uniform appraisal standards adopted under this chapter, and to maintain high standards of personal conduct in all matters impacting one's fitness to practice real estate appraising. A certified real estate appraiser and a registered associate real estate appraiser acting under the direct supervision of a certified real estate appraiser shall perform all appraisal assignments in an honest, disinterested and impartial manner, with objectivity and independence, and without accommodation to the personal interests or objectives of the appraiser, the client, or any third person.
- Sec. 4. Section 543D.18, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 7. A certified real estate appraiser who receives significant real property appraisal assistance in the development or reporting of an appraisal assignment shall disclose such assistance in accordance with the uniform appraisal standards adopted under this chapter.
- Sec. 5. <u>NEW SECTION</u>. 543D.18A PENALTIES FOR IMPROPER INFLUENCE OF AN APPRAISAL ASSIGNMENT.
- 1. A mortgage lender, mortgage broker or originator, real estate broker or salesperson, client, party, appraiser, or any other person with an interest in a real estate transaction or the financing of any loan secured by real estate involving an appraisal assignment shall not improperly influence or attempt to improperly influence the development, reporting, result, or review of a real estate appraisal through coercion, extortion, or bribery, or by the withholding or threatened withholding of payment for an appraisal fee, or the conditioning of the payment of an appraisal fee upon the opinion, conclusion, or valuation to be reached, or a request that the appraiser report a predetermined opinion, conclusion, or valuation, or the desired valuation of any person, or by any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, and impartiality, as required by section 543D.18, subsections 1 and 2.
- 2. A violation of this section is an unlawful practice under section 714.16, subsection 2, paragraph "a".
- 3. A violation of this section is a ground for discipline against any person holding a certificate of registration under this chapter or another license issued under the laws of the state of Iowa, as license is defined in section 17A.2, subsection 6, if the practice of the profession, occupation, or business regulated by the license relates to real estate transactions or the financing of loans secured by real estate.
 - 4. A person does not violate this section solely by asking an appraiser to consider additional,

appropriate property information, or to provide further detail, substantiation, or explanation for the appraiser's value conclusion, or to correct errors in the appraisal report, or by withholding payment of an appraisal fee based on a bona fide dispute regarding the appraiser's compliance with the appraisal standards adopted by the board under this chapter. A person does not violate this section solely by retaining appraisers from panels or lists on a rotating basis, or by supplying an appraiser with information the appraiser is required to analyze under the appraisal standards adopted by the board under this chapter, such as agreements of sale, options, or listings of the property to be valued.

Sec. 6. <u>NEW SECTION</u>. 543D.20 REGISTRATION OF ASSOCIATE REAL ESTATE APPRAISERS.

- 1. A person shall not assist a certified real estate appraiser in the development or reporting of an appraisal assignment that is required by this chapter, or by federal or state law, rule, or policy to be performed by a certified real estate appraiser, unless the person meets one or more of the following conditions:
 - a. The person is certified under this chapter.
- b. The person is registered as an associate real estate appraiser and is acting under the direct supervision of a certified real estate appraiser.
- c. The person is solely providing administrative services, such as taking photographs, preparing charts, or typing reports, and is not providing real estate appraisal assistance in developing the analysis, valuation, opinions, or conclusions associated with the appraisal assignment.
- d. The person is providing professional consultation that does not constitute real property appraisal assistance, such as the assistance of a professional engineer or certified public accountant.
- 2. The board shall establish by rule the terms and conditions of the registration of associate real estate appraisers, including the educational and other prerequisites to registration, the fees for registration and the renewal of registration, and the continuing education requirements for renewal of registration. The board shall consider and may incorporate any guidelines recommended by the appraisal qualifications board of the appraisal foundation relating to associate real estate appraisers.
- 3. The board shall adopt rules governing the manner in which certified real estate appraisers shall directly supervise associate real estate appraisers, the standards of conduct for associate real estate appraisers, and the grounds for imposing discipline against an associate real estate appraiser which shall include all of the grounds provided in section 543D.17.
- 4. Associate real estate appraisers shall be bound by the uniform appraisal standards adopted by the board under this chapter.
- 5. Persons who appraise real estate where certification is not required by this chapter or by federal or state law, rule, or policy, and who are not assisting a certified real estate appraiser in the development or reporting of an appraisal assignment that is required by this chapter, or by federal or state law, rule, or policy to be performed by a certified real estate appraiser, are not required to register with the board.

Sec. 7. NEW SECTION. 543D.21 VIOLATIONS—INJUNCTIONS—CIVIL PENALTIES.

- 1. If, as the result of a complaint or otherwise, the board believes that a person has engaged, or is about to engage, in an act or practice that constitutes or will constitute a violation of this chapter, the board may make application to the district court for an order enjoining such act or practice. Upon a showing by the board that such person has engaged, or is about to engage, in any such act or practice, an injunction, restraining order, or other order as may be appropriate shall be granted by the district court.
- 2. The board may investigate complaints or initiate complaints against persons who are not certified or registered under this chapter solely to determine whether grounds exist to make application to the district court pursuant to subsection 1 or to issue an order pursuant to subsection 3, and in connection with such complaints or investigations may issue subpoenas to

compel witnesses to testify or persons to produce evidence consistent with the provisions of section 272C.6, subsection 3, as needed to determine whether probable cause exists to initiate proceedings under this section or to make application to the district court for an order enjoining violations of this chapter.

- 3. In addition to or as an alternative to making application to the district court for an injunction, the board may issue an order to a person who is not certified or registered under this chapter to require compliance with this chapter and may impose a civil penalty against such person for any violation of subsection 4 in an amount up to one thousand dollars for each violation. All civil penalties collected pursuant to this subsection shall be deposited in the housing trust fund created in section 16.181. An order issued pursuant to this section may prohibit a person from applying for certification or registration under this chapter.
- 4. The board may impose civil penalties against a person who is not certified or registered under this chapter for any of the following acts:
 - a. A violation of section 543D.15.
 - b. A violation of section 543D.18A, subsection 1.
 - c. A violation of section 543D.20, subsection 1.
- d. Fraud, deceit, or deception, through act or omission, in connection with an application for certification or registration under this chapter.
- 5. The board, before issuing an order under this section, shall provide the person written notice and the opportunity to request a hearing. The hearing must be requested within thirty days after receipt of the notice and shall be conducted in the same manner as provided for disciplinary proceedings involving a licensee under this chapter.
- 6. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review pursuant to section 17A.19.
- 7. If a person fails to pay a civil penalty within thirty days after entry of an order imposing the civil penalty, or if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.
- 8. An action to enforce an order under this section may be joined with an action for an injunction.

Approved April 17, 2007

CHAPTER 73

IOWA CULTURAL TRUST — USE OF GRANT ACCOUNT MONEYS

S.F. 205

AN ACT relating to the use of moneys in the Iowa cultural trust grant account by the board of trustees of the Iowa cultural trust.

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

Section 1. Section 303A.7, subsection 3, Code 2007, is amended to read as follows:

3. For the fiscal period beginning July 1, 2003, and ending June 30, 2005 At any time when the principal balance in the trust fund equals or exceeds three million dollars, the board may

use moneys in the grant account for a statewide educational program to promote participation in, expanded support of, and local endowment building for, Iowa nonprofit arts, history, and sciences and humanities organizations.

Approved April 17, 2007

CHAPTER 74

STATE MILITARY AFFAIRS — FUNDS AND FACILITIES
S.F. 270

AN ACT relating to the military code by amending the powers of the adjutant general and by allowing the armory board to enter into design-build contracts for the construction of certain national guard facilities.

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

Section 1. Section 29A.12, subsection 1, Code 2007, is amended to read as follows:

- 1. The adjutant general shall have command and control of the military division, and perform such duties as pertain to the office of the adjutant general under law and regulations, pursuant to the authority vested in the adjutant general by the governor. The adjutant general shall superintend the preparation of all letters and reports required by the United States from the state, and perform all the duties prescribed by law. The adjutant general shall have charge of the state military reservations, and all other property of the state kept or used for military purposes. The adjutant general may accept and expend nonappropriated funds in accordance with law and regulations. The adjutant general shall cause an inventory to be taken at least once each year of all military stores, property, and funds under the adjutant general's jurisdiction. In each year preceding a regular session of the general assembly, the adjutant general shall prepare a detailed report of the transactions of that office, its expenses, and other matters required by the governor for the period since the last preceding report, and the governor may at any time require a similar report.
- Sec. 2. Section 29A.57, subsection 3, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. e. Enter into a design-build contract with a successful bidder identified as a result of a competitive bidding process for a facility to be funded entirely with federal funds and to be used solely by the national guard or jointly by the national guard and other armed forces of the United States. A design-build contract may provide that design and construction of the project may be in sequential or concurrent phases. As used in this paragraph, "design-build contract" means a single contract providing for both design services and construction services that may include maintenance, operations, preconstruction, and other related services.

Approved April 17, 2007

OVERPAYMENTS OF MONEYS TO COUNTIES S.F. 354

AN ACT relating to certain overpayments of moneys to a county.

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

Section 1. Section 331.401, subsection 1, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. qq. Retain overpayments of moneys paid to the county in an amount of five dollars or less, unless the payor has requested a refund of the overpayment.

Sec. 2. Section 331.902, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 5. Each elective officer specified in subsection 1 shall retain overpayments of fees and other charges paid to the county in an amount of five dollars or less, unless the payor has requested a refund of the overpayment.

Approved April 17, 2007

CHAPTER 76

COUNCILS OF GOVERNMENTS — ADDITIONAL AREA S.F.~444

AN ACT relating to councils of governments by designating a new council of governments area.

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

Section 1. Section 28H.1, subsection 14, Code 2007, is amended to read as follows: 14. Area fifteen regional planning commission serving Appanoose, Davis, Jefferson, Keokuk, Lucas, Mahaska, Monroe, Van Buren, and Wapello, and Wayne counties.

Sec. 2. Section 28H.1, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 17. Chariton valley council of governments serving Appanoose, Lucas, Monroe, and Wayne counties.

Approved April 17, 2007

UNEMPLOYMENT INSURANCE INFORMATION — CONFIDENTIALITY — PENALTIES

S.F. 448

AN ACT relating to confidential information regarding unemployment insurance benefits and providing penalties.

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

Section 1. Section 96.11, subsection 6, paragraph b, Code 2007, is amended by adding the following new subparagraph:

<u>NEW SUBPARAGRAPH</u>. (4) The department shall hold confidential unemployment insurance information received by the department from an unemployment insurance agency of another state.

Sec. 2. Section 96.11, subsection 6, paragraph f, Code 2007, is amended to read as follows: f. An employee of the department, an administrative law judge, or a member of the appeal board who violates this subsection is guilty, upon conviction, of a serious misdemeanor. A public official or an agent or contractor of a public official who receives information pursuant to this subsection or a third party other than an agent who acts on behalf of a claimant or employer and who violates this subsection is guilty, upon conviction, of a serious misdemeanor. For the purposes of this subsection, "public official" means an official or employee within the executive branch of federal, state, or local government, or an elected official of the federal or a state or local government.

Approved April 17, 2007

CHAPTER 78

CONGRESSIONAL AND LEGISLATIVE REDISTRICTING PROCESS AND PLANS

S.F. 479

AN ACT making changes to the time frames and the duties of the legislative services agency concerning the process of congressional and legislative redistricting.

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

Section 1. Section 42.2, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 4. Upon each delivery by the legislative services agency to the general assembly of a bill embodying a plan, pursuant to section 42.3, the legislative services agency shall at the earliest feasible time make available to the public the following information:

- a. Copies of the bill delivered by the legislative services agency to the general assembly.
- b. Maps illustrating the plan.
- c. A summary of the standards prescribed by section 42.4 for development of the plan.
- d. A statement of the population of each district included in the plan, and the relative deviation of each district population from the ideal district population.

Sec. 2. Section 42.3, subsection 1, Code 2007, is amended to read as follows:

1. a. Not later than April 1 of each year ending in one, the legislative services agency shall deliver to the secretary of the senate and the chief clerk of the house of representatives identical bills embodying a plan of legislative and congressional districting prepared in accordance with section 42.4. It is the intent of this chapter that the general assembly shall bring the bill to a vote in either the senate or the house of representatives expeditiously, but not less than seven three days after the report of the commission required by section 42.6 is received and made available to the members of the general assembly, under a procedure or rule permitting no amendments except those of a purely corrective nature. It is further the intent of this chapter that if the bill is approved by the first house in which it is considered, it shall expeditiously be brought to a vote in the second house under a similar procedure or rule. If the bill embodying the plan submitted by the legislative services agency under this subsection fails to be approved by a constitutional majority in either the senate or the house of representatives, the secretary of the senate or the chief clerk of the house, as the case may be, shall at once, but in no event later than seven days after the date the bill failed to be approved, transmit to the legislative services agency information which the senate or house may direct by resolution regarding reasons why the plan was not approved.

b. However, if the population data for legislative districting which the United States census bureau is required to provide this state under 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 are not available to the legislative services agency on or before February 15 of the year ending in one, the dates set forth in this subsection shall be extended by a number of days equal to the number of days after February 15 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 become available.

Sec. 3. Section 42.3, subsection 2, Code 2007, is amended to read as follows:

2. If the bill embodying the plan submitted by the legislative services agency under subsection 1 fails to be approved by a constitutional majority in either the senate or the house of representatives, the secretary of the senate or the chief clerk of the house, as the case may be, shall at once transmit to the legislative services agency information which the senate or house may direct regarding reasons why the plan was not approved. The enacted, the legislative services agency shall prepare a bill embodying a second plan of legislative and congressional districting. The bill shall be prepared in accordance with section 42.4, and taking into account, insofar as it is possible to do so within the requirements of section 42.4, with the reasons cited by the senate or house of representatives by resolution, or the governor by veto message, for its the failure to approve the plan insofar as it is possible to do so within the requirements of section 42.4. If a second plan is required under this subsection, the bill embodying it shall be delivered to the secretary of the senate and the chief clerk of the house of representatives not later than May 1 of the year ending in one, or twenty-one thirty-five days after the date of the vote by which the senate or the house of representatives fails to approve the bill submitted under subsection 1, whichever date is later or the date the governor vetoes or fails to approve the bill. It is the intent of this chapter that, if If it is necessary to submit a bill under this subsection, the bill shall be brought to a vote not less than seven days after the bill is printed submitted and made available to the members of the general assembly, in the same manner as prescribed for the bill required under subsection 1 under a procedure or rule permitting no amendments except those of a purely corrective nature. It is further the intent of this chapter that if the bill is approved by the first house in which it is considered, it shall expeditiously be brought to a vote in the second house under a similar procedure or rule. If the bill embodying the plan submitted by the legislative services agency under this subsection fails to be approved by a constitutional majority in either the senate or the house of representatives, the secretary of the senate or the chief clerk of the house, as the case may be, shall transmit to the legislative services agency information which the senate or house may direct by resolution regarding reasons why the plan was not approved in the same manner as described in subsection 1.

- Sec. 4. Section 42.3, subsection 3, Code 2007, is amended to read as follows:
- 3. If the bill embodying the plan submitted by the legislative services agency under subsection 2 fails to be approved by a constitutional majority in either the senate or the house of representatives enacted, the same procedure as prescribed by subsection 2 shall be followed. If a third plan is required under this subsection, the bill embodying it shall be delivered to the secretary of the senate and the chief clerk of the house of representatives not later than June 1 of the year ending in one, or twenty-one thirty-five days after the date of the vote by which the senate or the house of representatives fails to approve the bill submitted under subsection 2, whichever date is later. It is the intent of this chapter that, if or the date the governor vetoes or fails to approve the bill. The legislative services agency shall submit a bill under this subsection sufficiently in advance of September 1 of the year ending in one to permit the general assembly to consider the plan prior to that date. If it is necessary to submit a bill under this subsection, the bill shall be brought to a vote within the same time period after its delivery to the secretary of the senate and the chief clerk of the house of representatives as is prescribed for the bill submitted under subsection 2, but shall be subject to amendment in the same manner as other bills.
 - Sec. 5. Section 42.3, subsection 4, Code 2007, is amended by striking the subsection.
 - Sec. 6. Section 42.4, subsection 4, Code 2007, is amended to read as follows:
- 4. It is preferable that districts <u>Districts shall</u> be <u>reasonably</u> compact in form, but <u>to the extent consistent with</u> the standards established by subsections 1, 2, and 3 take precedence over compactness where a conflict arises between compactness and these standards. In general, <u>reasonably</u> compact districts are those which are square, rectangular, or hexagonal in shape, <u>and not irregularly shaped</u>, to the extent permitted by natural or political boundaries. When <u>If</u> it is necessary to compare the relative compactness of two or more districts, or of two or more alternative districting plans, the tests prescribed by paragraphs <u>"a" and</u> "b" and "c" of this subsection shall be used. Should the results of these two tests be contradictory, the standard referred to in paragraph "b" of this subsection shall be given greater weight than the standard referred to in paragraph "c" of this subsection.
 - a. As used in this subsection:
- (1) "Population data unit" means a civil township, election precinct, census enumeration district, census city block group, or other unit of territory having clearly identified geographic boundaries and for which a total population figure is included in or can be derived directly from certified federal census data.
- (2) The "geographic unit center" of a population data unit is that point approximately equidistant from the northern and southern extremities, and also approximately equidistant from the eastern and western extremities, of a population data unit. This point shall be determined by visual observation of a map of the population data unit, unless it is otherwise determined within the context of an appropriate coordinate system developed by the federal government or another qualified and objective source and obtained for use in this state with prior approval of the legislative council.
- (3) The "x" co-ordinate of a point in this state refers to the relative location of that point along the east-west axis of the state. Unless otherwise measured within the context of an appropriate co-ordinate system obtained for use as permitted by subparagraph 2 of this paragraph, the "x" co-ordinate shall be measured along a line drawn due east from a due north and south line running through the point which is the northwestern extremity of the state of Iowa, to the point to be located.
- (4) The "y" co-ordinate of a point in this state refers to the relative location of that point along the north-south axis of the state. Unless otherwise measured within the context of an appropriate co-ordinate system obtained for use as permitted by subparagraph (2) of this paragraph, the "y" co-ordinate shall be measured along a line drawn due south from the northern boundary of the state or the eastward extension of that boundary, to the point to be located.
 - b. a. LENGTH-WIDTH COMPACTNESS. The compactness of a district is greatest when

the length of the district and the width of the district are equal. The measure of a district's compactness is the absolute value of the difference between the length and the width of the district.

- (1) In measuring the length and the width of a district by means of electronic data processing, the difference between the "x" co-ordinates of the easternmost and the westernmost geographic unit centers included in the district shall be compared to the difference between the "y" co-ordinates of the northernmost and southernmost geographic unit centers included in the district.
- (2) To determine the length and width of a district by manual measurement, In general, the length-width compactness of a district is calculated by measuring the distance from the northernmost point or portion of the boundary of a district to the southernmost point or portion of the boundary of the same district and the distance from the westernmost point or portion of the boundary of the district to the easternmost point or portion of the boundary of the same district shall each be measured. If the northernmost or southernmost portion of the boundary, or each of these points, is a part of the boundary running due east and west, the line used to make the measurement required by this paragraph shall either be drawn due north and south or as nearly so as the configuration of the district permits. If the easternmost or westernmost portion of the boundary, or each of these points, is a part of the boundary running due north and south, a similar procedure shall be followed. The lines to be measured for the purpose of this paragraph shall each be drawn as required by this paragraph, even if some part of either or both lines lies outside the boundaries of the district which is being tested for compactness.
- (3) The absolute values computed for individual districts under this paragraph may be cumulated for all districts in a plan in order to compare the overall compactness of two or more alternative districting plans for the state, or for a portion of the state. However, it is not valid to cumulate or compare absolute values computed under subparagraph (1) with those computed under subparagraph (2) of this paragraph.
- e. b. PERIMETER COMPACTNESS. The compactness of a district is greatest when the ratio of the dispersion of population about the population center of the district to the dispersion of population about the geographic center of the district is one to one, the nature of this ratio being such that it is always greater than zero and can never be greater than one to one.
- (1) The population dispersion about the population center of a district, and about the geographic center of a district, is computed as the sum of the products of the population of each population data unit included in the district multiplied by the square of the distance from that geographic unit center to the population center or the geographic center of the district, as the case may be. The geographic center of the district is defined by averaging the locations of all geographic unit centers which are included in the district. The population center of the district is defined by computing the population-weighted average of the "x" co-ordinates and "y" co-ordinates of each geographic unit center assigned to the district, it being assumed for the purpose of this calculation that each population data unit possesses uniform density of population.
- (2) The ratios computed for individual districts under this paragraph may be averaged for all districts in a plan in order to compare the overall compactness of two or more alternative districting plans for the state, or for a portion of the state distance needed to traverse the perimeter boundary of a district is as short as possible. The total perimeter distance computed for individual districts under this paragraph may be cumulated for all districts in a plan in order to compare the overall compactness of two or more alternative districting plans for the state, or for a portion of the state.
 - Sec. 7. Section 42.4, subsection 8, Code 2007, is amended to read as follows:
- 8. 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 III, section 6, of the Constitution of the State of Iowa. With respect to any plan drawn for consideration in the a year 2001 ending in one, those provisions shall be substantially as follows:
 - a. Each odd-numbered senatorial district in the plan which is not a holdover senatorial dis-

trict shall elect a senator in 2002 the year ending in two for a four-year term commencing in January 2003 of the year ending in three. If an incumbent senator who was elected to a four-year term which commenced in January 2001 of the year ending in one, or was subsequently elected to fill a vacancy in such a term, is residing in an odd-numbered a senatorial district in the plan which is not a holdover senatorial district on the first Wednesday in February 1, 2002 of the year ending in two, that senator's term of office shall be terminated on January 1, 2003 of the year ending in three.

- b. Each <u>even-numbered holdover</u> senatorial district <u>in the plan</u> shall elect a senator in 2004 <u>the year ending in four</u> for a four-year term commencing in January 2005 <u>of the year ending</u> in five.
- (1) If one and only one incumbent state senator is residing in an even-numbered a holdover senatorial district in the plan on the first Wednesday in February 1, 2002 of the year ending in two, and that senator meets all of the following requirements, the senator shall represent the district in the senate for the Eightieth General Assembly general assembly commencing in January of the year ending in three:
- (a) The senator was elected to a four-year term which commenced in January 2001 of the year ending in one or was subsequently elected to fill a vacancy in such a term.
- (b) The senatorial district in the plan which includes the place of residence of the state senator on the date of the senator's last election to the senate is the same as the even-numbered holdover senatorial district in which the senator resides on the first Wednesday in February 1, 2002 of the year ending in two, or is contiguous to such even-numbered holdover senatorial district and the senator's declared residence as of February 1, 2002, was within the district from which the senator was last elected. Areas which meet only at the points of adjoining corners are not contiguous.

The secretary of state shall prescribe a form to be completed by all senators to declare their residences as of February 1, 2002. The form shall be filed with the secretary of state no later than five p.m. on February 1, 2002.

- (2) Each even-numbered holdover senatorial district to which subparagraph (1) of this paragraph is not applicable shall elect a senator in 2002 the year ending in two for a two-year term commencing in January 2003 of the year ending in three. However, if more than one incumbent state senator is residing in an even-numbered a holdover senatorial district on the first Wednesday in February 1, 2002 of the year ending in two, and, on or before the first Wednesday in February 15, 2002 of the year ending in two, all but one of the incumbent senators resigns from office effective no later than January 1, 2003 of the year ending in three, the remaining incumbent senator shall represent the district in the senate for the Eightieth General Assembly general assembly commencing in January of the year ending in three. A copy of the resignation must be filed in the office of the secretary of state no later than five p.m. on the third Wednesday in February 15, 2002 of the year ending in two.
 - c. For purposes of this subsection:
- (1) "Holdover senatorial district" means a senatorial district in the plan which is numbered with an even or odd number in the same manner as senatorial districts, which were required to elect a senator in the year ending in zero, were numbered.
- (2) "Incumbent state senator" means a state senator who holds the office of state senator on the first Wednesday in February of the year ending in two, and whose declared residence on that day is within the district from which the senator was last elected.
- d. The secretary of state shall prescribe a form to be completed by all senators to declare their residences as of the first Wednesday in February of the year ending in two. The form shall be filed with the secretary of state no later than five p.m. on the first Wednesday in February of the year ending in two.
 - Sec. 8. Section 42.6, subsection 3, Code 2007, is amended by striking the subsection.
 - Sec. 9. Section 42.6, subsection 4, paragraph b, Code 2007, is amended to read as follows: b. Following the hearings, promptly prepare and submit to the secretary of the senate and

the chief clerk of the house a report summarizing information and testimony received by the commission in the course of the hearings. The commission's report shall include any comments and conclusions which its members deem appropriate on the information and testimony received at the hearings, or otherwise presented to the commission. The report shall be submitted no later than fourteen days after the date the bill embodying an initial plan of congressional and legislative redistricting is delivered to the general assembly.

Approved April 17, 2007

CHAPTER 79

BLOOD LEAD TESTING OF YOUNG CHILDREN H.F. 158

†AN ACT relating to a requirement that children receive a blood lead test by age six or prior to enrollment in an elementary school.

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

Section 1. Section 135.102, Code 2007, is amended by adding the following new subsection:

<u>NEW SUBSECTION</u>. 7. Implementation of a requirement that children receive a blood lead test prior to the age of six and before enrolling in any elementary school in Iowa in accordance with section 135.105D.

- Sec. 2. Section 135.105D, Code 2007, is amended by adding the following new subsections: NEW SUBSECTION. 1A. a. A parent or guardian of a child under the age of two is strongly encouraged to have the child tested for elevated blood lead levels by the age of two. Except as provided in paragraph "b" and subsection 1C, a parent or guardian shall provide evidence to the school district elementary attendance center or the accredited nonpublic elementary school in which the parent's or guardian's child is enrolled that the child was tested for elevated blood lead levels by the age of six according to recommendations provided by the department.
- b. A child of compulsory attendance age may be provisionally enrolled in an elementary school if the child's parent or guardian consents to have the child receive a blood lead test as rapidly as is feasible but not later than sixty days after the school calendar commences. The department shall adopt rules relating to the provisional enrollment of children to an elementary school in accordance with this paragraph.
- c. The board of directors of each school district and the authorities in charge of each non-public school shall give notice of the blood lead test requirement to parents of students enrolled or to be enrolled in the school at least ninety days before the start of the school year in the manner prescribed by the department.¹

<u>NEW SUBSECTION</u>. 1B. The board of directors of each school district and the authorities in charge of each nonpublic school shall furnish the department, within sixty days after the first official day of school, evidence that each child enrolled in any elementary school has either been tested as required in subsection 1A or received a waiver under subsection 1C.

<u>NEW SUBSECTION</u>. 1C. The department may waive the requirements of subsection 1A if the department determines that a child is of very low risk for elevated blood lead levels, or if

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

¹ See chapter 215, §88 herein

the child's parent or legal guardian submits an affidavit, signed by the parent or legal guardian, stating that the blood lead testing conflicts with a genuine and sincere religious belief.

<u>NEW SUBSECTION</u>. 1D. The department shall provide rules adopted pursuant to section 135.102, subsection 7, to local school boards and the authorities in charge of nonpublic schools.

Sec. 3. Section 135.105D, subsection 3, Code 2007, is amended to read as follows:

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. The department shall also establish by rule a method to reimburse health care providers for analyzing blood lead samples using a portable blood lead testing instrument 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. 4. Section 299.4, Code 2007, is amended to read as follows: 299.4 REPORTS AS TO PRIVATE INSTRUCTION.

The parent, guardian, or legal custodian of a child who is of compulsory attendance age, who places the child under competent private instruction under either section 299A.2 or 299A.3, not in an accredited school or a home school assistance program operated by a public or accredited nonpublic school, shall furnish a report in duplicate on forms provided by the public school district, to the district by the earliest starting date specified in section 279.10, subsection 1. The secretary shall retain and file one copy and forward the other copy to the district's area education agency. The report shall state the name and age of the child, the period of time during which the child has been or will be under competent private instruction for the year, an outline of the course of study, texts used, and the name and address of the instructor. The parent, guardian, or legal custodian of a child, who is placing the child under competent private instruction for the first time, shall also provide the district with evidence that the child has had the immunizations required under section 139A.8, and, if the child is elementary school age, a blood lead test in accordance with section 135.105D. The term "outline of course of study" shall include subjects covered, lesson plans, and time spent on the areas of study.

Sec. 5. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Approved April 17, 2007

CAMPAIGN FINANCE — FILING OF STATEMENTS AND REPORTS

H.F. 413

AN ACT relating to electronic filing of campaign finance organizational statements, dissolution reports, and disclosure reports by candidates for statewide office or for the general assembly, establishing a filing deadline for all statements and reports, providing a penalty, and providing applicability dates.

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

- Section 1. Section 68A.401, subsection 1, Code 2007, is amended to read as follows:
- 1. All statements and reports required to be filed under this chapter shall be filed with the board <u>as provided in section 68A.402</u>, <u>subsection 1</u>. The board shall <u>provide copies of post on its internet website</u> all statements and reports filed under this chapter <u>for a county, city, school, or other political subdivision to the commissioner responsible under section 47.2</u>. <u>For purposes</u> of this section, the term "statement" does not include a bank statement.
- Sec. 2. Section 68A.401, subsection 1, Code 2007, is amended by adding the following new paragraphs:

<u>NEW PARAGRAPH</u>. a. A candidate's committee of a candidate for statewide office or the general assembly shall file all statements and reports in an electronic format by four-thirty p.m. of the day the filing is due and according to rules adopted by the board. Any other candidate or political committee may submit the statements and reports in an electronic format as prescribed by rule.

<u>NEW PARAGRAPH</u>. b. If the board determines that a violation of this subsection has occurred, the board may impose any of the remedies or penalties provided for under section 68B.32D, except that the board shall not refer any complaint or supporting information of a violation of this section to the attorney general or any county attorney for prosecution.

- Sec. 3. Section 68A.402, subsection 1, Code 2007, is amended to read as follows:
- 1. FILING METHODS. Each committee shall file with the board reports disclosing information required under this section on forms prescribed by rule. Reports shall be filed on or before the required due dates by using any of the following methods: mail bearing a United States postal service postmark, hand-delivery, facsimile transmission, or electronic filing as prescribed by rule. Any report that is required to be filed five days prior to an election must be physically received by the board to be considered timely filed. For purposes of this section, "physically received" means the report is either electronically filed using the board's electronic filing system or is received by the board prior to four-thirty p.m. on the report due date.
 - Sec. 4. Section 68A.403, subsection 1, Code 2007, is amended to read as follows:
- 1. A <u>Unless filed in an electronic format in accordance with section 68A.401</u>, <u>subsection 1</u>, <u>a</u> report or statement required to be filed under this chapter shall be signed by the person filing the report.
- Sec. 5. APPLICABILITY. The requirements of section 68A.401, subsection 1, paragraphs "a" and "b", apply to committees that file a statement of organization on or after January 1, 2010, and all committees, regardless of when they filed their statement of organization, on January 1, 2012.

AREA AGENCY ON AGING BOARD MEMBER SELECTION PROCEDURES

H.F. 585

AN ACT relating to the selection of board members by area agencies on aging.

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

Section 1. Section 231.23, subsection 14, Code 2007, is amended to read as follows:

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.

Approved April 17, 2007

CHAPTER 82

ENFORCEMENT OF ANIMAL FEEDING OPERATIONS REGULATIONS $H.F.\ 765$

AN ACT relating to animal feeding operations, by providing for the enforcement of regulatory provisions.

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

Section 1. Section 455B.175, unnumbered paragraph 1, Code 2007, is amended to read as follows:

If there is substantial evidence that any person has violated or is violating any provision of this part of this division or chapter 459, subchapter III, <u>chapter 459A</u>, or of any rule or standard established or permit issued pursuant thereto; then:

- Sec. 2. Section 459.103, subsection 3, Code 2007, is amended by striking the subsection.
- Sec. 3. Section 459.601, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 1A. a. The department and the attorney general shall enforce the provisions of this chapter in the same manner as provided in chapter 455B, division I.
- b. The department and the attorney general may enforce the provisions of subchapter III in the same manner as provided in section 455B.175.
 - Sec. 4. Section 459.603, Code 2007, is amended to read as follows: 459.603 WATER QUALITY VIOLATIONS CIVIL PENALTY.

A person who violates subchapter III shall be subject to a civil penalty which shall be established, assessed, and collected in the same manner as provided in section <u>455B.109</u> or 455B.191. Any civil penalty collected shall be deposited in the animal agriculture compliance fund created in section 459.401.

Sec. 5. Section 459A.501, Code 2007, is amended to read as follows: 459A.501 GENERAL.

The department and the attorney general shall enforce the provisions of this chapter in the same manner as provided in chapter 455B, division I <u>and section 455B.175</u>, unless otherwise provided in this chapter.

Approved April 17, 2007

CHAPTER 83

MECHANICS' LIENS H.F. 774

AN ACT relating to mechanics' liens.

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

Section 1. Section 572.1, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 1A. "Labor" means labor completed by the claimant.

- Sec. 2. Section 572.1, subsections 2, 3, and 5, Code 2007, are amended to read as follows:
- 2. "Material" shall, in addition to its ordinary meaning, include machinery, tools, fixtures, trees, evergreens, vines, plants, shrubs, tubers, bulbs, hedges, bushes, sod, soil, dirt, mulch, peat, fertilizer, fence wire, fence material, fence posts, tile, and the use of forms, accessories, and equipment furnished by the claimant.
- 3. "Owner" shall include means the record titleholder and every person for whose use or benefit any building, erection, or other improvement is made, having the capacity to contract, including guardians.
- 5. "Subcontractor" shall include every person furnishing material or performing labor upon any building, erection, or other improvement, except those having contracts therefor directly with the owner, the owner's agent, or trustee.
 - Sec. 3. Section 572.2, Code 2007, is amended to read as follows: 572.2 PERSONS ENTITLED TO LIEN.
- 1. Every person who shall furnish any material or labor for, or perform any labor upon, any building or land for improvement, alteration, or repair thereof, including those engaged in the construction or repair of any work of internal or external improvement, and those engaged in grading, sodding, installing nursery stock, landscaping, sidewalk building, fencing on any land or lot, by virtue of any contract with the owner, the owner's agent, trustee, contractor, or subcontractor shall have a lien upon such building or improvement, and land belonging to the owner on which the same is situated or upon the land or lot so graded, landscaped, fenced, or otherwise improved, altered, or repaired, to secure payment for the material or labor furnished or labor performed.
- 2. If material is rented by a person to the owner, the owner's agent, trustee, contractor, or subcontractor, the person shall have a lien upon such building, improvement, or land to secure payment for the material rental. The lien is for the reasonable rental value during the period of actual use of the material and any reasonable periods of nonuse of the material taken into account in the rental agreement. The delivery of material to such building, improvement, or

land, whether or not delivery is made by the person, creates a presumption that the material was used in the course of alteration, construction, or repair of the building, improvement, or land. However, this presumption shall not pertain to recoveries sought under a surety bond.

Sec. 4. Section 572.8, Code 2007, is amended to read as follows: 572.8 PERFECTION OF LIEN.

A person shall perfect a mechanic's lien by filing with the clerk of the district court of the county in which the building, land, or improvement to be charged with the lien is situated a verified statement of account of the demand due the person, after allowing all credits, setting forth:

- 1. The time <u>date</u> when such material was <u>first</u> furnished or labor <u>first</u> performed, and when completed the date on which the last of the material was furnished or the last of the labor was performed.
 - 2. The correct legal description of the property to be charged with the lien.
- 3. The name and last known mailing address of the owner, agent, or trustee of the property. Upon the filing of the lien, the clerk of court shall mail a copy of the lien to the owner, agent, or trustee. If the statement of the lien consists of more than one page, the clerk may omit such pages as consist solely of an accounting of the material furnished or labor performed. In this case, the clerk shall attach a notification that pages of accounting were omitted and may be inspected in the clerk's office.
 - Sec. 5. Section 572.9, Code 2007, is amended to read as follows: 572.9 TIME OF FILING.

The statement or of account required by section 572.8 shall be filed by a principal contractor or subcontractor within two years and ninety days from after the date on which the last of the material was furnished or the last of the labor was performed. A failure to file the statement or account within the ninety-day period does not defeat the lien, except as otherwise provided in this chapter.

Sec. 6. Section 572.10, Code 2007, is amended to read as follows:

572.10 PERFECTING SUBCONTRACTOR'S LIEN AFTER LAPSE OF NINETY DAYS.

After the lapse of the ninety days prescribed in section 572.9, a A contractor or a subcontractor may perfect a mechanic's lien pursuant to section 572.8 beyond ninety days after the date on which the last of the material was furnished or the last of the labor was performed by filing a claim with the clerk of the district court and giving written notice thereof to the owner, the owner's agent, or trustee. Such notice may be served by any person in the manner original notices are required to be served. If the party to be served, the party's agent, or trustee, is out of the county wherein the property is situated, a return of that fact by the person charged with making such service shall constitute sufficient service from and after the time it was filed with the clerk of the district court.

Sec. 7. Section 572.11, Code 2007, is amended to read as follows:

572.11 EXTENT OF LIEN FILED AFTER NINETY DAYS.

Liens perfected under section 572.10 shall be enforced against the property or upon the bond, if given, by the owner, as hereinafter provided, only to the extent of the balance due from the owner to the contractor at the time of the service of such notice; but if the bond was given by the contractor, or person contracting with the subcontractor filing the claim for a lien, such bond shall be enforced to the full extent of the amount found due the subcontractor.

Sec. 8. Section 572.13, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

An owner of a building, land, or improvement upon which a mechanic's lien of a subcontractor may be filed, is not required to pay the original contractor for compensation for work done or material furnished for the building, land, or improvement until the expiration of ninety days

from <u>after</u> the completion of the building or improvement unless the original contractor furnishes to the owner one of the following:

Sec. 9. Section 572.13, subsection 2, unnumbered paragraph 3, Code 2007, is amended to read as follows:

An original contractor who fails to provide notice under this section is not entitled to the lien and remedy provided by this chapter as they pertain to any labor performed or material furnished by a subcontractor not included in the notice.

Sec. 10. Section 572.14, subsections 1 and 2, Code 2007, are amended to read as follows:

1. Except as provided in subsection 2, payment to the original contractor by the owner of any part or all of the contract price of the building or improvement before the lapse of the nine-ty days allowed by law for the filing of a mechanic's lien within ninety days after the date on which the last of the materials was furnished or the last of the labor was performed by a subcontractor, does not relieve the owner from liability to the subcontractor for the full value of any material furnished or labor performed upon the building, land, or improvement if the sub-

contractor files a lien within the time provided by law for its filing ninety days after the date

on which the last of the materials was furnished or the last of the labor was performed.

2. In the case of an owner-occupied dwelling, a mechanic's lien perfected under this chapter is enforceable only to the extent of the amount balance due the principal contractor by the owner-occupant under the contract, less any payments made by the owner-occupant to the principal contractor prior to the owner-occupant being served with the notice specified in subsection 3. This notice may be served by delivering it to the owner or the owner's spouse personally, or by mailing it to the owner by certified mail with restricted delivery and return receipt

to the person mailing the notice, or by personal service as provided in the rules of civil proce-

- dure.
 - Sec. 11. Section 572.15, Code 2007, is amended to read as follows: 572.15 DISCHARGE OF SUBCONTRACTOR'S LIEN BOND.

A mechanic's lien may be discharged at any time by the owner, principal contractor, or intermediate subcontractor filing with the clerk of the district court of the county in which the property is located a bond in twice the amount of the sum for which the claim for the lien is filed, with surety or sureties, to be approved by the clerk, conditioned for the payment of any sum for which the claimant may obtain judgment upon the claim. This section applies to any mechanic's lien perfected under this chapter that has not been discharged as of March 21, 1986, as well as any mechanic's lien filed on or after March 21, 1986.

- Sec. 12. Section 572.18, Code 2007, is amended to read as follows: 572.18 PRIORITY OVER OTHER LIENS PRIORITY OF CERTAIN CONSTRUCTION MORTGAGE LIENS.
- 1. Mechanics' liens <u>filed by a principal contractor or subcontractor within ninety days after</u> the date on which the last of the material was furnished or the last of the claimant's labor was <u>performed</u> shall be <u>preferred superior</u> to all other liens which may attach to or upon a building or improvement and to the land upon which it is situated, except liens of record prior to the time of the original commencement of the <u>claimant's</u> work or <u>the claimant's</u> improvements, <u>except as provided in subsection 2</u>.
- <u>2.</u> However, construction <u>Construction</u> mortgage liens shall be preferred to all mechanics' liens of claimants who commenced their particular work or improvement subsequent to the date of the recording of the construction mortgage lien. For purposes of this section, a lien is a "construction mortgage lien" to the extent that it secures loans or advancements made to directly finance work or improvements upon the real estate which secures the lien.
- <u>3.</u> The rights of purchasers, encumbrancers, and other persons who acquire interests in good faith, and for a valuable consideration, and without notice, after the expiration of the time for filing claims for mechanics' liens of a lien perfected pursuant to this chapter, are prior supe-

<u>rior</u> to the claims of all contractors or subcontractors who have <u>not</u>, at the dates such rights and interests were acquired, filed their claims for such liens perfected their liens more than <u>ninety days after the date on which the last of the claimant's material was furnished or the last of the claimant's labor was performed.</u>

- 4. For purposes of this section, a lender who obtains an interest in the real estate by assignment of a mortgage shall be entitled to the same priority as the original mortgagee.
 - Sec. 13. Section 572.20, Code 2007, is amended to read as follows:

572.20 PRIORITY AS TO BUILDINGS OVER PRIOR LIENS UPON LAND.

Mechanics' liens, including those for additions, repairs, and betterments, shall attach to the building or improvement for which the material or labor was furnished or done, in preference to any prior lien, encumbrance, or mortgage upon the land upon which such building or improvement was erected or situated except as provided in sections 572.10 and 572.11.

- Sec. 14. Section 572.21, Code 2007, is amended to read as follows:
- 572.21 FORECLOSURE OF MECHANIC'S LIEN WHEN LIEN ON LAND.

In the foreclosure of a mechanic's lien when there is a <u>prior superior</u> lien, encumbrance, or mortgage upon the land the following regulations shall govern:

- 1. LIEN ON ORIGINAL AND INDEPENDENT BUILDING OR IMPROVEMENT. If such material was furnished or labor performed in the construction of an original and independent building or improvement commenced after the attaching or execution of such prior superior lien, encumbrance, or mortgage, the court may, in its discretion, order such building or improvement to be sold separately under execution, and the purchaser may remove the same in such reasonable time as the court may fix. If the court shall find that such building or improvement should not be sold separately, it shall take an account of and ascertain the separate values of the land, and the building or improvement, and order the whole sold, and distribute the proceeds of such sale so as to secure to the prior superior lien, encumbrance, or mortgage priority upon the land, and to the mechanic's lien priority upon the building or improvement.
- 2. LIEN ON EXISTING BUILDING OR IMPROVEMENT FOR REPAIRS OR ADDITIONS. If the material furnished or labor performed was for additions, repairs, or betterments upon any building or improvement, the court shall take an accounting of the values before such material was furnished or labor performed, and the enhanced value caused by such additions, repairs, or betterments; and upon the sale of the premises, distribute the proceeds of such sale so as to secure to the prior superior mortgagee or lienholder priority upon the land and improvements as they existed prior to the attaching of the mechanic's lien, and to the mechanic's lienholder priority upon the enhanced value caused by such additions, repairs, or betterments. In case the premises do not sell for more than sufficient to pay off the prior superior mortgage or other superior lien, the proceeds shall be applied on the prior superior mortgage or other superior liens.
 - Sec. 15. Section 572.22, subsection 5, Code 2007, is amended to read as follows: 5. The legal description of the property to be charged therewith.
 - Sec. 16. Section 572.27, Code 2007, is amended to read as follows: 572.27 LIMITATION ON ACTION.

An Any action to enforce a mechanic's lien may shall be brought within two years from the expiration of the ninety days for filing the claim as provided in this chapter and not afterwards after the date on which the last of the material was furnished or the last of the labor was performed.

- Sec. 17. Section 572.28, subsection 1, Code 2007, is amended to read as follows:
- 1. Upon the written demand of the owner, the owner's agent, or contractor, served on the lienholder requiring the lienholder to commence action to enforce the lien, such action shall be commenced within thirty days thereafter, or the lien and all benefits derived therefrom shall be forfeited.

Sec. 18. Section 572.33, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Notwithstanding other provisions of this chapter, and in addition to all other requirements of this chapter, a <u>A</u> person furnishing labor or materials to a subcontractor shall not be entitled to a lien under this chapter unless the person furnishing labor or materials does all of the following:

Approved April 17, 2007

CHAPTER 84

IOWA FARMERS' MARKET NUTRITION PROGRAM

H.F. 846

AN ACT providing for an Iowa farmers' market nutrition program.

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

Section 1. NEW SECTION. 175B.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Iowa Farmers' Market Nutrition Program Act".

Sec. 2. NEW SECTION. 175B.2 DEFINITIONS.

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

- 1. "Department" means the department of agriculture and land stewardship.
- 2. "Federal program" means the WIC farmers' market nutrition program and the senior farmers' market nutrition program.
- 3. "Iowa farmers' market nutrition program" means one or both of the federal programs as established and administered by the department pursuant to section 175B.3.
- 4. "Senior farmers' market nutrition program" means the federal senior farmers' market nutrition program as authorized by the federal Farm Security and Rural Investment Act of 2002, 7 U.S.C. § 3007, and provided for in 7 C.F.R., pt. 249.
- 5. "WIC farmers' market nutrition program" means the federal women, infants, and children farmers' market nutrition program as authorized by the federal Child Nutrition Act of 1966, 42 U.S.C. § 1786, and as regulated by 7 C.F.R., pt. 248.

Sec. 3. <u>NEW SECTION</u>. 175B.3 IOWA FARMERS' MARKET NUTRITION PROGRAM — ESTABLISHMENT AND ADMINISTRATION.

An Iowa farmers' market nutrition program is established.

- 1. The department shall administer the Iowa farmers' market nutrition program as a state agency approved by the United States department of agriculture to participate in the federal programs. The department may apply to and submit a state plan for approval by the United States department of agriculture as required to administer the Iowa farmers' market nutrition program.
- 2. The department and any other state agency, local government agency, or nonprofit entity participating in the federal programs shall cooperate as necessary in order to carry out the federal programs, including by entering into written agreements. The department and any other state agency shall cooperate under the auspices of the governor.

Sec. 4. NEW SECTION. 175B.4 OTHER PROGRAMS.

Nothing in this chapter restricts the department from providing for programs which promote the purposes of the federal programs.

Sec. 5. NEW SECTION. 175B.5 ADMINISTRATIVE RULES.

The department shall adopt rules in order to administer the Iowa farmers' market nutrition program. If another state agency is involved in the administration of this chapter, the other state agency shall cooperate with the department in adopting its rules.

Approved April 17, 2007

CHAPTER 85

SATISFACTION OF MORTGAGES

S.F. 311

AN ACT relating to an action for satisfaction of a mortgage.

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

Section 1. Section 655.5, Code 2007, is amended to read as follows: 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.

Approved April 20, 2007

CHAPTER 86

JUDICIAL BRANCH PERSONNEL — APPOINTMENT AND COMPENSATION

S.F. 381

AN ACT relating to judicial branch procedures, including appointments of court of appeals judges, district judges, district associate judges, associate judges, associate probate judges, magistrates, and patient advocates, and compensation to judges and other court personnel serving as fiduciaries.

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

Section 1. <u>NEW SECTION</u>. 46.14A COURT OF APPEALS — NOMINEES. Vacancies in the court of appeals shall be filled by appointment by the governor from a list

of nominees submitted by the state judicial nominating commission. Three nominees shall be submitted for each vacancy. Nominees to the court of appeals shall have the qualifications prescribed for nominees to the supreme court.

- Sec. 2. Section 46.15, Code 2007, is amended to read as follows:
- 46.15 APPOINTMENTS TO BE FROM NOMINEES.
- 1. All appointments to the supreme court and court of appeals shall be made from the nominees of the state judicial nominating commission, and all appointments to the district court shall be made from the nominees of the district judicial nominating commission. Nominees to the court of appeals shall have the qualifications prescribed for nominees to the supreme court.
- 2. Vacancies in the court of appeals shall be filled by appointment by the governor from a list of nominees submitted by the state judicial nominating commission. Five nominees shall be submitted for each vacancy. If the governor fails to make an appointment within thirty days after a list of nominees has been submitted, the appointment shall be made from the list of nominees by the chief justice of the supreme court.
- Sec. 3. Section 229.19, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The district court in each county with a population of under three hundred thousand inhabitants and the board of supervisors in In each county with a population of three hundred thousand or more inhabitants the board of supervisors 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. In each county with a population of under three hundred thousand inhabitants, the chief judge of the judicial district encompassing the county shall appoint the advocate.

<u>PARAGRAPH DIVIDED</u>. 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.

<u>PARAGRAPH DIVIDED</u>. 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.

<u>PARAGRAPH DIVIDED</u>. 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:

- Sec. 4. Section 602.6201, subsection 2, Code 2007, is amended to read as follows:
- 2. A district judge must be a resident of the judicial election district in which appointed and retained. Subject to the provision for reassignment of judges under section 602.6108, a district

judge shall serve in the district of the judge's residence while in office, regardless of the number of judgeships to which the district is entitled under the formula prescribed by the supreme court in subsection 3.

- Sec. 5. Section 602.6201, subsection 3, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
- 3. The supreme court shall prescribe, subject to the restrictions of this section, a formula to determine the number of district judges who will serve in each judicial election district. The formula shall be based upon a model that measures and applies an estimated case-related workload formula of judicial officers, and shall account for administrative duties, travel time, and other judicial duties not related to a specific case.
- Sec. 6. Section 602.6201, subsections 4, 5, 6, 7, 8, 9, and 10, Code 2007, are amended to read as follows:
- 4. For purposes of this section, a vacancy means the death, resignation, retirement, or removal of a district judge, or the failure of a district judge to be retained in office at the judicial election, or an increase in judgeships under this section the formula prescribed in subsection 3.
- 5. In those judicial election districts having more district judges than the number of judgeships specified by the formula <u>prescribed</u> in subsection 3, vacancies shall not be filled.
- 6. In those judicial election districts having fewer or the same number of district judges as the number of judgeships specified by the formula <u>prescribed</u> in subsection 3, vacancies in the number of district judges shall be filled as they occur.
- 7. In those judicial districts that contain more than one judicial election district, a vacancy in a judicial election district shall not be filled if the total number of district judges in all judicial election districts within the judicial district equals or exceeds the aggregate number of judgeships to which all of the judicial election districts of the judicial district are authorized by the formula in subsection 3.
- 8. An incumbent district judge shall not be removed from office because of a reduction in the number of authorized judgeships specified by the formula prescribed in subsection 3.
- 9. During February of each year, and at other times as appropriate, the state court administrator shall make the determinations required under this section specified by the formula prescribed in subsection 3, and shall notify the appropriate nominating commissions and the governor of appointments that are required.
- 10. Notwithstanding the formula for determining the number of judgeships in this section district judges prescribed in subsection 3, the number of district judges shall not exceed one hundred sixteen during the period commencing July 1, 1999.
- Sec. 7. Section 602.6201, subsections 11 and 12, Code 2007, are amended by striking the subsections.
 - Sec. 8. Section 602.6502, Code 2007, is amended to read as follows:

602.6502 MEMBER OF COMMISSION NOT TO BE APPOINTED TO OFFICE PROHIBITIONS TO APPOINTMENT.

A member of a county magistrate appointing commission shall not be appointed to the office of magistrate, and shall not be nominated for or appointed to the office of district associate judge, office of associate judge, or office of associate probate judge. A member of the commission shall not be eligible to vote for the appointment or nomination of a family member, current law partner, or current business partner. For purposes of this section, "family member" means a spouse, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, father, mother, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Sec. 9. Section 633.201, Code 2007, is amended to read as follows: 633.201 COURT OFFICERS AS FIDUCIARIES.

Judges, clerks, and deputy clerks serving as fiduciaries shall not be allowed any compensation for services as such fiduciaries. A judge, clerk, or deputy clerk serving as a fiduciary may be compensated for fiduciary services if the services are for a family member's estate, trust, guardianship, or conservatorship. For purposes of this section, "family member" means a spouse, child, grandchild, parent, grandparent, sibling, niece, nephew, cousin, or other relative or individual with significant personal ties to the fiduciary.

Approved April 20, 2007

CHAPTER 87

HOME OWNERSHIP ASSISTANCE FOR ARMED FORCES MEMBERS

S.F. 407

AN ACT relating to the home ownership assistance program for Iowa residents who are eligible members of the armed forces of the United States.

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

Section 1. NEW SECTION. 35A.15 HOME OWNERSHIP ASSISTANCE PROGRAM.

- 1. For the purposes of this section, "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, 2008, or other period designated by law.
- 2. The home ownership assistance program is established to continue the program implemented pursuant to 2003 Iowa Acts, chapter 179, section 21, subsection 5, as amended by 2005 Iowa Acts, chapter 161, section 1, and 1 chapter 115, section 37, and continued in accordance with 2006 Iowa Acts, chapter 1167, sections 3 and 4, and other appropriations.
- 3. The program shall provide loans, grants, or other assistance to persons who are or were an eligible member 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 assistance under the program, subject to the surviving spouse meeting the program's eligibility requirements other than the military service requirement.
- 4. The program shall be administered by the Iowa finance authority. Implementation of the program shall be limited to the extent of the amount appropriated or otherwise made available for purposes of the program.
- 5. The department shall support the program by providing eligibility determinations and other program assistance requested by the Iowa finance authority.

Approved April 20, 2007

¹ See chapter 215, §241 herein

REGULATION OF SAVINGS AND LOAN ASSOCIATIONS S.F. 502

AN ACT relating to the regulation of savings and loan associations by the division of banking of the department of commerce.

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

- Section 1. Section 20.4, subsection 12, Code 2007, is amended by striking the subsection.
- Sec. 2. Section 524.103, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 37A. "State association" or "state savings and loan association" means a corporation holding a certificate of authority to operate under chapter 534 as either a mutual association or a stock association, as those terms are defined in chapter 534.
 - Sec. 3. Section 524.211, subsection 1, Code 2007, is amended to read as follows:
- 1. The superintendent, general counsel, examiners, and other employees assigned to the bank bureau of the banking division are prohibited from obtaining a loan of money or property from a state-chartered bank, a state savings and loan association, or any person or entity affiliated with a state-chartered bank or a state savings and loan association.
 - Sec. 4. Section 524.214, subsection 1, Code 2007, is amended to read as follows:
- 1. The superintendent and, upon the approval of the superintendent, any examiner or other employees of the banking division shall have the power to subpoena witnesses, to compel their attendance, to administer an oath, to examine any person under oath and to require the production of any relevant books or papers. Such examination may be conducted on any subject relating to the duties imposed upon, or powers vested in, the superintendent under the provisions of this chapter or any other chapter administered by the superintendent.
 - Sec. 5. Section 524.215, subsection 4, Code 2007, is amended to read as follows:
- 4. In any action brought as a shareholders derivative suit against a state bank <u>or other entity</u> <u>regulated by the superintendent</u>.
- Sec. 6. Section 524.215, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 6. In an action brought to recover moneys for a loss in connection with an indemnity bond which was a result of embezzlement, misappropriation, or misuse of funds, belonging to an entity regulated by the superintendent, by a director, officer, or employee of the entity.
 - Sec. 7. Section 524.216, subsection 2, Code 2007, is amended to read as follows:
- 2. A summary of the assets, liabilities, and capital structure of all state banks <u>and state savings and loan associations</u> as of June 30 of the year for which the report is made.
- Sec. 8. Section 524.1409, Code 2007, is amended to read as follows: 524.1409 CONVERSION OF NATIONAL BANK OR FEDERAL SAVINGS ASSOCIATION OR STATE SAVINGS AND LOAN ASSOCIATION INTO STATE BANK.

A national bank, or federal savings association, or state savings and loan association, subject to the provisions of this chapter, may convert into a state bank upon authorization by and compliance with the laws of the United States, adoption of a plan of conversion by the affirmative vote of at least a majority of its directors and the holders of two-thirds of each class of its shares at a meeting held upon not less than ten days' notice to all shareholders, and upon approval of the superintendent.

Sec. 9. Section 524.1410, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A national bank, or federal savings association, or state savings and loan association shall make an application to the superintendent for approval of the conversion in a manner prescribed by the superintendent and shall deliver to the superintendent, when available:

Sec. 10. Section 524.1411, Code 2007, is amended to read as follows:

524.1411 ARTICLES OF CONVERSION.

The articles of conversion shall be signed by two duly authorized officers of the national bank, or federal savings association, or state savings and loan association and shall contain all of the following:

- 1. The name of the national bank, or federal savings association, or state savings and loan association and the name of the resulting state bank.
- 2. The location and post office address of its principal place of business and of each additional office, and the location and post office address of the principal place of business of the resulting state bank and of each additional office to be maintained by the resulting state bank.
- 3. The votes by which the plan of conversion was adopted and the date and place of each meeting in connection with the adoption.
- 4. The number of directors constituting the board of directors, and the names and addresses of the persons who are to serve as directors until the next annual meeting of shareholders or until successors be elected and qualify.
- 5. The provisions required in the articles of incorporation by section 524.302, subsection 1, paragraphs "c" and "d", and subsection 2, paragraph "b".

Sec. 11. Section 524.1412, Code 2007, is amended to read as follows: 524.1412 PUBLICATION OF NOTICE.

Within thirty days after the application for conversion has been accepted for processing, the national bank, or federal savings association, or state savings and loan association shall publish a notice of the delivery of the articles of conversion to the superintendent in a newspaper of general circulation published in the municipal corporation or unincorporated area in which the national bank, or federal savings association, or state savings and loan association has its principal place of business, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the national bank, or federal savings association, or state savings and loan association has its principal place of business. Proof of publication of the notice shall be delivered to the superintendent within fourteen days. The notice shall set forth all of the following:

- 1. The name of the national bank, or federal savings association, or state savings and loan association and the name of the resulting state bank.
 - 2. The location and post office address of its principal place of business.
 - 3. A statement that articles of conversion have been delivered to the superintendent.
 - 4. The purpose or purposes of the resulting state bank.
 - 5. The date of delivery of the articles of conversion to the superintendent.

Sec. 12. Section 524.1413, subsection 2, Code 2007, is amended to read as follows:

2. Within ninety days after the application has been accepted for processing, the superintendent shall approve or disapprove the application on the basis of the investigation. As a condition of receiving the decision of the superintendent with respect to the application, the national bank, or federal savings association, or state savings and loan association shall reimburse the superintendent for all expenses incurred in connection with the application. The superintendent shall give the national bank, or federal savings association, or state savings and loan association written notice of the decision and, in the event of disapproval, a statement of the reasons for the decision. If the superintendent approves the application, the superintendent shall deliver the articles of conversion, with the superintendent's approval indicated on the articles of conversion, to the secretary of state. The decision of the superintendent shall

be subject to judicial review pursuant to chapter 17A. Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, a petition for judicial review must be filed within thirty days after the superintendent notifies the national bank, or federal savings association, or state savings and loan association of the superintendent's decision.

- Sec. 13. Section 524.1415, Code 2007, is amended to read as follows: 524.1415 EFFECT OF FILING OF ARTICLES OF CONVERSION WITH SECRETARY OF STATE.
- 1. The conversion is effective upon the filing of the articles of conversion with the secretary of state, or at any later date and time as specified in the articles of conversion. The acknowledgment of filing is conclusive evidence of the performance of all conditions required by this chapter for conversion of a national bank, or federal savings association, or state savings and loan association into a state bank, except as against the state.
- 2. When a conversion becomes effective, the existence of the national bank, or federal savings association, or state savings and loan association shall continue in the resulting state bank which shall have all the property, rights, powers, and duties of the national bank, or federal savings association, or state savings and loan association, except that the resulting state bank shall have only the authority to engage in such business and exercise such powers as it would have, and shall be subject to the same prohibitions and limitations to which it would be subject, upon original incorporation under this chapter. The articles of incorporation of the resulting state bank shall be the provisions stated in the articles of conversion.
- 3. No A liability of the national bank, or federal savings association, or state savings and loan association, or of the national bank's, or federal savings association's, or state savings and loan association's shareholders, directors, or officers, is not affected by the conversion. A lien on any property of the national bank, or federal savings association, or state savings and loan association is not impaired by the conversion. A claim existing or action pending by or against the national bank, or federal savings association, or state savings and loan association may be prosecuted to judgment as if the conversion had not taken place, or the resulting state bank may be substituted in its place.
- 4. The title to all real estate and other property owned by the converting national bank, or federal savings association, or state savings and loan association is vested in the resulting state bank without reversion or impairment.
- Sec. 14. Section 524.1416, Code 2007, is amended to read as follows: 524.1416 AUTHORITY FOR CONVERSION OF STATE BANK INTO NATIONAL BANK OR FEDERAL SAVINGS ASSOCIATION OR STATE SAVINGS AND LOAN ASSOCIATION.
- 1. A state bank may convert into a national bank, or federal savings association, or state savings and loan association upon authorization by and compliance with the laws of the United States, and adoption of a plan of conversion by the affirmative vote of at least a majority of its directors and the holders of two-thirds of each class of its shares at a meeting held upon not less than ten days' notice to all shareholders. The authority of a state bank to convert into a national bank or federal savings association shall be subject to the condition that at the time of the transaction, the laws of the United States shall authorize a national bank or federal savings association located in this state, without approval by the comptroller of the currency of the United States or director of the office of thrift supervision, as applicable, to convert into a state bank under limitations and conditions no more restrictive than those contained in this section and section 524.1417 with respect to conversion of a state bank into a national bank or federal savings association.
- 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 con-

version 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.

- 3. A state bank that converts into a state savings and loan association shall file with the secretary of state a certificate of the approval of the conversion by the superintendent and the date upon which such conversion is to be effective.
 - Sec. 15. Section 524.1417, Code 2007, is amended to read as follows:
- 524.1417 APPRAISAL RIGHTS OF SHAREHOLDER OF CONVERTING STATE OR NATIONAL BANK OR FEDERAL OR STATE SAVINGS ASSOCIATION.
- 1. A shareholder of a state bank that converts into a national bank, or federal savings association, or a state savings and loan association who objects to the plan of conversion is entitled to appraisal rights as provided in chapter 490, division XIII.
- 2. If a shareholder of a national bank or federal savings association that converts into a state bank objects to the plan of conversion and complies with the requirements of applicable laws of the United States, the resulting state bank is liable for the value of the shareholder's shares as determined in accordance with such laws of the United States.
- 3. If a shareholder of a state savings and loan association that converts to a state bank objects to the plan of conversion and complies with the requirements of applicable laws of this state, the resulting bank is liable for the value of the shareholder's shares as determined in accordance with such laws of this state.
 - Sec. 16. Section 524.1418, Code 2007, is amended to read as follows:
- $524.1418\,$ SUCCESSION TO FIDUCIARY ACCOUNTS AND APPOINTMENTS APPLICATION FOR APPOINTMENT OF NEW FIDUCIARY.

The provisions of section 524.1009 apply to a resulting state or national bank, or federal savings association, or state savings and loan association after a conversion with the same effect as though the state or national bank, or federal savings association, or state savings and loan association were a party to a plan of merger, and the conversion were a merger, within the provisions of that section.

- Sec. 17. Section 524.1805, subsection 5, Code 2007, is amended to read as follows:
- 5. For purposes of subsection 1, a bank that resulted from the conversion of a state savings and loan association or federal savings association, as defined in 12 U.S.C. § 1813, is deemed to have been in continuous existence and operation as a bank for the combined periods of continuous existence and operation of the bank and the association from which it was converted.
 - Sec. 18. Section 534.102, subsection 7, Code 2007, is amended to read as follows:
- 7. "Federal association" means a corporation operating under the federal Home Owners' Loan Act, of 1933 12 U.S.C. § 1461 et seq., as amended, as either a mutual association or a stock association.
 - Sec. 19. Section 534.102, subsection 13, Code 2007, is amended to read as follows:
- 13. "Insured mortgage" is a mortgage covered in part by insurance, which insurance has been formally submitted to and approved by the superintendent or by the federal home loan bank of the area in which the association is located.
 - Sec. 20. Section 534.103, subsection 1, Code 2007, is amended to read as follows:
- 1. GENERAL CORPORATE POWER. To sue and be sued, complain and defend in any court of law or equity; to purchase, acquire, hold, and convey real and personal estate consistent with its objects and powers; to mortgage, pledge, or lease any real or personal estate owned by the association and to authorize a pledgee to repledge the property; to take property by gift, devise, or bequest; to have a corporate seal, which may be affixed by imprint, facsimile, or otherwise; to appoint officers, agents, and employees as its business requires and allow them suit-

able compensation; to provide for life, health, and casualty insurance for its officers and employees and to adopt and operate reasonable bonus plans and retirement benefits for the officers and employees to enter into payroll savings plans; to adopt and amend bylaws; to insure its accounts with the savings association insurance fund of the federal deposit insurance corporation and qualify as a member of a federal home loan bank; to become a member of, deal with, or make contributions to any organization to the extent that the organization assists in furthering or facilitating the association's purposes or powers and to comply with conditions of membership; to accept savings as provided in this chapter together with other powers otherwise expressly provided for in this chapter, together with implied powers as reasonably necessary for the purpose of carrying out the express powers granted in this chapter.

Sec. 21. Section 534.103, subsection 4, Code 2007, is amended to read as follows:

4. POWER TO BORROW. Except as provided by its articles of incorporation, an association may borrow not more than an aggregate amount equal to its savings liability on the date of borrowing. A subsequent reduction of savings liability shall not affect in any way outstanding obligations for borrowed money. All loans and advances may be secured by property of the association. In addition to the above unsecured or secured borrowing, an association may issue notes, bonds, debentures and other obligations or securities approved by the superintendent, and if authorized by the regulations of the federal home loan bank office of thrift supervision. However, the obligations and securities are subject to the priority of the rights of the owners of the savings and deposits of the association.

Sec. 22. Section 534.103, subsection 8, Code 2007, is amended to read as follows:

8. LEASING OF PERSONAL PROPERTY. To acquire, upon the specific request of and for the use of a customer, and lease, personal property pursuant to a binding arrangement for the leasing of the property to the customer upon terms requiring payment to the association, during the minimum period of the lease, of rentals which in the aggregate, when added to the estimated tax benefits to the association resulting from the ownership of the leased property plus the estimated residual market value of the leased property at the expiration of the initial term of the lease, will be at least equal to the total expenditures by the association for, and in connection with, the acquisition, ownership, maintenance, and protection of the property. A lease made under authority of this section shall have the prior approval of the superintendent or be made pursuant to personal property lease guidelines approved by the superintendent for use by the lessor association or pursuant to a personal property lease guideline rule of general applicability for use by all associations.

Sec. 23. Section 534.105, Code 2007, is amended to read as follows:

534.105 DEFAMATION OF INSTITUTIONS — PENALTY.

Whoever maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false report concerning any building and loan or savings and loan association which imputes or tends to impute, insolvency or unsound financial condition or financial embarrassment, or which may tend to cause or provoke or aid in causing or provoking a general withdrawal of funds from such association, or which may otherwise injure or tend to injure the business or goodwill of such building and loan or savings and loan association, shall be guilty of a serious misdemeanor.

Sec. 24. Section 534.108, Code 2007, is amended to read as follows:

534.108 FINANCIAL STATEMENT — REPORTS.

Every association shall prepare and publish annually in the month of January in a newspaper of general circulation in the county in which the home office of such association is located, and shall deliver to each member upon application therefor, a statement of its financial condition in the form prescribed or approved by the superintendent.

Every association shall file with the superintendent all monthly, quarterly, and annual reports required by and filed with the its federal home loan bank board regulator.

Sec. 25. Section 534.111, Code 2007, is amended to read as follows:

534.111 RIGHTS OF FEDERAL ASSOCIATIONS — RECIPROCITY.

Every federal savings and loan association incorporated under the Home Owners' Loan Act of 1933, 12 U.S.C. § 1461 – 1468 1461 et seq., as amended, and the holders of share accounts issued by any such association have all the rights, powers, and privileges and are entitled to the same exemptions and immunities, as savings and loan associations organized under the laws of this state and members thereof are entitled.

Every association organized under this chapter has all the rights, powers, and privileges not in conflict with the laws of this state, which are conferred upon federal savings and loan associations by the Home Owners' Loan Act of 1933, 12 U.S.C. § 1464, and conferred by regulations adopted by the federal home loan bank housing finance board and the federal office of thrift supervision.

Sec. 26. Section 534.205, subsection 6, Code 2007, is amended to read as follows:

6. BALLOON PAYMENTS. An association shall mail to the borrower an offer to refinance a balloon payment under a loan at least twenty days before the balloon payment date if at that time no payments under the loan are delinquent. The offer shall be at an interest rate no greater than one percent per annum above the index rate and with monthly payments no greater than those necessary to fully amortize the amount of the balloon payment plus interest over a term which, when added together with the term representing the number of monthly payments made before the most recent notice to refinance, is not less than the original loan term. The association must offer to the borrower a term of at least one year before the next balloon payment. If the balloon payment is due one month after the preceding monthly payment date, the association may require the borrower to make a payment equal to the preceding monthly payment on the balloon payment date if the first payment under the note to refinance the balloon note is one month after the balloon payment date. The association may offer repayment plans to refinance a balloon payment in addition to the plan required by this subsection. For purposes of this subsection, "loan" means the same as defined in section 535.8, subsection 1; "balloon payment" means a payment which is more than three times as big as the mean average of the payments which precede it; and "index rate" means the national average mortgage contract rate for major lenders on the purchase of previously occupied homes which is most recently published in final form by the federal home loan bank housing finance board not more than four months before the date on which the balloon payment is due, or, alternatively, a rate based upon any other independently verifiable index approved by the superintendent.

Sec. 27. Section 534.213, subsection 1, paragraph m, Code 2007, is amended to read as follows:

m. In addition to other investments authorized in this section, an association may invest and may continue previous investments in capital stock, obligations, or other securities of finance subsidiaries and may exercise powers with respect to finance subsidiaries to the same extent as a federal association is permitted under the Home Owners' Loan Act of 1933, 12 U.S.C. § 1464 1461 et seq., as amended, and regulations adopted thereunder by the federal home loan bank board up to and including January 1, 1985 office of thrift supervision. Investments authorized by this paragraph shall not be counted in applying the limitations on investments in service corporations in paragraph "i".

Sec. 28. Section 534.301, subsection 6, Code 2007, is amended to read as follows:

6. OPERATING UNDER FEDERAL RULES AS TO DEPOSITS AND INTEREST. A savings and loan association operating under this chapter may operate in a manner similar to federally chartered savings and loan associations regarding the use of the terms "deposit" and "interest" and with such other powers as have been authorized to federally chartered associations under the Homeowners' Loan Act of 1933, 12 U.S.C. § 1464 1461 et seq., as amended, and as permitted under the rules and regulations of the federal home loan bank system housing finance board and the federal office of thrift supervision, to the extent that similar rules and regula-

tions have been adopted by the superintendent and have been filed with the secretary of state. This subsection does not diminish or restrict the powers otherwise granted to such association by the laws of Iowa.

The adoption and filing of such rules or regulations by the superintendent shall not diminish or restrict the rights of associations which do not make the above determination.

Sec. 29. Section 534.302, subsections 2 and 3, Code 2007, are amended by striking the subsections.

Sec. 30. Section 534.401, Code 2007, is amended to read as follows:

534.401 DIVISION SUPERINTENDENT OF SAVINGS AND LOAN ASSOCIATIONS.

- 1. SUPERINTENDENT OF SAVINGS AND LOAN ASSOCIATIONS. The superintendent of savings and loan associations is the superintendent of banking.
- 2. GENERAL SUPERVISORY POWER. The superintendent has general supervision over all supervised organizations.

The superintendent may appoint examiners and assistants necessary to properly execute the duties of the office.

Before entering upon their duties, the superintendent and each examiner appointed by the superintendent shall take an oath of office and shall each give bond to the state, signed by a responsible surety company, in the penal sum of two thousand dollars, conditioned upon faithful and impartial discharge of the person's duty and on proper accounting for all funds and other valuables which may come into the person's hands. The bonds shall be approved by and filed with the auditor of state, together with oaths of office of the officers.

The superintendent may adopt further rules deemed necessary to enable savings and loan associations to properly carry on the activities authorized under this chapter.

- 3. DUTIES. The superintendent shall, at least once each year every two years, cause examination and audit to be made of the affairs of every association subject to this chapter. If an association is insured under Title IV of the National Housing Act, 12 U.S.C. ch. 13 the federal deposit insurance corporation's deposit insurance fund, the superintendent may, in lieu of examination and audit, accept an examination or audit made by the federal office of thrift supervision. An association may, in lieu of examination and audit by the superintendent, at the option of the superintendent be audited by a certified public accountant, or by a public accountant qualified and licensed to practice accountancy under the Code of Iowa. At least two copies of each examination or audit report, signed and verified by the accountant making it, shall promptly be filed with the superintendent. When, in the judgment of the superintendent, the condition of an association renders it necessary or expedient to make an extra examination or audit or to devote extraordinary attention to its affairs, the superintendent shall cause such work to be done. A copy of every examination or audit report shall be furnished to the association examined, exclusive of confidential comments made by the examiner, and a copy of every report and comments and any other information pertaining to an association may be furnished to the federal home loan bank housing finance board, federal home loan bank, and federal office of thrift supervision. A copy of an examination or audit report shall be presented to the board of directors at its next regular or special meeting, their action on it shall be recorded in the minutes, and two certified copies of the minutes shall be transmitted to the superintendent.
- 4. SUPERINTENDENT'S ANNUAL REPORT. The superintendent, as of December 31 of each year, shall prepare and publish a report showing in general terms the condition of all savings and loan associations doing business in this state, and containing other general information as in the superintendent's judgment seems desirable. The reports shall also list the names of all examiners and other assistants appointed by the superintendent, together with their respective salaries and expenses, shall list all receipts from savings and loan associations, and shall show all expenditures made on account of the supervision and examination of the associations.

Sec. 31. Section 534.403, Code 2007, is amended to read as follows: 534.403 EXAMINATIONS.

- 1. SUPERINTENDENT'S AUTHORITY EXAMINATIONS. The superintendent and examiners shall have full access to all books and papers of an association which relate to its business, and to books, records, and papers kept by an officer, director, agent, or employee relating to, or upon which any record of its business is kept, and may summon witnesses and administer oaths or affirmations in the examination of the directors, officers, agents, or employees of an association, or any other person, in relation to its affairs, transactions, and condition, and may require and compel the production of records, books, papers, contracts, or other documents by court order, if not voluntarily produced.
- 2. EXPENSES, PER DIEM, VACATION, AND SICK LEAVE. If the examination is made under section 534.401, subsection 3, each examiner shall file with the superintendent an itemized, certified, and sworn voucher of the examiner's expense for the time the examiner is actually engaged in an examination. On the fifteenth and last days of each month each examiner shall file in triplicate with the superintendent a certified statement of the actual days engaged in examinations. The salaries shall be included in a two-week payroll period. Upon approval of the superintendent, the director of the department of administrative services is authorized to issue warrants for payment of the vouchers and salaries, including a prorated amount for vacation and sick leave. Repayment to the state shall be made as provided by section 534.408, subsection 4. Savings and loan examiners shall be paid salaries at rates commensurate with, and shall be reimbursed for meals and lodging at the same rate and in the same manner as, that which is received by federal examiners operating under the federal home loan bank board.
- 3. 2. RECORD REQUIRED. A record of all examinations, reports, and related information shall be kept in the superintendent's office in accordance with the superintendent's record retention policies, showing in detail as to each association all matters connected with the conduct of its business, its financial standing, and everything touching its solvency, plan of business, and integrity.

The examinations, reports, and information shall be kept confidential in the office of the superintendent, and are not subject to publication or disclosure to others except as provided in this chapter. However, the superintendent may furnish any examination, report, or information to the federal office of thrift supervision United States department of the treasury, federal deposit insurance corporation, or a successor deposit insurance instrumentality, federal home loan bank housing finance board, federal home loan bank, national credit union administration, or financial institution regulatory authorities of any state. Any evidence of felonious acts on the part of the officers, directors, or employees of an association may be referred by the superintendent to proper authorities. Members of associations, other than their officers and directors, are not entitled to inspection of any such records or information, and are not entitled to any information relative to the names of the members of an association, or the amounts invested by them, as disclosed in the superintendent's office, or in the records of an association.

- 4. 3. REVOCATION OF AUTHORITY. If an association refuses to submit to examination, the superintendent shall revoke its certificate of authority.
- Sec. 32. Section 534.404, subsection 1, paragraph a, subparagraph (3), Code 2007, is amended to read as follows:
- (3) A federal instrumentality or agency authorized to inspect or examine the books and records of an insured association or of an uninsured member by the federal home loan bank.
 - Sec. 33. Section 534.404, subsection 3, Code 2007, is amended to read as follows:
- 3. APPLICABILITY OF SECTION TO FEDERAL ASSOCIATIONS. Insofar as the provisions of this section are not inconsistent with federal law, such provisions shall apply to federal savings and loan associations whose home offices are located in this state, and to the members thereof except that the communication provided for in subsection 2 shall be submitted to the

federal home loan bank board, Washington, D.C., office of thrift supervision in the case of a federal savings and loan association and forwarded only upon that board's the federal office of thrift supervision's certificate and direction.

Sec. 34. Section 534.405, unnumbered paragraph 6, Code 2007, is amended to read as follows:

If the association has the insurance protection provided by Title IV of the National Housing Act, 12 U.S.C. ch. 13 the federal deposit insurance corporation's deposit insurance fund, a signed and sealed copy of each order and certificate mentioned in this section shall be promptly sent by the superintendent by registered mail to the federal office of thrift supervision, Washington, D.C. and to the federal deposit insurance corporation. If the association is insured by the savings association insurance fund of the federal deposit insurance corporation, the resolution trust corporation shall be named receiver if the superintendent has determined the need for a receivership. The superintendent may name the federal deposit insurance corporation as receiver if the superintendent has determined the need for a receivership in accordance with the provisions of this section.

Sec. 35. Section 534.406, Code 2007, is amended to read as follows: 534.406 RECEIVERSHIP.

If a building and loan or state savings and loan association is conducting its business illegally, or in violation of its articles of incorporation or bylaws, or is practicing deception upon its members or the public, or is pursuing a plan of business that is injurious to the interest of its members, or if its affairs are in an unsafe condition, the superintendent shall notify the directors of the association, and, if they fail to put its affairs upon a safe basis, the superintendent shall advise the attorney general, who shall take the necessary steps to wind up its affairs in the manner provided by law apply to the district court for the county in which the savings and loan association is located to be appointed as receiver for the savings and loan association. The district court shall appoint the superintendent as receiver unless the superintendent has tendered the appointment to the federal deposit insurance corporation, in which case the district court shall appoint the federal deposit insurance corporation as receiver. In the proceedings a receiver may be appointed by the court and the The proceedings shall be the exclusive liquidation or insolvency proceeding and a receiver shall not be appointed in any other proceedings.

Sec. 36. Section 534.408, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

534.408 SUPERVISORY FEES.

- 1. A state association subject to examination, supervision, and regulation by the superintendent shall pay to the superintendent fees, established by the superintendent, based on the costs and expenses incurred in the discharge of the duties imposed upon the superintendent by this chapter. The fees shall include, but are not limited to, costs and expenses for salaries, expenses and travel for employees, office facilities, supplies, and equipment.
- 2. Failure to pay the amount of the fees to the superintendent within ten days after the date of billing shall subject the state association or any affiliate of a state association to an additional charge equal to five percent of the amount of the fees for each day the payment is delinquent.

Sec. 37. Section 534.507, Code 2007, is amended to read as follows: 534.507 NAME.

The name of an association shall contain the words "savings bank" or the words "savings and loan association". An association shall not advertise or hold itself out to the public as a commercial bank; however, a corporate name, logo, or signage existing on January 1, 1989, depicting the name of the association may be used for as long as the association chooses to continue to use the name, logo, or signage existing on that date. A federal savings association shall not use the word "state" in its name, trademark, or logo.

- Sec. 38. Section 534.509, subsection 8, paragraph a, Code 2007, is amended to read as follows:
- a. The superintendent has received a copy of the charter issued to a converting association by the federal home loan bank board office of thrift supervision or a certificate showing the organization of such association as a federal savings and loan association, certified by the secretary or assistant secretary of the federal home loan bank board federal office of thrift supervision.
- Sec. 39. Section 534.511, subsection 5, paragraph d, Code 2007, is amended by striking the paragraph.
 - Sec. 40. Section 534.511, subsection 8, Code 2007, is amended to read as follows:
- 8. CERTIFICATION. The superintendent shall prepare a certificate of merger upon the occurrence of all of the events stated in subsections 3, 4, 5, 6, and 7. This certificate shall include the name of the surviving association, federal association, or bank and the effective date of the merger. The original certificate shall be filed with the secretary of state. The superintendent shall provide a certified copy of the certificate to any person upon payment of a five dollar fee established by the superintendent. A certified copy of this certificate is sufficient proof of the merger for purposes of establishing liability for debts or the ownership of assets as provided in section 534.512, subsections 1 and 2. An association involved in a merger may transfer assets or receive assets under the plan of merger only after the certificate of merger has been issued by the superintendent.
 - Sec. 41. Section 534.513, subsection 1, Code 2007, is amended to read as follows:
- 1. VOLUNTARY LIQUIDATION. <u>Building and loan or savings and loan State</u> associations, by a vote of three-fourths of the members of such association represented in person or by proxy, may go into voluntary liquidation upon such plan as shall be determined upon by the members at their meeting.
 - Sec. 42. Section 534.513, subsection 4, Code 2007, is amended to read as follows:
- 4. TRANSFER OF MORTGAGES MATURITY. In case any such association resolves to go into voluntary liquidation, it shall have power after crediting the mortgages given by the borrowing member with the full book value of the stock, to sell and assign such mortgages to a similar building and loan association, or to any other parties who will hold the same upon the terms under which such mortgage was given to the association. In that event the said mortgage shall be held to become due, if no other time can be agreed upon between the mortgagor and the association, within three years after the assignment thereof.

Sec. 43. Section 534.606, Code 2007, is amended to read as follows: 534.606 CRIMINAL OFFENSES.

If any officer, director, or agent of any building and loan or savings and loan association shall knowingly and willfully swear falsely to any statement in regard to any matter in this chapter required to be made under oath, the person shall be guilty of perjury. If any director of any such association shall vote to declare a dividend greater than has been earned; or if any officer or director or any agent or employee of any such association shall issue, utter, or offer to utter, any warrant, check, order, or promise to pay of such association, or shall sign, transfer, cancel, or surrender any note, bond, draft, mortgage, or other evidence of indebtedness belonging to such association, or shall demand, collect, or receive any money from any member or other person in the name of such association without being authorized to do so by the board of directors in pursuance of its lawful power, the person shall be guilty of a fraudulent practice; or if any such officer, director, agent, or employee shall embezzle or convert to the person's own use, or shall use or pledge for the person's own benefit or purpose, any moneys, securities, credits, or other property belonging to the association, the person shall be guilty of theft; or if the person shall knowingly do or attempt to do business for such association that has not

procured and does not hold the certificate of authority therefor as in this chapter provided, the person shall be guilty of a serious misdemeanor; or if the person shall knowingly make or cause to be made any false entries in the books of the association, or shall, with the intent to deceive any person making an examination in this chapter required to be made, exhibit to the person making the examination any false entry, paper, or statement, the person shall be guilty of a fraudulent practice; or if the person shall knowingly do or solicit business for any building and loan or savings and loan association which has not procured the required certificate therefor, the person shall be guilty of a serious misdemeanor.

- Sec. 44. Section 546.2, subsection 3, paragraph c, Code 2007, is amended by striking the paragraph.
 - Sec. 45. Section 546.3, subsection 1, Code 2007, is amended to read as follows:
- 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, savings and loan associations under chapter 534, 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.
 - Sec. 46. Section 534.109, Code 2007, is repealed.
 - Sec. 47. Section 534.113, Code 2007, is repealed.
 - Sec. 48. Section 534.515, Code 2007, is repealed.
 - Sec. 49. Section 534.519, Code 2007, is repealed.
 - Sec. 50. Section 546.5, Code 2007, is repealed.

Approved April 20, 2007

CHAPTER 89

SECURE CRIMINAL OR JUVENILE FACILITIES — POSSESSION OF CONTRABAND

S.F. 529

AN ACT expanding the criminal offense of possessing contraband in correctional institutions to include possessing contraband in a secure facility for the detention or custody of juveniles, a detention facility, or a jail, and providing a penalty.

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

Section 1. Section 719.7, Code 2007, is amended to read as follows: 719.7 POSSESSING CONTRABAND.

1. "Contraband" includes but is not limited to any of the following:

- a. A controlled substance or a simulated or counterfeit controlled substance, hypodermic syringe, or intoxicating beverage.
- b. A dangerous weapon, offensive weapon, pneumatic gun, stun gun, firearm ammunition, knife of any length or any other cutting device, explosive or incendiary material, instrument, device, or other material fashioned in such a manner as to be capable of inflicting death or injury.
- c. Rope, ladder components, key or key pattern, metal file, instrument, device, or other material designed or intended to facilitate escape of an inmate.
- 2. The <u>sheriff may x-ray a person committed to the jail, or the</u> department of corrections may x-ray a person under the control of the department, if there is reason to believe that the person is in possession of contraband. A licensed physician or x-ray technician under the supervision of a licensed physician must x-ray the person.
- 3. A person commits the offense of possessing contraband if the person, not authorized by law, does any of the following:
- a. Knowingly introduces contraband into, or onto, the grounds of a <u>secure facility for the detention or custody of juveniles, detention facility, jail, correctional institution</u>, or institution under the management of the department of corrections.
- b. Knowingly conveys contraband to any person confined in a <u>secure facility for the detention or custody of juveniles, detention facility, jail, correctional institution, or institution under the management of the department of corrections.</u>
- c. Knowingly makes, obtains, or possesses contraband while confined in a <u>secure facility</u> <u>for the detention or custody of juveniles, detention facility, jail, correctional institution, or institution under the management of the department of corrections, or while being transported or moved incidental to confinement.</u>
- 4. A person who possesses contraband or fails to report an offense of possessing contraband commits the following:
- a. A class "C" felony for the possession of contraband if the contraband is of the type described in subsection 1, paragraph "b".
- b. A class "D" felony for the possession of contraband if the contraband is any other type of contraband.
- c. An aggravated misdemeanor for failing to report a known violation or attempted violation of this section to an official or officer at a <u>secure facility for the detention or custody of juveniles</u>, <u>detention facility</u>, <u>jail</u>, correctional institution, or institution under the management of the department of corrections.
- 5. Nothing in this section is intended to limit the authority of the administrator of any <u>secure facility for the detention or custody of juveniles, detention facility, jail, correctional institution, or institution under the management of the department of corrections to prescribe or enforce rules concerning the definition of contraband, and the transportation, making, or possession of substances, devices, instruments, materials, or other items in the institutions.</u>
 - Sec. 2. Section 911.3, subsection 1, paragraph b, Code 2007, is amended to read as follows: b. Section 719.7, 719.8, 725.1, 725.2, or 725.3.

INTEROPERABLE PUBLIC SAFETY AND SERVICES COMMUNICATIONS SYSTEM — BOARD

H.F. 353

AN ACT relating to public safety communications by establishing an Iowa statewide interoperable communications system board.

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

Section 1. <u>NEW SECTION</u>. 80.28 STATEWIDE INTEROPERABLE COMMUNICATIONS SYSTEM BOARD — ESTABLISHED — MEMBERS.

- 1. A statewide interoperable communications system board is established, under the joint purview of the department and the state department of transportation. The board shall develop, implement, and oversee policy, operations, and fiscal components of communications interoperability efforts at the state and local level, and coordinate with similar efforts at the federal level, with the ultimate objective of developing and overseeing the operation of a statewide integrated public safety communications interoperability system. For the purposes of this section and section 80.29, "interoperability" means the ability of public safety and public services personnel to communicate and to share data on an immediate basis, on demand, when needed, and when authorized.
 - 2. The board shall consist of fifteen voting members, as follows:
 - a. The following members representing state agencies:
 - (1) One member representing the department of public safety.
 - (2) One member representing the state department of transportation.
 - (3) One member representing the homeland security and emergency management division.
 - (4) One member representing the department of corrections.
 - (5) One member representing the department of natural resources.
 - (6) One member representing the Iowa department of public health.
 - b. The following members, to be appointed by the governor:
 - (1) Two members who are representatives from municipal police departments.
 - (2) Two members who are representatives of sheriff's offices.
 - (3) Two members who are representatives from fire departments.
- (4) Two members who are law communication center managers employed by state or local government agencies.
 - (5) One at-large member.
- 3. Board members shall be appointed in compliance with sections 69.16 and 69.16A. Members shall elect a chairperson and vice chairperson from the board membership, who shall serve two-year terms. The members appointed by the governor shall be appointed to three-year staggered terms and the terms shall commence and end as provided by section 69.19. The governor shall solicit and consider recommendations from professional or volunteer organizations in making appointments to the board. If a vacancy occurs, a successor shall be appointed to serve the unexpired term. A successor shall be appointed in the same manner and subject to the same qualifications as the original appointment to serve the unexpired term. Members of the board are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties from funds appropriated to the department of public safety and the state department of transportation for that purpose. The departments shall enter into an agreement to provide administrative assistance and support to the board.

Sec. 2. NEW SECTION. 80.29 BOARD DUTIES.

The statewide interoperable communications system board established in section 80.28 shall:

1. Implement and maintain organizational and operational elements of the board, including staffing and program activity.

- 2. Review and monitor communications interoperability performance and service levels on behalf of agencies.
- 3. Establish, monitor, and maintain appropriate policies and protocols to ensure that interoperable communications systems function properly.
- 4. Allocate and oversee state appropriations or other funding received for interoperable communications.
- 5. Identify sources for ongoing, sustainable, longer-term funding for communications interoperability projects, including available and future assets that will leverage resources and provide incentives for communications interoperability participation, and develop and obtain adequate funding in accordance with a communications interoperability sustainability plan.
- 6. Develop and evaluate potential legislative solutions to address the funding and resource challenges of implementing statewide communications interoperability initiatives.
- 7. Develop a statewide integrated public safety communications interoperability system that allows for shared communications systems and costs, takes into account infrastructure needs and requirements, improves reliability, and addresses liability concerns of the shared network.
 - 8. Investigate data and video interoperability systems.
- 9. Expand, maintain, and fund consistent, periodic training programs for current communications systems and for the statewide integrated public safety communications interoperability system as it is implemented.
- 10. Expand, maintain, and fund stakeholder education, public education, and public official education programs to demonstrate the value of short-term communications interoperability solutions, and to emphasize the importance of developing and funding long-term solutions, including implementation of the statewide integrated public safety communications interoperability system.
- 11. Identify, promote, and provide incentives for appropriate collaborations and partnerships among government entities, agencies, businesses, organizations, and associations, both public and private, relating to communications interoperability.
- 12. Provide incentives to support maintenance and expansion of regional efforts to promote implementation of the statewide integrated public safety communications interoperability system.
- 13. In performing its duties, consult with representatives of private businesses, organizations, and associations on technical matters relating to data, video, and communications interoperability; technological developments in private industry; and potential collaboration and partnership opportunities.
- 14. Submit a report by January 1, annually, to the members of the general assembly regarding communications interoperability efforts, activities, and effectiveness at the local and regional level, and shall include a status report regarding the development of a statewide integrated public safety communications interoperability system, and funding requirements relating thereto.

Approved April 20, 2007

ABUSE OF HUMAN CORPSE — PENALTIES H.F. 432

AN ACT relating to abuse of a human corpse and providing penalties.

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

- Section 1. Section 229A.2, subsection 10, paragraph a, Code 2007, is amended to read as follows:
 - a. A violation of any provision of chapter 709, except section 709.18, subsection 2 or 3.
 - Sec. 2. Section 709.18, Code 2007, is amended to read as follows: 709.18 ABUSE OF A CORPSE.
- 1. A person commits abuse of a human corpse if the person knowingly and intentionally engages in a sex act, as defined in section 702.17, with a human corpse. Abuse of a human corpse is a class "D" felony.
- 2. A person commits abuse of a human corpse if the person mutilates, disfigures, or dismembers a human corpse with the intent to conceal a crime.
- 3. A person commits abuse of a human corpse if the person hides or buries a human corpse with the intent to conceal a crime.
 - 4. A person who violates this section commits a class "D" felony.

Approved April 20, 2007

CHAPTER 92

LONG-TERM LIVING RESOURCES SYSTEM
— SINGLE POINT OF ENTRY

H.F. 451

AN ACT relating to a single point of entry long-term living resources system.

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

- Section 1. LEGISLATIVE FINDINGS SINGLE POINT OF ENTRY LONG-TERM LIVING RESOURCES SYSTEM.
- 1. The general assembly finds that access to information regarding all components of the long-term living resources system is necessary to empower consumers in planning, evaluating, and making decisions to appropriately meet their individual long-term living needs. This access should be provided through a single point of entry into an integrated, seamless system that facilitates navigation of the variety of private and public resources available, minimizes service fragmentation, reduces duplication of administrative paperwork and procedures, enhances individual choice, supports informed decision making, and increases the cost-effectiveness of long-term living services and support systems.
- 2. a. A single point of entry long-term living resources system team is created, consisting of the following members:
 - (1) The director of the department of elder affairs, or the director's designee.
 - (2) The director of the department of human services, or the director's designee.

- (3) The director of public health, or the director's designee.
- (4) The director of the department of inspections and appeals, or the director's designee.
- (5) The commissioner of insurance, or the commissioner's designee.
- (6) The executive director of the Iowa finance authority, or the executive director's designee.
 - (7) The director of the department of veterans affairs, or the director's designee.
 - (8) The director of the department of workforce development, or the director's designee.
 - (9) A representative of the office of the governor.
- (10) The director of an area agency on aging or the director's designee and a consumer member selected by the director.
- (11) The state director of the AARP Iowa chapter or the state director's designee and a consumer member selected by the state director.
- (12) The chairperson of the older Iowans legislature or the chairperson's designee and a consumer member selected by the chairperson.
- (13) A consumer member of the senior living coordinating unit created in section 231.58 selected by the senior living coordinating unit.
 - (14) A representative of the Iowa hospital association.
 - (15) A representative of the Iowa pharmacy association.
 - (16) A representative of the Iowa health care association.
 - (17) A representative of the Iowa association of community providers.
 - (18) A representative of the Iowa association of homes and services for the aging.
 - (19) A representative of the Iowa association of home care.
 - (20) The director of the university of Iowa center on aging, or the director's designee.
- (21) Two members of the senate and two members of the house of representatives, with not more than one member from each chamber being from the same political party.
- b. The legislative members of the team shall serve in an ex officio, nonvoting capacity. The two senators shall be appointed by the president of the senate, after consultation with the leaders of the senate, and the two representatives shall be appointed by the speaker of the house, after consultation with the majority leader and the minority leader of the house of representatives.
- c. Public members shall receive actual expenses incurred while serving in their official capacity and may also be eligible to receive compensation as provided in section 7E.6.
 - d. The team shall do all of the following:
- (1) Hold at least four public meetings in at least four geographically balanced venues around the state to receive input regarding access to the long-term living resources system and recommendations for improved access. The team shall also receive input regarding the benefits of the use of electronic health records.
- (2) Make recommendations regarding the structure of and best means of providing a single point of entry to the long-term living resources system. The team shall also make recommendations regarding the use of electronic health records.
- (3) Submit a report of the team's findings from the meetings described in subparagraph (1) and the team's recommendations for establishing a single point of entry to the long-term living resources system to the general assembly on or before December 1, 2008. The recommendations may provide for multiple access sites that are standardized and coordinated to provide for access to the single point of entry, a management information system that links the resources available in order to provide a single electronic point of entry to the long-term living resources system, a telephonic single point of entry, or suggestions for colocation or integration of long-term living resources system administration and services. The report shall also include recommendations for funding the single point of entry to the long-term living resources system through available grants or other sources. The report shall also include recommendations regarding the use of electronic health records.

REGULATION OF HOSPITALS AND HEALTH CARE FACILITIES

H.F. 528

AN ACT relating to the regulation of hospitals and health care facilities by the department of inspections and appeals, including investigations of complaints against health care facilities and rules relating to authentication of certain orders by practitioners, and providing an immediate effective date.

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

Section 1. Section 135B.7A, Code 2007, is amended to read as follows: 135B.7A PROCEDURES — ORDERS.

The department shall adopt rules that require hospitals to establish procedures for authentication of medication and standing all verbal orders by a practitioner within a period not to exceed thirty days following a patient's discharge.

- Sec. 2. Section 135C.38, subsection 1, paragraph a, Code 2007, is amended to read as follows:
- a. Upon receipt of a complaint made in accordance with section 135C.37, the department or resident advocate committee shall make a preliminary review of the complaint. Unless the department or committee concludes that the complaint is intended to harass a facility or a licensee or is without reasonable basis, it the department or committee shall within twenty working days of receipt of the complaint make or cause to be made an on-site inspection of the health care facility which is the subject of the complaint, within the time period determined pursuant to the following guidelines, which period shall commence on the date of receipt of the complaint:
 - (1) For nursing facilities, an on-site inspection shall be initiated as follows:
- (a) Within two working days for a complaint determined by the department or committee to be an alleged immediate jeopardy situation.
- (b) Within ten working days for a complaint determined by the department or committee to be an alleged high-level, nonimmediate jeopardy situation.
- (c) Within forty-five calendar days for a complaint determined by the department or committee to be an alleged nonimmediate jeopardy situation, other than a high-level situation.
- (2) For all other types of health care facilities, an on-site inspection shall be initiated as follows:
- (a) Within two working days for a complaint determined by the department or committee to be an alleged immediate jeopardy situation.
- (b) Within twenty working days for a complaint determined by the department or committee to be an alleged high-level, nonimmediate jeopardy situation.
- (c) Within forty-five calendar days for a complaint determined by the department or committee to be an alleged nonimmediate jeopardy situation, other than a high-level situation.
 - Sec. 3. 2001 Iowa Acts, chapter 93, section 2, is repealed.
- Sec. 4. EFFECTIVE DATE. The section of this Act repealing 2001 Iowa Acts, chapter 93, section 2, being deemed of immediate importance, takes effect upon enactment.

MIDWEST INTERSTATE PASSENGER RAIL COMPACT H.F. 559

AN ACT relating to the midwest interstate passenger rail compact and providing an effective date.

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

Section 1. <u>NEW SECTION</u>. 327K.1 MIDWEST INTERSTATE PASSENGER RAIL COMPACT.

The midwest interstate passenger rail compact is enacted into law and entered into with all other states legally joining in the compact in substantially the following form:

ARTICLE I STATEMENT OF PURPOSE

The purposes of this compact are, through joint or cooperative action:

- a. To promote development and implementation of improvements to intercity passenger rail service in the midwest.
- b. To coordinate interaction among midwestern state elected officials and their designees on passenger rail issues.
- c. To promote development and implementation of long-range plans for high-speed rail passenger service in the midwest and among other regions of the United States.
- d. To work with the public and private sectors at the federal, state, and local levels to ensure coordination among the various entities having an interest in passenger rail service and to promote midwestern interests regarding passenger rail.
- e. To support efforts of transportation agencies involved in developing and implementing passenger rail service in the midwest.

ARTICLE II ESTABLISHMENT OF COMMISSION

To further the purposes of the compact, a commission is created to carry out the duties specified in this compact.

ARTICLE III COMMISSION MEMBERSHIP

The manner of appointment of commission members, terms of office consistent with the terms of this compact, provisions for removal and suspension, and manner of appointment to fill vacancies shall be determined by each party state pursuant to its laws, but each commissioner shall be a resident of the state of appointment. Commission members shall serve without compensation from the commission.

The commission shall consist of four resident members of each state as follows: the governor or the governor's designee who shall serve during the tenure of office of the governor, or until a successor is named; one member of the private sector who shall be appointed by the governor and shall serve during the tenure of office of the governor, or until a successor is named; and two legislators, one from each legislative chamber (or two legislators from any unicameral legislature), who shall serve two-year terms, or until successors are appointed, and who shall be appointed by the appropriate appointing authority in each legislative chamber. All vacancies shall be filled in accordance with the laws of the appointing states. A commissioner appointed to fill a vacancy shall serve until the end of the incomplete term. Each member state shall have equal voting privileges, as determined by the commission bylaws.

ARTICLE IV POWERS AND DUTIES OF THE COMMISSION

- a. The duties of the commission are to:
- (1) Advocate for the funding and authorization necessary to make passenger rail improvements a reality for the region.
- (2) Identify and seek to develop ways that states can form partnerships, including with rail industry and labor, to implement improved passenger rail service in the region.
- (3) Seek development of a long-term, interstate plan for high-speed rail passenger service implementation.
- (4) Cooperate with other agencies, regions, and entities to ensure that the midwest is adequately represented and integrated into national plans for passenger rail development.
- (5) Adopt bylaws governing the activities and procedures of the commission and addressing, among other subjects: the powers and duties of officers; and the voting rights of commission members, voting procedures, commission business, and any other purposes necessary to fulfill the duties of the commission.
 - (6) Expend such funds as required to carry out the powers and duties of the commission.
- (7) Report on the activities of the commission to the legislatures and governors of the member states on an annual basis.
 - b. In addition to its exercise of these duties, the commission may:
- (1) Provide multistate advocacy necessary to implement passenger rail systems or plans, as approved by the commission.
- (2) Work with local elected officials, economic development planning organizations, and similar entities to raise the visibility of passenger rail service benefits and needs.
- (3) Educate other state officials, federal agencies, other elected officials, and the public on the advantages of passenger rail as an integral part of an intermodal transportation system in the region.
- (4) Work with federal agency officials and members of Congress to ensure the funding and authorization necessary to develop a long-term, interstate plan for high-speed rail passenger service implementation.
 - (5) Make recommendations to member states.
- (6) If requested by each state participating in a particular project and under the terms of a formal agreement approved by the participating states and the commission, implement or provide oversight for specific rail projects.
 - (7) Establish an office and hire staff as necessary.
 - (8) Contract for or provide services.
 - (9) Assess dues, in accordance with the terms of this compact.
 - (10) Conduct research.
 - (11) Establish committees.

ARTICLE V OFFICERS

The commission shall annually elect from among its members a chair, a vice chair who shall not be a resident of the state represented by the chair, and others as approved in the commission bylaws. The officers shall perform such functions and exercise such powers as are specified in the commission bylaws.

ARTICLE VI MEETINGS AND COMMISSION ADMINISTRATION

The commission shall meet at least once in each calendar year and at such other times as may be determined by the commission. Commission business shall be conducted in accordance with the procedures and voting rights specified in the bylaws.

ARTICLE VII FINANCE

Except as otherwise provided, the moneys necessary to finance the general operations of the commission in carrying forth its duties, responsibilities, and powers as stated in this compact shall be appropriated to the commission by the compacting states, when authorized by the respective legislatures, by equal apportionment among the compacting states. Nothing in this compact shall be construed to commit a member state to participate in financing a rail project except as provided by law of a member state.

The commission may accept, for any of its purposes and functions, donations, gifts, grants, and appropriations of money, equipment, supplies, materials, and services from the federal government, from any party state or from any department, agency, or municipality thereof, or from any institution, person, firm, or corporation. All expenses incurred by the commission in executing the duties imposed upon it by this compact shall be paid by the commission out of the funds available to it. The commission shall not issue any debt instrument. The commission shall submit to the officer designated by the laws of each party state, periodically as required by the laws of each party state, a budget of its actual past and estimated future expenditures.

ARTICLE VIII ENACTMENT, EFFECTIVE DATE, AND AMENDMENTS

The states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin are eligible to join this compact. Upon approval of the commission, according to its bylaws, other states may also be declared eligible to join the compact. As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law; provided that it shall not become initially effective until enacted into law by any three party states incorporating the provisions of this compact into the laws of such states. Amendments to the compact shall become effective upon their enactment by the legislatures of all compacting states.

ARTICLE IX WITHDRAWAL, DEFAULT, AND TERMINATION

Withdrawal from this compact shall be by enactment of a statute repealing the same and shall take effect one year after the effective date of such statute. A withdrawing state shall be liable for any obligations which it may have incurred prior to the effective date of withdrawal.

If any compacting state defaults in the performance of any of its obligations, assumed or imposed, in accordance with this compact, all rights, privileges, and benefits conferred by this compact or agreements under this compact shall be suspended from the effective date of such default as fixed by the commission, and the commission shall stipulate the conditions and maximum time for compliance under which the defaulting state may resume its regular status. Unless such default is remedied under the stipulations and within the time period set forth by the commission, this compact may be terminated with respect to such defaulting state by affirmative vote of a majority of the other commission members. Any such defaulting state may be reinstated, upon vote of the commission, by performing all acts and obligations as stipulated by the commission.

ARTICLE X CONSTRUCTION AND SEVERABILITY

The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any compacting state or of the United States, or the applicability thereof to any government, agency, person, or cir-

cumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected by the declaration or holding. If this compact is held to be contrary to the constitution of any compacting state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. This compact shall be liberally construed to effectuate the purposes of the compact.

- Sec. 2. LIMITATION ON EXPENDITURE OF FUNDS FOR FINANCING COSTS OF PAR-TICIPATING IN THE COMPACT. It is the intent of the general assembly that moneys directed to be deposited in the road use tax fund under section 312.1 shall not be used by the state for participation in the midwest interstate passenger rail compact.
- Sec. 3. EFFECTIVE DATE. This Act takes effect only if the general assembly appropriates funds for the fiscal year beginning July 1, 2007, in an amount sufficient to pay the dues assessed pursuant to the midwest interstate passenger rail compact.

Approved April 20, 2007

CHAPTER 95

VOLUNTEER HEALTH CARE PROVIDER PROGRAM
— FIELD DENTAL CLINICS

H.F. 566

AN ACT relating to field dental clinics for the purposes of the volunteer health care provider program.

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

Section 1. Section 135.24, Code 2007, is amended to read as follows: 135.24 VOLUNTEER HEALTH CARE PROVIDER PROGRAM ESTABLISHED — IMMUNITY FROM CIVIL LIABILITY.

- 1. The director shall establish within the department a program to provide to eligible hospitals, clinics, free clinics, field dental clinics, or other health care facilities, health care referral programs, or charitable organizations, free medical, dental, chiropractic, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, and emergency medical care services given on a voluntary basis by health care providers. A participating health care provider shall register with the department and obtain from the department a list of eligible, participating hospitals, clinics, free clinics, field dental clinics, or other health care facilities, health care referral programs, or charitable organizations.
- 2. The department, in consultation with the department of human services, shall adopt rules to implement the volunteer health care provider program which shall include the following:
- a. Procedures for registration of health care providers deemed qualified by the board of medical examiners, the board of physician assistant examiners, the board of dental examiners, the board of nursing, the board of chiropractic examiners, the board of psychology examiners, the board of social work examiners, the board of behavioral science examiners, the board of pharmacy examiners, the board of optometry examiners, the board of podiatry examiners, the

board of physical and occupational therapy examiners, the state board for respiratory care, and the Iowa department of public health, as applicable.

- b. Procedures for registration of free clinics and field dental clinics.
- c. Criteria for and identification of hospitals, clinics, free clinics, field dental clinics, or other health care facilities, health care referral programs, or charitable organizations, eligible to participate in the provision of free medical, dental, chiropractic, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, or emergency medical care services through the volunteer health care provider program. A free clinic, a field dental clinic, a health care facility, a health care referral program, a charitable organization, or a health care provider participating in the program shall not bill or charge a patient for any health care provider service provided under the volunteer health care provider program.
- d. Identification of the services to be provided under the program. The services provided may include, but shall not be limited to, obstetrical and gynecological medical services, psychiatric services provided by a physician licensed under chapter 148, 150, or 150A, dental services provided under chapter 153, or other services provided under chapter 147A, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 154, 154B, 154C, 154D, or 155A.
- 3. A health care provider providing free care under this section shall be considered an employee of the state under chapter 669 and shall be afforded protection as an employee of the state under section 669.21, provided that the health care provider has done all of the following:
 - a. Registered with the department pursuant to subsection 1.
- b. Provided medical, dental, chiropractic, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, or emergency medical care services through a hospital, clinic, free clinic, field dental clinic, or other health care facility, health care referral program, or charitable organization listed as eligible and participating by the department pursuant to subsection 1.
- 4. A free clinic providing free care under this section shall be considered a state agency solely for the purposes of this section and chapter 669 and shall be afforded protection under chapter 669 as a state agency for all claims arising from the provision of free care by a health care provider registered under subsection 3 who is providing services at the free clinic in accordance with this section or from the provision of free care by a health care provider who is covered by adequate medical malpractice insurance as determined by the department, if the free clinic has registered with the department pursuant to subsection 1.
- 4A. A field dental clinic providing free care under this section shall be considered a state agency solely for the purposes of this section and chapter 669 and shall be afforded protection under chapter 669 as a state agency for all claims arising from the provision of free care by a health care provider registered under subsection 3 who is providing services at the field dental clinic in accordance with this section or from the provision of free care by a health care provider who is covered by adequate medical malpractice insurance as determined by the department, if the field dental clinic has registered with the department pursuant to subsection 1.
 - 5. For the purposes of this section:
- a. "Charitable organization" means a charitable organization within the meaning of section 501(c)(3) of the Internal Revenue Code which has as its primary purpose the sponsorship or support of programs designed to improve the quality, awareness, and availability of chiropractic, dental, medical, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, or emergency medical care services to children and to serve as a funding mechanism for provision of chiropractic, dental, medical, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, or emergency medical care services, including but not limited to immunizations, to children in this state.
- b. "Field dental clinic" means a dental clinic temporarily or periodically erected at a location utilizing mobile dental equipment, instruments, or supplies, as necessary, to provide dental services.

- b. c. "Free clinic" means a facility, other than a hospital or health care provider's office which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code and which has as its sole purpose the provision of health care services without charge to individuals who are otherwise unable to pay for the services.
- e. d. "Health care provider" means a physician licensed under chapter 148, 150, or 150A, a chiropractor licensed under chapter 151, a physical therapist licensed pursuant to chapter 148A, an occupational therapist licensed pursuant to chapter 148B, a podiatrist licensed pursuant to chapter 149, a physician assistant licensed and practicing under a supervising physician pursuant to chapter 148C, a licensed practical nurse, a registered nurse, or an advanced registered nurse practitioner licensed pursuant to chapter 152 or 152E, a respiratory therapist licensed pursuant to chapter 152B, a dentist, dental hygienist, or dental assistant registered or licensed to practice under chapter 153, an optometrist licensed pursuant to chapter 154A, a psychologist licensed pursuant to chapter 154B, a social worker licensed pursuant to chapter 154C, a mental health counselor or a marital and family therapist licensed pursuant to chapter 154D, a pharmacist licensed pursuant to chapter 155A, or an emergency medical care provider certified pursuant to chapter 147A.

Approved April 20, 2007

CHAPTER 96

EMERGENCY SERVICES AGREEMENT ADVISORY BOARDS — BUDGETS

H.F. 587

AN ACT relating to advisory boards created pursuant to emergency services agreements and providing an effective date.

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

Section 1. Section 28E.32, subsection 3, Code 2007, is amended to read as follows:

- 3. The An advisory board created by agreement may establish an advisory board comprised of one member of the governing body of each municipality that is a party to the agreement. The board shall prepare an a proposed annual budget for services provided pursuant to the agreement and shall until the agreement is canceled or expires. For the proposed budget, the board may allocate among the parties to the agreement, responsibility to provide revenue for the amount of the budget. The proposed budget prepared pursuant to the written agreement shall be a part of the budget of shall be submitted to the city municipality providing the services. However, the municipality providing the services shall have full and final authority over the proposed budget and may alter the proposed budget without approval of the board before it is included in the budget of such municipality.
- Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 20, 2007

STATE BUILDING CODE — APPLICATION AND ENFORCEMENT

H.F. 590

†AN ACT relating to the application and enforcement of the state building code and providing an applicability date.

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

Section 1. Section 103A.10, subsection 2, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. d. In each city with a population of more than fifteen thousand that has not adopted a local building code that is substantially in accord with standards developed by a nationally recognized building code organization. The city shall enforce the state building code, including the provisions in section 103A.19, subsections 1 through 6.

Sec. 2. Section 103A.19, unnumbered paragraph 2, Code 2007, is amended to read as follows:

In aid of administration and enforcement of the state building code, and in addition to and not in limitation of powers vested in them by law, each governmental subdivision of the state may, and each city designated in section 103A.10, subsection 2, paragraph "d", shall:

- Sec. 3. APPLICABILITY DATE. This Act applies to building permits issued on or after July 1, 2008.
- Sec. 4. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this ${\sf Act.}$

Approved April 20, 2007

CHAPTER 98

EDUCATIONAL STANDARDS — HUMAN GROWTH AND DEVELOPMENT AND HEALTH CURRICULA $H.F.\ 611$

AN ACT relating to human growth and development and health education under the educational standards, requiring school districts to provide curricular information to agencies and organizations upon request, and providing related duties for the director of the department of education.

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

Section 1. Section 256.9, subsection 54, Code 2007, is amended to read as follows:

54. <u>a.</u> Develop and make available to school districts, examples of age-appropriate <u>and research-based</u> materials and lists of resources which parents may use to teach their children to recognize unwanted physical and verbal sexual advances, to not make unwanted physical and verbal sexual advances, to effectively reject unwanted sexual advances, that it is wrong to take advantage of or exploit another person, <u>about the dangers of sexual exploitation by</u>

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

means of the internet including specific strategies to help students protect themselves and their personally identifiable information from such exploitation, and about counseling, medical, and legal resources available to survivors of sexual abuse and sexual assault, including resources for escaping violent relationships. The materials and resources shall cover verbal, physical, and visual sexual harassment, including nonconsensual sexual advances, and nonconsensual physical sexual contact. In developing the materials and resource list, the director shall consult with entities that shall include, but not be limited to, the departments of human services, public health, and public safety, education stakeholders, and parent-teacher organizations. School districts shall provide age-appropriate and research-based materials and a list of available community and web-based resources to parents at registration and shall also include the age-appropriate and research-based materials and resource list in the student handbook. School districts are encouraged to work with their communities to provide voluntary parent education sessions to provide parents with the skills and appropriate strategies to teach their children as described in this subsection. School districts shall incorporate the age-appropriate and research-based materials into relevant curricula and shall reinforce the importance of preventive measures when reasonable with parents and students.

- b. Make available scientifically based research studies in the area of health and wellness literacy for use by school districts and nonpublic schools in educating students. The content shall include but not be limited to research on instructional materials and teaching strategies that have proven effective in teaching students the knowledge and skills included in paragraph "a" and section 256.11. School districts are encouraged to incorporate as much of this material as practical.
 - Sec. 2. Section 256.11, subsections 3 and 4, Code 2007, are amended to read as follows:
- 3. The following areas shall be taught in grades one through six: English-language arts, social studies, mathematics, science, health, <u>age-appropriate and research-based</u> human growth and development, physical education, traffic safety, music, and visual art. The health curriculum shall include the characteristics of communicable diseases including acquired immune deficiency syndrome. The state board as part of accreditation standards shall adopt curriculum definitions for implementing the elementary program.
- 4. The following shall be taught in grades seven and eight: English-language arts; social studies; mathematics; science; health; age-appropriate and research-based human growth and development, family, consumer, career, and technology education; physical education; music; and visual art. The health curriculum shall include age-appropriate and research-based information regarding the characteristics of sexually transmitted diseases, including HPV and the availability of a vaccine to prevent HPV, and acquired immune deficiency syndrome. The state board as part of accreditation standards shall adopt curriculum definitions for implementing the program in grades seven and eight. However, this subsection shall not apply to the teaching of family, consumer, career, and technology education in nonpublic schools. For purposes of this section, "age-appropriate", "HPV", and "research-based" mean the same as defined in section 279.50.
- Sec. 3. Section 256.11, subsection 5, paragraph j, Code 2007, is amended to read as follows: j. One unit of health education which shall include personal health; food and nutrition; environmental health; safety and survival skills; consumer health; family life; age-appropriate and research-based human growth and development; substance abuse and nonuse; emotional and social health; health resources; and prevention and control of disease, including age-appropriate and research-based information regarding sexually transmitted diseases, including HPV and the availability of a vaccine to prevent HPV, and acquired immune deficiency syndrome.
 - Sec. 4. Section 279.50, Code 2007, is amended to read as follows: 279.50 HUMAN GROWTH AND DEVELOPMENT INSTRUCTION.
- 1. Each school board shall provide instruction in kindergarten which gives attention to experiences relating to life skills and human growth and development as required in section 256.11. School districts shall use research provided in section 256.9, subsection 54, paragraph

- "b", to evaluate and upgrade their instructional materials and teaching strategies for human growth and development.
- <u>2.</u> Each school board shall provide <u>age-appropriate</u> and <u>research-based</u> instruction in human growth and development including instruction regarding human sexuality, self-esteem, stress management, interpersonal relationships, domestic abuse, <u>HPV and the availability of a vaccine to prevent HPV</u>, and acquired immune deficiency syndrome as required in section 256.11, in grades one through twelve.
- <u>3.</u> Each school board shall annually provide to a parent or guardian of any pupil enrolled in the school district, information about the human growth and development curriculum used in the pupil's grade level and the procedure for inspecting the instructional materials prior to their use in the classroom.
- 4. Each school district shall, upon request by any agency or organization, provide information about the human growth and development curriculum used in each grade level and the procedure for inspecting and updating the instructional materials.
- <u>5.</u> A pupil shall not be required to take instruction in human growth and development if the pupil's parent or guardian files with the appropriate principal a written request that the pupil be excused from the instruction. Notification that the written request may be made shall be included in the information provided by the school district.
- <u>6.</u> Each school board or community college which offers general adult education classes or courses shall periodically offer an instructional program in parenting skills and in human growth and development for parents, guardians, prospective biological and adoptive parents, and foster parents.
- 2. 7. Each area education agency shall periodically offer a staff development program for teachers who provide instruction in human growth and development.
- 3. 8. The department of education shall identify and disseminate information about early intervention programs for students who are at the greatest risk of suffering from the problem of dropping out of school, substance abuse, adolescent pregnancy, or suicide.
- 9. For purposes of this section and sections 256.9 and 256.11, unless the context otherwise requires:
- a. "Age-appropriate" means topics, messages, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group.
 - b. "HIV" means HIV as defined in section 141A.1.
- c. "HPV" means human papilloma virus as defined by the centers for disease control and prevention of the United States department of health and human services.
 - d. "Research-based" means all of the following:
- (1) Complete information that is verified or supported by the weight of research conducted in compliance with accepted scientific methods; recognized as medically accurate and objective by leading professional organizations and agencies with relevant expertise in the field, such as the American college of obstetricians and gynecologists, the American public health association, the American academy of pediatrics, and the national association of school nurses; and published in peer-reviewed journals where appropriate.
 - (2) Information that is free of racial, ethnic, sexual orientation, and gender biases.
- 10. To the extent not inconsistent with this section and section 256.11, an accredited non-public school may also choose curriculum in accordance with doctrinal teachings for the human sexuality component of the human growth and development requirements of this section and section 256.11.
- 11. Nothing in this section or section 256.11 shall be construed to prohibit a school or school district from developing and making available abstinence-based or abstinence-only materials pursuant to the requirements of section 256.9, subsection 54, and from offering an abstinence-based or abstinence-only curriculum in meeting the human sexuality component of the human growth and development requirements of this section and section 256.11.

ABRAHAM LINCOLN BICENTENNIAL — COMMEMORATION

H.F. 826

AN ACT establishing an Iowa Abraham Lincoln bicentennial commission and fund and providing for its prospective repeal.

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

Section 1. <u>NEW SECTION</u>. 216A.121 IOWA ABRAHAM LINCOLN BICENTENNIAL COMMISSION.

- 1. ORGANIZATION. An Iowa Abraham Lincoln bicentennial commission is established in the department of human rights. The commission shall be chartered and shall operate as a nonprofit corporation within the state of Iowa, according to the provisions of chapter 504.
- 2. PURPOSE. The purpose of the commission shall be to plan, coordinate, and administer activities and programs relating to the commemoration of the bicentennial of the birth of Abraham Lincoln in 2009.
 - 3. MEMBERSHIP.
- a. The commission shall consist of twenty-one members, including seventeen voting members and four nonvoting members.
 - (1) The voting members shall be as follows:
 - (a) The governor or the governor's designee.
- (b) One member, appointed by the governor, who is an Iowa designated representative to the federal Abraham Lincoln bicentennial commission governors' council.
 - (c) One member appointed by the president of Humanities Iowa.
 - (d) One member appointed by the director of the department of economic development.
 - (e) One member appointed by the administrator of the state historical society of Iowa.
 - (f) One member appointed by the executive director of the Iowa arts council.
 - (g) One member appointed by the executive director of the Iowa museum society.
 - (h) One member appointed by the president of the league of Iowa human rights agencies.
 - (i) One member appointed by the president of the Iowa league of cities.
 - (j) One member appointed by the director of the department of education.
 - (k) One member appointed by the chairperson of the state board of regents.
 - (l) One member appointed by the president of the Iowa library board.
- (m) One member appointed by the chairperson of the Iowa state chapter of the national association for the advancement of colored people.
- (n) Four public members, appointed by the governor, with a demonstrated interest in history and substantial knowledge and appreciation of Abraham Lincoln.
- (2) The nonvoting members shall be two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house, and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate.
- b. Nine voting members of the board shall constitute a quorum. Persons making appointments shall consult with one another to ensure that the commission is balanced by gender, political affiliation, and geographic location, and to ensure selection of members representing diverse interest groups. The provisions of chapters 21 and 22 shall apply to meetings and records of the commission.
- c. The commission shall elect a chairperson and vice chairperson from the members of the commission. Commission members shall serve without compensation, but shall be reimbursed for actual and necessary expenses.¹
 - 4. RULEMAKING AUTHORITY. The department, in cooperation with the commission,

¹ See chapter 215, §98 herein

may adopt rules in accordance with chapter 17A in order to accomplish the purpose of the commission.

- 5. AUTHORITY. The commission may receive and make grants, receive and expend appropriations, contract for services, hold licenses and copyrights, and otherwise act as is necessary to accomplish the purpose of the commission.
- 6. FUND ESTABLISHED. The Abraham Lincoln bicentennial fund is established as a separate fund in the state treasury under the control of the commission.
- 7. FUNDS RECEIVED. All funds received by the commission, including but not limited to gifts, transfers, endowments, moneys from the sale of mementos and products related to the purposes of the commission, and appropriations, shall be credited to the bicentennial fund and are appropriated to the commission to be invested or used to support the activities of the commission. 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.
- 8. EXPIRATION. The commission shall expire no later than June 30, 2010. Upon expiration, all fund balances from appropriations of state funds shall be returned to the general fund of the state, and all other assets shall be transferred to the Iowa historical foundation authorized pursuant to section 303.9, subsection 3, subject to any conditions or restrictions previously placed on the assets.
 - 9. This section is repealed June 30, 2010.

Approved April 20, 2007

CHAPTER 100

REGIONAL TOURISM MARKETING APPROPRIATIONS — DISBURSEMENT

S.F. 302

AN ACT relating to moneys appropriated to the department of economic development for regional tourism marketing purposes.

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

Section 1. Section 99F.11, subsection 3, paragraph e, subparagraph (2), as enacted by 2006 Iowa Acts, chapter 1151, section 6, is amended to read as follows:

(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. The moneys appropriated in this subparagraph shall be disbursed to the department in quarterly allotments. However, none of the moneys appropriated under this subparagraph shall be used for administrative purposes.

Approved April 23, 2007

RECORDING AND INDEXING OF INTERESTS AFFECTING PROPERTY

S.F. 337

AN ACT relating to information required to be indexed in the records of the county recorder.

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

shall be forfeited and canceled without any further notice or action, and the claimant thereafter shall be forever barred and estopped from having or claiming any right, title, or interest

Sec. 2. Section 448.17, Code 2007, is amended to read as follows:

448.17 INDEXING AND RECORDING OF AFFIDAVITS AND CLAIMS.

All affidavits and claims as provided for in sections 448.15 and 448.16, filed with the county recorder, shall be recorded as other instruments affecting parcels, and the entries required in those sections and any applicable entries specified in sections 558.49 and 558.52 shall be indexed in the claimant's book under the description of the parcel involved, and shall be recorded as other instruments affecting parcels by the recorder.

Sec. 3. Section 557C.4, Code 2007, is amended to read as follows:

557C.4 STATEMENT OF CLAIM — RECORDER'S DUTY.

Upon the filing of the statement of claim provided for in section 557C.3 in the recorder's office for the county where the real estate on, or under, which the mineral interest in coal exists,

is located, the recorder shall record the statement of claim and index it in the claimant's book the entries required to be made pursuant to section 557C.3 and any applicable entries specified in sections 558.49 and 558.52.

Sec. 4. Section 558.55, Code 2007, is amended to read as follows: 558.55 FILING AND INDEXING — CONSTRUCTIVE NOTICE.

The recorder must endorse upon every instrument properly filed for record in the recorder's office, the day, hour, and minute of the filing, and enter in the index the entries required to be entered <u>pursuant to sections 558.49 and 558.52</u>, except the document reference number where the complete record will appear, and the filing and indexing shall constitute constructive notice to all persons of the rights of the grantees conferred by the instruments.

Sec. 5. Section 614.17, unnumbered paragraph 3, Code 2007, is amended to read as follows:

For the purposes of this section and section 614.17A, such possession of real estate may be shown of record by affidavits showing the possession, and when the affidavits have been filed and recorded, it is the duty of the recorder to enter upon the margin of the record, a certificate to the effect that the affidavits were filed by index the applicable entries specified in sections 558.49 and 558.52 and to index the name of the owner in possession, as named in the affidavits, or by the owner's attorney in fact, as shown by the records and in like manner, the affidavits may be filed and recorded where any action was barred on any claim by this section as in force prior to July 1, 1991.

Sec. 6. Section 614.18, Code 2007, is amended to read as follows: 614.18 CLAIM INDEXED.

Any such claim so filed, shall be recorded, and the entries required in section 614.17A and any applicable entries specified in sections 558.49 and 558.52 indexed, under the description of the real estate involved in a book set apart and specially designed for that purpose to be known as the "claimant's book" and kept in the office of the recorder of the county where such real estate is situated, and said statement, when so indexed, shall be recorded as other instruments affecting real estate.

Sec. 7. Section 614.35, Code 2007, 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 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 recorder of the county or counties where the land described 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 of the notices in the manner provided and shall index the applicable entries specified in sections 558.49 and 558.52, and each recorder shall be entitled to charge the same fees for the recording 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.

AMBULANCE, RESCUE VEHICLE, FIRE VEHICLE, OR TOWING OR RECOVERY VEHICLE MANUFACTURERS AND DEALERS — LICENSING

S.F. 463

AN ACT concerning the licensing and operations of a manufacturer of ambulances, rescue vehicles, or fire vehicles.

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

Section 1. Section 321.57, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 6. A manufacturer licensed under chapter 322 that manufactures ambulances, rescue vehicles, or fire vehicles may operate or move a new ambulance, rescue vehicle, or fire vehicle manufactured and owned by the manufacturer solely for purposes of transporting, demonstrating, showing, or exhibiting the vehicle when there is displayed on the vehicle a special plate issued to the manufacturer as provided in sections 321.58 through 321.62.

Sec. 2. Section 322.29, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 6. Notwithstanding section 322.3, subsection 1, a person licensed as a wholesaler under subsection 4 may be licensed as a used motor vehicle dealer solely for the purpose of dealing in used motor vehicles of the same make and model the person is licensed to wholesale.

Approved April 23, 2007

CHAPTER 103

DEPARTMENT OF CORRECTIONS — HOUSING OF INMATES — RESTRICTION S.F. 528

AN ACT prohibiting the department of corrections from entering into an agreement with a private sector for-profit entity for the purpose of housing inmates.

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

Section 1. <u>NEW SECTION</u>. 904.119 PRIVATE SECTOR HOUSING OF INMATES — PROHIBITION.

The department shall not enter into any agreement with a private sector for-profit entity for the purpose of housing inmates committed to the custody of the director.

Approved April 23, 2007

BOARD OF EDUCATIONAL EXAMINERS MEMBERSHIP H.F. 615

AN ACT relating to the membership of the board of educational examiners.

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

Section 1. Section 272.3, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The board of educational examiners consists of eleven twelve members. Two must be members of the general public, one must be the director of the department of education or the director's designee, and the remaining nine members must be licensed practitioners. One of the public members shall have served on a school board. The public members shall never have held a practitioner's license, but 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 remaining eight nine practitioners shall be selected from the following areas and specialties of the teaching profession:

Approved April 23, 2007

CHAPTER 105

CLARINDA CORRECTIONAL FACILITY — PURPOSE AND USE

H.F. 759

AN ACT specifying the functions of the Clarinda correctional facility.

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

Section 1. Section 904.205, Code 2007, is amended to read as follows: 904.205 CLARINDA CORRECTIONAL FACILITY.

The state correctional facility at Clarinda shall be utilized as a secure men's correctional facility primarily for offenders with chemical dependence, mental retardation, or social inadequacies mental illness.

Approved April 23, 2007

TEMPORARY MODIFICATION OF CHILD SUPPORT ORDERS H.F. 780

AN ACT relating to the issuance of temporary orders modifying an order of child support.

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

Section 1. Section 598.21C, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. TEMPORARY MODIFICATION OF CHILD SUPPORT ORDERS. While an application for modification of a child support or child custody order is pending, the court may, on its own motion or upon application by either party, enter a temporary order modifying an order of child support. The court may enter such temporary order only after service of the original notice, and an order shall not be entered until at least five days' notice of hearing and opportunity to be heard, is provided to all parties. In entering temporary orders under this subsection, the court shall consider all pertinent matters, which may be demonstrated by affidavits, as the court may direct. The hearing on application shall be limited to matters set forth in the application, the affidavits of the parties, and any required statements of income. The court shall not hear any other matter relating to the application for modification, respondent's answer, or any pleadings connected with the application for modification or the answer. This subsection shall also apply to an order, decree, or judgment entered or pending on or before July 1, 2007, and shall apply to an order entered under this chapter, chapter 252A, 252C, 252F, 252H, 252K, or 600B, or any other applicable chapter of the Code.

Approved April 23, 2007

CHAPTER 107

SEIZED PROPERTY IN CRIMINAL PROCEEDINGS — DISPOSITION

S.F. 175

AN ACT relating to the disposition of seized property in a criminal proceeding.

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

Section 1. Section 809.5, subsection 1, Code 2007, is amended to read as follows:

1. Seized property which is no longer required as evidence or for use in an investigation may shall be returned to the owner without the requirement of a hearing, provided that the person's possession of the property is not prohibited by law and there is no forfeiture claim filed on behalf of the state. The seizing agency or prosecuting attorney shall send notice by regular restricted certified mail, if the value of the property is less than fifty dollars, or certified mail, if the value of the property is equal to or greater than fifty dollars, return receipt requested, to the last known address of any person having an ownership or possessory right in the property stating that the property is released and must be claimed within thirty days from the date of receipt of the notice. Refusal of restricted certified mail, return receipt requested, shall be construed as receipt of the notice. Such notice shall state that if no written claim for the property

is made upon filed with the seizing agency within thirty days after the mailing of from the date of receipt of the notice, the property shall be deemed abandoned and disposed of accordingly. In the event that there is more than one party who may assert a right to possession or ownership of the property, the The seizing agency shall not release the property to any party until the expiration of the date for filing claims unless all other claimants execute a written waiver. In the event that there is more than one claim filed for the return of property under this section, at the expiration of the period for filing claims the seizing agency or prosecuting attorney shall file a copy of all such claims with the clerk of court and the clerk shall proceed as if such claims were filed by the parties under section 809.3. In the event that no owner can be located or no claim is filed under this section for property having a value of less than five hundred dollars, the property shall be deemed abandoned and the seizing agency shall become the owner of such property and may dispose of it in any reasonable manner. For unclaimed property having a value equal to or greater than five hundred dollars, forfeiture proceedings shall be initiated pursuant to the provisions of chapter 809A. If the court does not order the property forfeited to the state in the forfeiture proceedings pursuant to chapter 809A, the seizing agency shall become the owner of the property and may dispose of it in any reasonable manner. Unclaimed firearms and ammunition, if not forfeited pursuant to chapter 809A, shall be disposed of by the department of public safety or the department of natural resources pursuant to section 809.21.

Approved April 26, 2007

CHAPTER 108

EDUCATIONAL STANDARDS — PRACTITIONERS AND STAFF AND STUDENT ACHIEVEMENT

S.F. 277

†AN ACT relating to the state's educational standards regarding teacher librarians and qualified guidance counselors, and to teacher and administrator quality, including the student achievement and teacher quality program and an administrator quality program, making appropriations, and providing an effective date.

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

- Section 1. Section 256.7, subsection 25, Code 2007, is amended to read as follows: 25. Adopt rules establishing standards for school district and area education agency <u>career professional</u> development programs and for individual teacher <u>career professional</u> development plans in accordance with section 284.6.
- Sec. 2. Section 256.7, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 27. Adopt by rule the Iowa standards for school administrators, including the knowledge and skill criteria developed by the director in accordance with section 256.9, subsection 55.
- Sec. 3. Section 256.9, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 55. Develop Iowa standards for school administrators, including knowledge and skill criteria, and develop, based on the Iowa standards for administrators, mentoring and induction, evaluation processes, and professional development plans pursuant

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

to chapter 284A. The criteria shall further define the characteristics of quality administrators as established by the Iowa standards for school administrators.

Sec. 4. Section 256.11, Code 2007, is amended by adding the following new subsections: NEW SUBSECTION. 9A. Beginning July 1, 2007, each school district shall have a qualified guidance counselor who shall be licensed by the board of educational examiners under chapter 272. Each school district shall work toward the goal of having one qualified guidance counselor for every three hundred fifty students enrolled in the school district. The state board shall establish in rule a definition of and standards for an articulated sequential kindergarten through grade twelve guidance and counseling program.

<u>NEW SUBSECTION</u>. 9B. Beginning July 1, 2007, each school district shall have a school nurse to provide health services to its students. Each school district shall work toward the goal of having one school nurse for every seven hundred fifty students enrolled in the school district. For purposes of this subsection, "school nurse" means a person who holds an endorsement or a statement of professional recognition for school nurses issued by the board of educational examiners under chapter 272.

Sec. 5. Section 256.11A, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

256.11A TEACHER LIBRARIAN — GUIDANCE COUNSELOR — SCHOOL NURSE — WAIVERS.

- 1. The board of directors of a school district may file a written request with the department of education that the department waive the following requirements adopted by the state board as follows:
- a. By August 1, 2007, for the school year beginning July 1, 2007, apply for a one-year extension of a waiver granted for the previous school year beginning July 1, 2006, that the school district have a qualified teacher librarian.
- b. By August 1, 2007, for the school year beginning July 1, 2007, that the school district have a qualified guidance counselor. The board of directors of the school district may, not later than August 1, 2008, for the school year beginning July 1, 2008, apply for a one-year extension of the waiver.
- c. By August 1, 2007, for the school year beginning July 1, 2007, that the school district have a school nurse. The board of directors of the school district may, not later than August 1, 2008, for the school year beginning July 1, 2008, apply for a one-year extension of the waiver.
- 2. A request for a waiver filed by the board of directors of a school district pursuant to subsection 1 shall describe actions being taken by the district to meet the requirement for which the district has requested a waiver. A school district cannot request a waiver of a requirement under subsection 1 if it met the requirements of section 256.11, subsection 9, 9A, or 9B, as applicable, in the previous school year.
- Sec. 6. Section 256.44, subsection 1, paragraph a, Code 2007, is amended to read as follows:
- a. If a teacher registers for national board for professional teaching standards certification prior to June 30 by December 31, 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. 7. Section 256.44, subsection 1, paragraph b, subparagraph (2), unnumbered paragraph 1, Code 2007, is amended to read as follows:

If the teacher registers for national board for professional teaching standards certification

between January 1, 1999, and January 1, 2006 December 31, 2007, and achieves certification within three years from the date of initial score notification the timelines and policies established by the national board for professional teaching standards, an annual award in the amount of two thousand five hundred dollars upon achieving certification by the national board of professional teaching standards.

Sec. 8. Section 257.31, subsection 5, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. m. The addition of one or more teacher librarians pursuant to section 256.11, subsection 9, one or more guidance counselors pursuant to section 256.11, subsection 9A, or one or more school nurses pursuant to section 256.11, subsection 9B.

- Sec. 9. Section 272.2, subsection 10, Code 2007, is amended to read as follows:
- 10. Issue statements of professional recognition to school service personnel <u>who have attained a minimum of a baccalaureate degree and</u> who are licensed by another professional licensing board.
- Sec. 10. Section 272.9A, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

272.9A ADMINISTRATOR LICENSES.

- 1. Beginning July 1, 2007, requirements for administrator licensure beyond an initial license shall include completion of a beginning administrator mentoring and induction program provided by the department pursuant to section 284A.2, subsection 2, as amended in this Act, ¹ and demonstration of competence on the administrator standards adopted pursuant to section 284A.3.
- 2. The board shall adopt rules for administrator licensure renewal that include credit for individual administrator professional development plans developed in accordance with section 284A.6.
- 3. An administrator formerly employed by an accredited nonpublic school or formerly employed as an administrator in another state or country is exempt from the mentoring and induction requirement under subsection 1 if the administrator can document two years of successful administrator experience and meet or exceed the requirements contained in rules adopted pursuant to this chapter for endorsement and licensure. However, if an administrator cannot document two years of successful administrator experience when hired by a school district, the administrator shall meet the requirements of subsection 1.
 - Sec. 11. Section 279.13, subsection 1, Code 2007, is amended to read as follows:
- 1. <u>a.</u> Contracts with teachers, which for the purpose of this section means all licensed employees of a school district and nurses employed by the board, excluding superintendents, assistant superintendents, principals, and assistant principals, shall be in writing and shall state the number of contract days, the annual compensation to be paid, and any other matters as may be mutually agreed upon. The contract may include employment for a term not exceeding the ensuing school year, except as otherwise authorized.
- b. Prior to entering into an initial contract with a teacher who holds a license other than an initial license issued by the board of educational examiners under chapter 272, the school district shall request the division of criminal investigation of the department of public safety to conduct a background investigation of the applicant. The school district shall require the teacher to submit a completed fingerprint packet, which shall be used to facilitate a national criminal history check. The school district shall submit the packet to the division of criminal investigation of the department of public safety which shall conduct a thorough background investigation of the teacher. The superintendent of a school district or the superintendent's designee 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 section 235A.14, and the central registry for dependent adult abuse information established under sec-

¹ The phrase "pursuant to section 284A.2," probably intended

 $\frac{tion\ 235B.5\ for\ information\ regarding\ applicants\ for\ employment\ as\ a\ teacher.\ The\ school\ district\ may\ charge\ the\ teacher\ a\ fee\ for\ the\ background\ investigation,\ which\ shall\ not\ exceed\ the\ fee\ charged\ by\ the\ division\ of\ criminal\ investigation\ for\ conducting\ the\ background\ investigation.^2$

- <u>c.</u> The contract is invalid if the teacher is under contract with another board of directors to teach during the same time period until a release from the other contract is achieved. The contract shall be signed by the president of the board, or by the superintendent if the board has adopted a policy authorizing the superintendent to sign teaching contracts, when tendered, and after it is signed by the teacher, the contract shall be filed with the secretary of the board before the teacher enters into performance under the contract.
 - Sec. 12. Section 284.1, subsection 4, Code 2007, is amended by striking the subsection.
 - Sec. 13. Section 284.2, subsection 9, Code 2007, is amended to read as follows:
- 9. "School board" means the board of directors of a school district, or a collaboration of boards of directors of school districts, or the board of directors of an area education agency, as the context requires.
 - Sec. 14. Section 284.2, subsection 11, Code 2007, is amended to read as follows:
- 11. "Teacher" means an individual holding who holds a practitioner's license issued under chapter 272, or a statement of professional recognition issued under chapter 272 who is employed in a nonadministrative position as a teacher, teacher librarian, 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. 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. 15. Section 284.3, subsection 2, paragraph b, Code 2007, is amended to read as follows:
- b. By July 1, 2005, for For purposes of performance reviews for teachers other than beginning teachers, evaluations that contain, at a minimum, the Iowa teaching standards specified in subsection 1, as well as the criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, subsection 50. A local school board and its certified bargaining representative may negotiate, pursuant to chapter 20, additional teaching standards and criteria. A local school board and its certified bargaining representative may shall negotiate, pursuant to chapter 20, evaluation and grievance procedures for teachers other than beginning teachers that are not in conflict with this chapter.
- Sec. 16. Section 284.4, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A school district <u>or area education agency</u> is eligible to receive moneys appropriated for purposes specified in this chapter if the school board³ applies to the department to participate in the student achievement and teacher quality program and submits a written statement declaring the school district's <u>or agency's</u> willingness to do all of the following:

- Sec. 17. Section 284.4, subsection 1, paragraph c, Code 2007, is amended by striking the paragraph and inserting in lieu thereof the following:
- c. Create a teacher quality committee. The committee shall have equal representation of administrators and teachers. The teacher members shall be appointed by the certified employee organization if one exists, and if not, by the school district's or agency's administration. The administrator members shall be appointed by the school board. However, if a school district can demonstrate that an existing professional development, curriculum, or student improve-

² See chapter 215, §102 herein

 $^{^3}$ The phrase "school board <u>or agency</u>" probably intended

ment committee has significant stakeholder involvement and a leadership role in the school district, the appointing authorities may mutually agree to assign to the existing committee the responsibilities set forth in this paragraph "c", to appoint members of the existing committee to the teacher quality committee, or to authorize the existing committee to serve in an advisory capacity to the teacher quality committee. The committee shall do all of the following:

- (1) Monitor the implementation of the requirements of statutes and administrative code provisions relating to this chapter, including requirements that affect any agreement negotiated pursuant to chapter 20.
- (2) Monitor the evaluation requirements of this chapter to ensure evaluations are conducted in a fair and consistent manner throughout the school district or agency. In addition to any negotiated evaluation procedures, develop model evidence for the Iowa teaching standards and criteria. The model evidence will minimize paperwork and focus on teacher improvement. The model evidence will determine which standards and criteria can be met with observation and which evidence meets multiple standards and criteria.
- (3) Determine, following the adoption of the Iowa professional development model by the state board of education, the use and distribution of the professional development funds distributed to the school district or agency as provided in section 284.13, subsection 1, paragraph "d", based upon school district or agency, attendance center, and individual teacher and professional development plans.
- (4) Monitor the professional development in each attendance center to ensure that the professional development meets school district or agency, attendance center, and individual professional development plans.
- (5) Ensure the agreement negotiated pursuant to chapter 20 determines the compensation for teachers on the committee for work responsibilities required beyond the normal work day.
- Sec. 18. Section 284.4, subsection 1, paragraphs d and e, Code 2007, are amended to read as follows:
- d. Adopt <u>school</u> district, <u>attendance center</u>, and teacher <u>career professional</u> development plans in accordance with this chapter.
- e. Adopt a teacher evaluation plan that, at minimum, requires a performance review of teachers in the district at least once every three years based upon the Iowa teaching standards and individual <u>career professional</u> development plans, and requires administrators to complete evaluator training in accordance with section 284.10.
- Sec. 19. Section 284.4, subsection 1, paragraph g, Code 2007, is amended by striking the paragraph.
- Sec. 20. Section 284.6, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The department shall coordinate a statewide network of <u>career professional</u> development for Iowa teachers. A school district or <u>career professional</u> development provider that offers a <u>career professional</u> development program in accordance with section 256.9, subsection 50, shall demonstrate that the program contains the following:

- Sec. 21. Section 284.6, subsection 1, paragraph a, Code 2007, is amended to read as follows:
- a. Support that meets the <u>career professional</u> development needs of individual teachers and is aligned with the Iowa teaching standards.
 - Sec. 22. Section 284.6, subsections 2 through 6, Code 2007, are amended to read as follows:
- 2. The department shall identify models of <u>career professional</u> development practices that produce evidence of the link between teacher training and improved student learning.
- 3. A school district shall incorporate a district <u>career professional</u> development plan into the district's comprehensive school improvement plan submitted to the department in accordance with section 256.7, subsection 21. The district <u>career professional</u> development plan shall in-

clude a description of the means by which the school district will provide access to all teachers in the district to <u>career professional</u> development programs or offerings that meet the requirements of subsection 1. The plan shall align all <u>career professional</u> 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 <u>career professional</u> development provider or providers.

- 4. In cooperation with the teacher's evaluator, the career teacher employed by a school district shall develop an individual teacher eareer professional development plan. The evaluator shall consult with the teacher's supervisor on the development of the individual teacher eareer professional development plan. The purpose of the plan is to promote individual and group eareer professional 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. The individual plan shall include goals for the individual which are beyond those required under the attendance center professional development plan developed pursuant to subsection 7.
- 5. The teacher's evaluator shall annually meet with the teacher to review progress in meeting the goals in the teacher's individual plan. The teacher shall present to the evaluator evidence of progress. The purpose of the meeting shall be to review the teacher's progress in meeting career professional development goals in the plan and to review collaborative work with other staff on student achievement goals and to modify as necessary the teacher's individual plan to reflect the individual teacher's and the school district's needs and the individual's progress in meeting the goals in the plan. The teacher's supervisor and the evaluator shall review, modify, or accept modifications made to the teacher's individual plan.
- 6. School districts, a consortium of school districts, area education agencies, higher education institutions, and other public or private entities including professional associations may be approved by the state board to provide teacher <u>career professional</u> development. The <u>career professional</u> development program or offering shall, at minimum, meet the requirements of subsection 1. The state board shall adopt rules for the approval of <u>career professional</u> development providers and standards for the district <u>career</u> development plan.
- Sec. 23. Section 284.6, Code 2007, is amended by adding the following new subsections: NEW SUBSECTION. 7. Each attendance center shall develop an attendance center professional development plan. The purpose of the plan is to promote group professional development. The attendance center plan shall be based, at a minimum, on the needs of the teachers, the Iowa teaching standards, district professional development plans, and the student achievement goals of the attendance center and the school district as set forth in the comprehensive school improvement plan.

<u>NEW SUBSECTION</u>. 8. For each year in which a school district receives funds allocated for distribution to school districts for professional development pursuant to section 284.13, subsection 1, paragraph "d", the school district shall create quality professional development opportunities. The goal for the use of the funds is to provide one additional contract day or the equivalent thereof for professional development and use of the funds is limited to providing professional development to teachers, including additional salaries for time beyond the normal negotiated agreement; pay for substitute teachers, professional development materials, speakers, and professional development content; and costs associated with implementing the individual professional development plans. The use of the funds shall be balanced between school district, attendance center, and individual professional development plans, making every reasonable effort to provide equal access to all teachers.

<u>NEW SUBSECTION.</u> 9. The distribution of funds allocated for professional development pursuant to section 284.13, subsection 1, paragraph "d", 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 pursuant to section 284.13, subsection 1, paragraph "d", shall not be commingled with state aid payments made under section 257.16 to a school district, shall be accounted for by the local school

district separately from state aid payments, and are miscellaneous income for purposes of chapter 257. A school district shall maintain a separate listing within its budget for funds received and expenditures made pursuant to this subsection. A school district shall certify to the department of education how the school district allocated the funds and that moneys received under this subsection were used to supplement, not supplant, the professional development opportunities the school district would otherwise make available.

<u>NEW SUBSECTION</u>. 10. If funds are allocated for purposes of professional development pursuant to section 284.13, subsection 1, paragraph "e", the department shall, in collaboration with the area education agencies, establish teacher development academies for school-based teams of teachers and instructional leaders. Each academy shall include an institute and shall provide follow-up training and coaching.

- Sec. 24. Section 284.7, subsection 1, paragraph a, subparagraph (2), Code 2007, is amended to read as follows:
- (2) Beginning July 1, 2006 2007, the minimum salary for a beginning teacher shall be twenty-five twenty-six thousand five hundred dollars.
- Sec. 25. Section 284.7, subsection 1, paragraph b, subparagraph (1), subparagraph subdivision (d), Code 2007, is amended to read as follows:
- (d) Participates in teacher <u>career professional</u> development as set forth in this chapter and demonstrates continuous improvement in teaching.
- Sec. 26. Section 284.7, subsection 1, paragraph b, subparagraph (2), Code 2007, is amended to read as follows:
- (2) Beginning July 1, 2006 2007, the minimum salary for a first-year career teacher shall be twenty-six twenty-seven thousand five hundred dollars and the minimum salary for all other career teachers shall be twenty-seven twenty-eight thousand five hundred dollars.
- Sec. 27. Section 284.7, subsection 2, paragraph b, subparagraph (1), subparagraph subdivision (c), Code 2007, is amended to read as follows:
- (c) Participates in teacher <u>career professional</u> development as outlined in this chapter and demonstrates continuous improvement in teaching.
 - Sec. 28. Section 284.7, subsection 4, Code 2007, is amended by striking the subsection.
- Sec. 29. Section 284.7, subsection 6, paragraphs a and b, Code 2007, 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 "h" or "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 "h" or "i", by July September 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 "h" or "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. 30. Section 284.7, subsection 6, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH.</u> d. For the school year beginning July 1, 2008, and each succeeding school year, if the licensed employees of a school district or area education agency receiving funds pursuant to section 284.13, subsection 1, paragraph "h" or "i", for purposes of this section, are organized under chapter 20 for collective bargaining purposes, the school board and the certified bargaining representative for the licensed employees shall negotiate a formula for distributing the funds among the teachers employed by the school district or area education agency according to chapter 20. Paragraphs "a" and "b" shall apply to any increases in the funds provided above the base year.

- Sec. 31. Section 284.8, subsections 1 and 2, Code 2007, are amended to read as follows:
- 1. A 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, class-room observation of the teacher, the teacher's progress, and implementation of the teacher's individual career professional development plan, subject to the level of funding provided to implement the plan; and shall include supporting documentation from other evaluators, teachers, parents, and students; and may include video portfolios as evidence of teaching practices.
- 2. If a supervisor or an evaluator determines, at any time, as a result of a teacher's performance that the teacher is not meeting district expectations under the Iowa teaching standards specified in section 284.3, subsection 1, paragraphs "a" through "g" "h", the criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, subsection 50, and any other standards or criteria established in the collective bargaining agreement, the evaluator shall, at the direction of the teacher's supervisor, recommend to the district that the teacher participate in an intensive assistance program. The intensive assistance program and its implementation are not subject to negotiation or and grievance procedures established pursuant to chapter 20. By July 1, 2005, all All school districts must shall be prepared to offer an intensive assistance program.
- Sec. 32. Section 284.8, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 4. A teacher who is not meeting the applicable standards and criteria based on a determination made pursuant to subsection 3⁴ shall participate in an intensive assistance program.
 - Sec. 33. Section 284.11, Code 2007, is amended to read as follows: 284.11 MARKET FACTOR TEACHER SALARIES INCENTIVES.
- 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 incentive paid by the school districts.
 - 2. A school district shall be paid annually, from moneys allocated for market factor salaries

⁴ See chapter 215, §253 herein

incentives 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, educational opportunities and support, moving expenses, and housing expenses for the recruitment and retention needs of the school district in such areas as hard-to-staff schools, and subject-area shortages, or improving the racial or ethnic diversity on local teaching staffs. funding to prepare a teacher to attain a license or endorsement in a shortage area, or funds to support educational support personnel in pursuing a license in a shortage area. 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. The teacher quality committee established pursuant to section 284.4, subsection 1, paragraph "c", shall make recommendations to the school board and the certified bargaining representative regarding the expenditures of market factor incentives.

- 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 how the 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 incentives when reporting teacher salaries in the annual condition of education report on the use of funds allocated for purposes of this section. The department shall review the use and effectiveness of the use of funds allocated for purposes of this section and shall submit its findings and recommendations in a report to the general assembly by January 15, 2008. It is the intent of the general assembly to reevaluate the fiscal year allocations made pursuant to section 284.13, subsection 1, paragraph "f", subparagraphs (2) and (3), based upon this report.
- Sec. 34. Section 284.12, subsection 1, paragraph c, Code 2007, is amended by striking the paragraph.
 - Sec. 35. Section 284.12, subsection 3, Code 2007, is amended by striking the subsection.
- Sec. 36. Section 284.13, subsection 1, paragraph a, Code 2007, is amended to read as follows:
- a. For each fiscal year of the fiscal period beginning July 1, 2006 2007, and ending June 30, 2009, to the department of education, the amount of two one million two hundred fifty eighty-seven thousand five hundred dollars for the issuance of national board certification awards in accordance with section 256.44.
- (1) Of the amount allocated under this paragraph "a", 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.
- (2) Of the amount allocated under this paragraph "a", for the fiscal year beginning July 1, 2007, and ending June 30, 2008, not less than one million dollars shall be used to supplement the allocation of funds for market factor teacher incentives made pursuant to paragraph "f", subparagraph (1).

- Sec. 37. Section 284.13, subsection 1, paragraphs c and d, Code 2007, are amended to read as follows:
- c. For each fiscal year of the fiscal period beginning July 1, 2006 2007, and ending June 30, 2009, up to six hundred ninety-five thousand dollars to the department of education for purposes of implementing the career professional development program requirements of section 284.6, the review panel requirements of section 284.9 assistance in developing model evidence for teacher quality committees established pursuant to section 284.4, subsection 1, paragraph "c", and the evaluator training program in section 284.10. A portion of the funds allocated to the department for purposes of this paragraph may be used by the department for administrative purposes and for not more than four full-time equivalent positions.
- d. For the fiscal year beginning July 1, 2006 2007, and ending June 30, 2007 2008, up to ten twenty million dollars to the department of education for use by school districts to add one additional teacher contract day to the school calendar for professional development as provided in section 284.6. 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, 2005 2006, multiplied by the total number of fulltime 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, 2006 2007. 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, general assembly and the legislative services agency not later than January 15, 2007 of the fiscal year for which moneys are allocated for purposes of this paragraph.⁵
- Sec. 38. Section 284.13, subsection 1, paragraph e, Code 2007, is amended by striking the paragraph and inserting in lieu thereof the following:
- e. For the fiscal year beginning July 1, 2007, and ending June 30, 2008, an amount up to one million eight hundred forty-five thousand dollars to the department for the establishment of teacher development academies in accordance with section 284.6, subsection 10. A portion of the funds allocated to the department for purposes of this paragraph may be used for administrative purposes.
- Sec. 39. Section 284.13, subsection 1, paragraph f, unnumbered paragraph 1, Code 2007, is amended to read as follows:

For purposes of market factor teacher salaries incentives pursuant to section 284.11, the following amounts are allocated to the department for the following fiscal years:

- Sec. 40. Section 284.13, subsection 1, paragraph f, subparagraphs (1), (2), and (3), Code 2007, are amended to read as follows:
- (1) (a) For the each fiscal year of the fiscal period beginning July 1, 2006, and ending June 30, 2007 2008, the sum of three million three hundred ninety thousand dollars.
- (b) Of the amount allocated under subparagraph subdivision (a), for the fiscal year beginning July 1, 2007, and ending June 30, 2008, not less than one million dollars shall be used by the department to assist school districts to recruit, employ, and retain qualified teacher librarians, guidance counselors, and school nurses and to meet the goals established in section 256.11, subsections 9A and 9B. To be eligible for assistance, a school district shall submit an application to the department by September 1, 2007. The department shall distribute assis-

⁵ See chapter 215, §103 herein

tance under this subparagraph subdivision by November 1, 2007. Moneys received by a school district pursuant to this subparagraph subdivision shall be used only to comply with section 256.11, subsection 9, 9A, or 9B.

- (2) For the fiscal year beginning July 1, 2007 2008, and ending June 30, 2008 2009, the sum of seven million five hundred thousand dollars.
- (3) For the fiscal year beginning July 1, 2008 2009, and ending June 30, 2009 2010, the sum of ten six million six hundred ten thousand dollars.
- Sec. 41. Section 284.13, subsection 1, paragraph g, unnumbered paragraph 1, Code 2007, is amended to read as follows:

For purposes of the pay-for-performance program and career ladder pilots established pursuant to section 284.14 sections 284.14 and 284.14A, the following amounts are allocated to the department of management education for the following fiscal years:

- Sec. 42. Section 284.13, subsection 1, paragraph g, subparagraphs (2) and (3), Code 2007, are amended to read as follows:
- (2) For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the sum of two one million five hundred thousand dollars. From the amount allocated under this subparagraph, an amount up to ten thousand dollars shall be used for purposes of the pay-for-performance commission's expenses, an amount up to one hundred thousand dollars shall be used by the department for oversight and administration of the planning pilots as provided in sections 284.14 and 284.14A, and an amount up to two hundred thousand dollars shall be used for the employment of an external evaluator.
- (3) For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of five two million five hundred thousand dollars. From the amount allocated for the fiscal year under this subparagraph, an amount up to ten thousand dollars shall be used for purposes of the payfor-performance commission's expenses, an amount up to one hundred thousand dollars shall be used by the department for oversight and administration of the implementation pilots as provided in sections 284.14 and 284.14A, and an amount up to two hundred thousand dollars shall be used for the employment of an external evaluator.
- Sec. 43. Section 284.13, subsection 1, paragraph h, unnumbered paragraph 1, Code 2007, 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 "g" shall be allocated to school districts for salaries and career development in accordance with the following formula:

- Sec. 44. Section 284.13, subsection 1, paragraph i, Code 2007, is amended to read as follows:
- 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".
- Sec. 45. Section 284.13, subsection 1, paragraph j, Code 2007, is amended to read as follows:
- j. Notwithstanding section 8.33, any moneys remaining unencumbered or unobligated from the moneys allocated for purposes of paragraph "a", "b", or "c", or "g" 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. 46. Section 284.14, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 0A. INTENT. The intent of this section is to create a process by which

select Iowa school districts research, develop, and implement projects designed to identify promising practices related to enhanced teacher compensation career ladders and performance pay models.

- Sec. 47. Section 284.14, subsections 1, 2, and 3, Code 2007, are amended to read as follows:
 1. COMMISSION. A pay-for-performance commission is established to design and implement a pay-for-performance program pilot project 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.
- 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 planning pilots, in selected kindergarten through grade twelve schools, to test the effectiveness of the pay-for-performance program. The purpose of the demonstration projects planning pilots is to identify the strengths and weaknesses of the various pay-for-performance program design, evaluate cost effectiveness, analyze student achievement gains needs, select formative and summative student achievement measures that align to identify needs, consider necessary supports related to the student achievement goals in the school district's comprehensive school improvement plan, test assessments review assessment needs, identify mechanisms to account for existing teacher contract provisions within the proposed career ladder salary increments, allow thorough review of data, and make necessary adjustments before implementing proposing implementation of the pay-for-performance program statewide.
- b. The <u>Commencing with the school year beginning July 1, 2007, the commission shall select ten two</u> school districts as demonstration projects <u>planning pilots</u>. 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 administer two implementation pilots in the school districts as demonstration projects selected for planning pilots under paragraph "b".
- 3. REPORTS AND FINAL STUDY. Based on the information generated by the demonstration projects planning and implementation pilots, the commission shall prepare an interim report by January 15 14, 2007 2008, 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 planning and implementation pilots. 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 general assembly.
 - Sec. 48. Section 284.14, subsection 4, Code 2007, is amended by striking the subsection.
 - Sec. 49. NEW SECTION. 284.14A CAREER LADDER PILOTS.
- 1. INTENT. The intent of this section is to create a process by which select Iowa school districts research, develop, and implement pilots designed to identify promising practices related to enhanced teacher compensation career ladder models.
 - 2. PILOT ESTABLISHED. A career ladder pilot is established to be designed, implemented,

and administered by the department. The department shall gather sufficient information to identify a career ladder pilot.

- a. For the school year beginning July 1, 2007, and ending June 30, 2008, the department shall select up to eight school districts as planning pilots. Participants shall provide reports or other information as required by the department.
- b. For the school year beginning July 1, 2008, and ending June 30, 2009, the department shall administer up to eight implementation pilots in the school districts selected for planning pilots under paragraph "a".
- 3. INTERIM AND FINAL REPORTS. Based on the information generated by the planning and implementation pilots, the department shall submit an interim report to the general assembly by January 14 annually, and shall submit a final report summarizing the effectiveness of the pilots in raising student achievement levels to the general assembly no later than six months after the completion of the planning and implementation pilots. *Upon completion of the career ladder planning and implementation pilots, subject to the sufficiency of funds, the state board of education shall adopt rules requiring implementation of the successful components of the pilots by school districts statewide.*
- Sec. 50. Section 284A.1, Code 2007, is amended by adding the following new subsections: NEW SUBSECTION. 2A. "Comprehensive evaluation" means a summative evaluation of a beginning administrator conducted by an evaluator in accordance with section 284A.3 for purposes of determining a beginning administrator's level of competency for recommendation for licensure based on the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27.

<u>NEW SUBSECTION</u>. 3A. "Director" means the director of the department of education. <u>NEW SUBSECTION</u>. 3B. "Evaluation" means a summative evaluation of an administrator used to determine whether the administrator's practice meets school district expectations and the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27.

- Sec. 51. Section 284A.2, subsection 3, Code 2007, is amended to read as follows:
- 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 to support the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27, and beginning administrators' professional and personal needs. 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, describe 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.
- Sec. 52. Section 284A.2, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 3A. A beginning administrator shall be informed by the school district or the area education agency, prior to the beginning administrator's participation in a mentoring and induction program, of the criteria upon which the administrator will be evaluated and of the evaluation process utilized by the school district or area education agency.
 - Sec. 53. Section 284A.2, subsection 4, Code 2007, is amended to read as follows:
- 4. By the end of a beginning administrator's second <u>first</u> year of employment, the beginning administrator may be comprehensively evaluated at the discretion of the school board to determine if the administrator meets expectations to move to a standard administrator license. The school district or area education agency that employs a beginning administrator shall recom-

^{*} Item veto; see message at end of the Act

mend the beginning administrator for a standard license if the beginning administrator is determined through a comprehensive evaluation to demonstrate competence in the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27. A school district or area education agency may allow a beginning administrator a second year to demonstrate competence in the Iowa standards for school administrators if, after conducting a comprehensive evaluation, the school district or area education agency determines that the administrator is likely to successfully demonstrate competence in the Iowa standards for school administrators by the end of the second year. Upon notification by the school district or area education agency, the board of educational examiners shall grant a beginning administrator who has been allowed a second year to demonstrate competence a one-year extension of the beginning administrator's initial license. An administrator granted a second year to demonstrate competence shall undergo a comprehensive evaluation at the end of the second year.

Sec. 54. NEW SECTION. 284A.1 ADMINISTRATOR QUALITY PROGRAM.

An administrator quality program is established to promote high student achievement and enhanced educator quality. The program shall consist of the following three major components:

- 1. Mentoring and induction programs that provide support for administrators in accordance with section 284A.2, as amended in this Act.
 - 2. Professional development designed to directly support best practices for leadership.
 - 3. Evaluation of administrators against the Iowa standards for school administrators.

Sec. 55. <u>NEW SECTION</u>. 284A.3 IOWA STANDARDS FOR SCHOOL ADMINISTRATORS EVALUATIONS.

By July 1, 2008, each school board shall provide for evaluations for administrators under individual professional development plans developed in accordance with section 279.23A, and the Iowa standards for school administrators and related criteria adopted by the state board in accordance with section 256.7, subsection 27. A local school board may establish additional administrator standards and related criteria.

Sec. 56. NEW SECTION. 284A.4 PARTICIPATION.

Effective July 1, 2007, each school district shall participate in the administrator quality program, and the board of directors of each school district shall do all of the following:

- 1. Implement a beginning administrator mentoring and induction program as provided in this chapter.
- 2. Adopt individual administrator professional development plans in accordance with this chapter.
- 3. Adopt an administrator evaluation plan that, at a minimum, requires an evaluation of administrators in the school district annually pursuant to section 279.23A and based upon the Iowa standards for school administrators and individual administrator professional development plans.

Sec. 57. <u>NEW SECTION</u>. 284A.6 ADMINISTRATOR PROFESSIONAL DEVELOPMENT.

1. Each school district shall be responsible for the provision of professional growth programming for individuals employed in a school district administrative position by the school district or area education agency as deemed appropriate by the board of directors of the school district or area education agency. School districts may collaborate with other educational stakeholders including other school districts, area education agencies, professional organizations, higher education institutions, and private providers, regarding the provision of professional development for school district administrators. Professional development programming for school district administrators may include support that meets the professional development needs of individual administrators aligned to the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27, and meets individual administrator professional development plans.

- 2. In cooperation with the administrator's evaluator, the administrator who has a standard administrator's license issued by the board of educational examiners pursuant to chapter 272 and is employed by a school district or area education agency in a school district administrative position, shall develop an individual administrator professional development plan. The purpose of the plan is to promote individual and group professional development. The individual plan shall be based, at a minimum, on the needs of the administrator, the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27, and the student achievement goals of the attendance center and the school district as outlined in the comprehensive school improvement plan.
- 3. The administrator's evaluator shall meet annually as provided in section 279.23A with the administrator to review progress in meeting the goals in the administrator's individual plan. The purpose of the meeting shall be to review collaborative work with other staff on student achievement goals and to modify as necessary the administrator's individual plan to reflect the individual administrator's and the school district's needs and the individual's progress in meeting the goals in the plan. The administrator shall present to the evaluator evidence of progress. The administrator's supervisor and the evaluator shall review and the supervisor may modify the administrator's individual plan.

Sec. 58. <u>NEW SECTION</u>. 284A.7 EVALUATION REQUIREMENTS FOR ADMINISTRATORS.

A school district shall conduct an evaluation of an administrator who holds a standard license issued under chapter 272 at least once every three years for purposes of assisting the administrator in making continuous improvement, documenting continued competence in the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27, or to determine whether the administrator's practice meets school district expectations. The review shall include, at a minimum, an assessment of the administrator's competence in meeting the Iowa standards for school administrators and the goals of the administrator's individual professional development plan, including supporting documentation or artifacts aligned to the Iowa standards for school administrators and the individual administrator's professional development plan.

Sec. 59. 2006 Iowa Acts, chapter 1182, section 1, unnumbered paragraph 2, is amended to read as follows:

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
	173,943,894
FY 2008-2009	174,343,894
	<u>248,943,894</u>

- Sec. 60. Section 284A.1, Code 2007, is transferred to section 284A.2.
- Sec. 61. Section 284A.2, Code 2007, is transferred to section 284A.5.
- Sec. 62. Section 284A.3, Code 2007, is transferred to section 284A.8.
- Sec. 63. CODE EDITOR DIRECTIVE. The Code editor is directed to correct internal references in the Code as necessary due to enactment of the sections of this Act that relocate sections 284A.1, 284A.2, and 284A.3.
- Sec. 64. EFFECTIVE DATE. The section of this Act amending section 284.13, subsection 1, paragraph "j", relating to the nonreversion of funds, being deemed of immediate importance, takes effect upon enactment.
- Sec. 65. 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 and moneys appropriated in this Act. 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.

Approved April 26, 2007, with exception noted.

CHESTER J. CULVER, Governor

Dear President Kibbie:

I hereby transmit Senate File 277, an Act relating to the state's educational standards regarding teacher librarians and qualified guidance counselors, and to teacher and administrator quality, including the student achievement and teacher quality program and an administrator quality program, making appropriations, and providing an effective date.

I am unable to approve the designated portion of Section 49, subsection 3. The designated portion of this subsection requires that the state board of education shall adopt rules requiring implementation of the successful components of the pilots by school districts statewide upon completion of the career ladder planning and implementation pilots, subject to the sufficiency of funds. I am unable to approve this designated portion because I do not believe these pilot projects should automatically be mandated statewide.

The bill calls for 10 pilot projects, which I support. Eight of these projects are centered on implementing the last two parts of the career ladder system. We have already put the first two parts of this ladder into place and need to take a close look at whether implementing the rest of this system will result in improved student achievement and will help to recruit and retain the best and brightest teachers. The other two projects are to test pay-for-performance compensation methods. While I generally do not agree that pay-for-performance is the right method to improve our education system, I think it is important to test this out at the local level before we make a final decision.

While I support these pilot projects, I do not support that they be mandated statewide at the end of them. The goal of the projects is to allow us to better assess whether these methods are the right ones for this state to improve education for our students. Another goal of the projects is to allow us to assess whether these methods will attract more people to the teaching profession and make sure they want to work in Iowa. We cannot make that determination now, prior to beginning the projects, and it would be irresponsible to mandate that as a part of this bill. I look forward to working with the Legislature and other education partners throughout the state to take a close look at the models developed in these projects and make a determination about statewide implementation upon their completion.

For the above reasons, I respectfully disapprove this item in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in Senate File 277 are hereby approved as of this date.

Sincerely, CHESTER J. CULVER, Governor

COUNTY GENERAL OBLIGATION BONDING

S.F. 339

AN ACT relating to county general obligation bonds by modifying the definition of essential county purpose and by changing the requirements under which a county may issue general county purpose bonds without an election.

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

- Section 1. Section 331.441, subsection 2, paragraph b, subparagraph (5), subparagraph subdivisions (a) through (e), Code 2007, are amended to read as follows:
- (a) Four <u>Six</u> hundred thousand dollars in a county having a population of twenty-five thousand or less.
- (b) Five Seven hundred <u>fifty</u> thousand dollars in a county having a population of more than twenty-five thousand but not more than fifty thousand.
- (c) Six Nine hundred thousand dollars in a county having a population of more than fifty thousand but not more than one hundred thousand.
- (d) <u>Eight One million two</u> hundred thousand dollars in a county having a population of more than one hundred thousand but not more than two hundred thousand.
- (e) One million <u>five hundred thousand</u> dollars in a county having a population of more than two hundred thousand.
- Sec. 2. Section 331.441, subsection 2, paragraph b, Code 2007, is amended by adding the following new subparagraph:

<u>NEW SUBPARAGRAPH</u>. (16) Capital projects for the construction, reconstruction, improvement, repair, or equipping of bridges, roads, and culverts if such capital projects assist in economic development which creates jobs and wealth.

- Sec. 3. Section 331.442, subsection 5, paragraph a, subparagraphs (1) through (3), Code 2007, are amended to read as follows:
- (1) In counties having a population of twenty thousand or less, in an amount of not more than fifty one hundred thousand dollars.
- (2) In counties having a population of over twenty thousand and not over fifty thousand, in an amount of not more than one two hundred thousand dollars.
- (3) In counties having a population of over fifty thousand, in an amount of not more than one three hundred fifty thousand dollars.

Approved April 26, 2007

LIMITATIONS OF CIVIL RIGHTS CLAIMS AND CIVIL LAWSUITS — MINORS, MENTALLY ILL PERSONS, AND STATE AND LOCAL GOVERNMENT

S.F. 384

ANACT relating to statute of limitations provisions relating to minors and persons with mental illness and tort claims against a municipality and providing an applicability date.

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

- Section 1. Section 216.15, subsection 12, Code 2007, is amended to read as follows:
- 12. A Except as provided in section 614.8, a claim under this chapter shall not be maintained unless a complaint is filed with the commission within one hundred eighty days after the alleged discriminatory or unfair practice occurred.
 - Sec. 2. Section 614.8, Code 2007, is amended to read as follows: 614.8 MINORS AND PERSONS WITH MENTAL ILLNESS.
- 1. The times limited for actions in this chapter, <u>or chapter 216, 669, or 670,</u> except those brought for penalties and forfeitures, are extended in favor of persons with mental illness, so that they shall have one year from and after the termination of the disability within which to <u>file a complaint pursuant to chapter 216, to make a claim pursuant to chapter 669, or to otherwise commence an action.</u>
- 2. Except as provided in section 614.1, subsection 9, the times limited for actions in this chapter, or chapter 216, 669, or 670, except those brought for penalties and forfeitures, are extended in favor of minors, so that they shall have one year from and after attainment of majority within which to file a complaint pursuant to chapter 216, to make a claim pursuant to chapter 669, or to otherwise commence an action.
 - Sec. 3. Section 668.10, Code 2007, is amended to read as follows: 668.10 GOVERNMENTAL EXEMPTIONS.
- 1. In any action brought pursuant to this chapter, the state or a municipality shall not be assigned a percentage of fault for any of the following:
- 1. a. The failure to place, erect, or install a stop sign, traffic control device, or other regulatory sign as defined in the uniform manual for traffic control devices adopted pursuant to section 321.252. However, once a regulatory device has been placed, created, or installed, the state or municipality may be assigned a percentage of fault for its failure to maintain the device.
- 2. <u>b.</u> The failure to remove natural or unnatural accumulations of snow or ice, or to place sand, salt, or other abrasive material on a highway, road, or street if the state or municipality establishes that it has complied with its policy or level of service for snow and ice removal or placing sand, salt, or other abrasive material on its highways, roads, or streets.
- 3. 2. For In any action brought pursuant to this chapter, the state shall not be assigned a percentage of fault for contribution unless the party claiming contribution has given the state or municipality notice of the claim pursuant to sections section 669.13 and 670.5.
 - Sec. 4. Section 669.13, subsection 1, Code 2007, is amended to read as follows:
- 1. A Except as provided in section 614.8, a claim or suit otherwise permitted under this chapter shall be forever barred, unless within two years after the claim accrued, the claim is made in writing and filed with the 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 attorney general as to the final disposition of the claim or from the date of withdrawal of the claim under section 669.5, if the time to begin suit would otherwise expire before the end of the period.

Sec. 5. Section 670.5, Code 2007, is amended to read as follows: 670.5 LIMITATION OF ACTIONS.

Every Except as provided in section 614.8, a person who claims damages from any municipality or any officer, employee or agent of a municipality for or on account of any wrongful death, loss, or injury within the scope of section 670.2 or section 670.8 or under common law shall commence an action therefor within six months, unless said person shall cause to be presented to the governing body of the municipality within sixty days after the alleged wrongful death, loss or injury a written notice stating the time, place, and circumstances thereof and the amount of compensation or other relief demanded two years after the alleged wrongful death, loss, or injury. Failure to state time or place or circumstances or the amount of compensation or other relief demanded shall not invalidate the notice; providing, the claimant shall furnish full information within fifteen days after demand by the municipality. No action therefor shall be maintained unless such notice has been given and unless the action is commenced within two years after such notice. The time for giving such notice shall include a reasonable length of time, not to exceed ninety days, during which the person injured is incapacitated by the injury from giving such notice.

Sec. 6. APPLICABILITY. This Act applies to all complaints, claims, and actions arising out of an alleged death, loss, or injury occurring on or after July 1, 2007.

Approved April 26, 2007

CHAPTER 111

KILLING TAGGED DOGS S.F. 406

AN ACT relating to dogs, including the right to kill a tagged dog.

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

Section 1. Section 351.27, Code 2007, is amended to read as follows: 351.27 RIGHT TO KILL TAGGED DOG.

It shall be lawful for any person to kill a dog, wearing a collar with a rabies vaccination tag attached, when the dog is caught in the act of worrying, chasing, maining, or killing any domestic animal or fowl, or when such dog is attacking or attempting to bite a person.

Approved April 26, 2007

CITY ELECTIONS — COUNCIL VACANCIES AND SATELLITE ABSENTEE VOTING $S.F.\ 416$

AN ACT relating to city elections by providing procedures for filling a city council vacancy by special election and by providing satellite absentee voting at certain city elections.

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

Section 1. Section 53.11, subsection 1, Code 2007, is amended to read as follows:

1. Satellite absentee voting stations may be established throughout the cities and county at the direction of the commissioner and shall be established upon receipt of a petition signed by not less than one hundred eligible electors requesting that a satellite absentee voting station be established at a location to be described on the petition. However, if a special election is scheduled in the county on a date that falls between the date of the regular city election and the date of the city runoff election, the commissioner is not required to establish a satellite absentee voting station for the city runoff election.

<u>PARAGRAPH DIVIDED</u>. A satellite absentee voting station established by petition must be open at least one day for a minimum of six hours. A satellite absentee voting station established at the direction of the commissioner or by petition may remain open until five p.m. on the day before the election.

- Sec. 2. Section 53.11, subsection 2, paragraph b, Code 2007, is amended to read as follows: b. For the regular city election or a city primary election, no later than five p.m. on the thirtieth day before the election.
- Sec. 3. Section 53.11, subsection 2, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. bb. For a city runoff election, no later than five p.m. on the twenty-first day before the election.

Sec. 4. Section 372.13, subsection 2, paragraph b, unnumbered paragraph 1, Code 2007, is amended to read as follows:

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. The council shall give the county commissioner at least 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 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. However, a nomination petition must be filed not less than twenty-five days before the date of the special election and, where a primary election may be required, a nomination petition must be filed not less than fifty-two days before the date of the special election.

UNIFORM COST REPORTING FOR MENTAL HEALTH OR RETARDATION, DEVELOPMENTAL DISABILITY, AND MEDICAID SERVICES

H.F. 309

†AN ACT requiring development of a uniform cost report for certain services reimbursed through the department of human services and counties.

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

Section 1. UNIFORM COST REPORT.

- 1. The department of human services shall establish a work group with county and provider representatives to develop a proposed uniform cost report for use with all providers of goods and services that are reimbursed under the Medicaid program or a county mental health, mental retardation, and developmental disabilities services fund under section 331.424A. Representatives of the department shall include staff who work with the Medicaid enterprise and staff who work with the adult mental health, mental retardation, and developmental disabilities services system. The county representatives shall include staff from counties participating in the county rate information system and from counties that do not participate in the system. The county representatives shall be designated by the Iowa state association of counties. The provider representatives shall be designated by the Iowa association of community providers.
- 2. The work group shall resolve any barriers to implementing a uniform cost report posed by different funding streams, reporting periods, definitions of allowable costs and cost limitations, cost classifications, and other differences.
- 3. The work group shall report to the department and the mental health, mental retardation, developmental disabilities, and brain injury commission with a uniform cost report proposal and accompanying requirements on or before December 1, 2007. The department and the commission shall utilize the proposal in adopting rules as necessary to implement a uniform cost report requirement for use with providers of goods and services that are reimbursed under the Medicaid program or a county mental health, mental retardation, and developmental disabilities services fund under section 331.424A. The rules shall provide for the uniform cost report requirement to apply beginning on or before July 1, 2008.
- Sec. 2. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Approved April 26, 2007

CHAPTER 114

DEBTORS' EXEMPT PERSONAL INJURY PAYMENTS

H.F. 744

AN ACT relating to a debtor's exempt personal injury payments 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, subsection 15, Code 2007, is amended to read as follows: 15. The debtor's interest in payments reasonably necessary for the support of the debtor or

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

the debtor's dependents to or for the benefit of the debtor or the debtor's dependents, including structured settlements, resulting from personal injury to the debtor or the debtor's dependents or the wrongful death of a decedent upon which the debtor or the debtor's dependents were dependent.

Approved April 26, 2007

CHAPTER 115

DEPARTMENT OF ADMINISTRATIVE SERVICES — MISCELLANEOUS CHANGES

H.F. 849

AN ACT concerning the department of administrative services and including an effective date provision.

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

- Section 1. Section 2.47A, subsection 1, paragraph c, Code 2007, is amended to read as follows:
- c. Receive annual status reports for all ongoing capital projects of state agencies, pursuant to section 8A.321, subsection 11.
 - Sec. 2. Section 7A.3, subsection 1, Code 2007, is amended by striking the subsection.
 - Sec. 3. Section 8A.122, subsection 1, Code 2007, is amended to read as follows:
- 1. The director shall enter into agreements with state agencies, and may enter into agreements with any other governmental entity or a nonprofit organization, to furnish services and facilities of the department to the applicable governmental entity or nonprofit organization. The agreement shall provide for the reimbursement to the department of the reasonable cost of the services and facilities furnished. All governmental entities of this state may enter into such agreements. For purposes of this subsection, "nonprofit organization" means a nonprofit entity which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which is funded in whole or in part by public funds.
- Sec. 4. Section 8A.204, subsection 2, paragraph c, Code 2007, is amended by striking the paragraph.
- Sec. 5. Section 8A.204, subsection 2, paragraph d, Code 2007, is amended to read as follows:
- d. The technology governance board annually shall elect a <u>chair and a</u> vice chair from among the members of the board, by majority vote, to serve a one-year term terms.
- Sec. 6. Section 8A.311, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 21. a. The state, through the department, shall give a preference to purchasing equipment, supplies, or services from or awarding public improvement contracts pursuant to subsection 11 to an Iowa-based business as provided under paragraph "b", as appropriate, if the bid submitted is comparable in price to those submitted by other bidders and meets the required specifications. However, before giving the preference, the department shall confirm with the Iowa employer support of the guard and reserve committee that the requirements of paragraph "b" have been met by the Iowa-based business.

- b. To receive a preference as provided by this subsection, the Iowa-based business employer shall have adopted policies beyond those otherwise required by law to support employees who are officers or enlisted persons in the national guard and organized reserves of the armed forces of the United States consistent with standards adopted by the Iowa employer support of the guard and reserve committee. To be eligible for such preference, an employer shall submit to the committee a copy of the applicable policies adopted by the employer and shall sign and submit to the committee a statement of support of persons in the employ of the employer who serve in the national guard and the reserves, recognizing the vital role of the national guard and the reserves, and pledging all of the following:
- (1) To neither deny employment nor limit or reduce job opportunities because of an employee's service in the national guard or organized reserves of the armed forces of the United States
 - (2) To grant leaves of absence during a period of military duty or training.
- (3) To ensure that all employees are aware of the employer's policies and the requirements of section 29A.43.
 - Sec. 7. Section 8A.321, subsection 12, Code 2007, is amended by striking the subsection.
- Sec. 8. Section 8A.362, subsection 4, paragraph c, Code 2007, is amended to read as follows:
- c. Not later than February June 15 of each year, the director shall report compliance with the corporate average fuel economy standards published by the United States secretary of transportation for new motor vehicles, other than motor vehicles purchased by the state department of transportation, institutions under the control of the state board of regents, the department for the blind, and any other state agency exempted from the requirements of this subsection. The report of compliance shall classify the vehicles purchased for the current vehicle model year using the following categories: passenger automobiles, enforcement automobiles, vans, and light trucks. The director shall deliver a copy of the report to the department of natural resources. As used in this paragraph, "corporate average fuel economy" means the corporate average fuel economy as defined in 49 C.F.R. § 533.5.
 - Sec. 9. Section 8A.454, subsection 4, Code 2007, is amended to read as follows: 4. This section is repealed July 1, 2007 2009.
 - Sec. 10. Section 18A.1, Code 2007, is transferred to section 8A.371.
 - Sec. 11. Section 18A.2, Code 2007, is transferred to section 8A.372.
 - Sec. 12. Section 18A.3, Code 2007, is transferred to section 8A.373.
 - Sec. 13. Section 18A.4, Code 2007, is transferred to section 8A.374.
 - Sec. 14. Section 18A.5, Code 2007, is transferred to section 8A.375.
 - Sec. 15. Section 18A.6, Code 2007, is transferred to section 8A.376.
 - Sec. 16. Section 18A.7, Code 2007, is transferred to section 8A.377.
 - Sec. 17. Section 18A.11, Code 2007, is repealed.
 - Sec. 18. EFFECTIVE DATES.
- 1. The section of this Act amending section 8A.454, being deemed of immediate importance, takes effect upon enactment.
 - 2. The section of this Act amending section 8A.311 takes effect January 1, 2008.

IOWA COMMUNICATIONS NETWORK TELECOMMUNICATIONS EQUIPMENT OR SERVICES PURCHASES — APPROVAL

H.F. 851

AN ACT relating to expenditure approval requirements applicable to the purchase of telecommunications equipment or services by the Iowa communications network.

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

Section 1. Section 8D.3, subsection 3, paragraph f, Code 2007, is amended to read as follows:

- 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. The report shall also include a list of contracts in excess of one million dollars entered into by the commission during the preceding fiscal year, including any contract entered into pursuant to section 8D.11 or 8D.13 or any other authority of the commission.
 - Sec. 2. Section 8D.11, subsection 1, Code 2007, is amended to read as follows:
- 1. a. The commission may purchase, lease, and improve property, equipment, and services for telecommunications for public and private agencies and may dispose of property and equipment when not necessary for its purposes. However, the The commission shall not may enter into a contract for the purchase, lease, or improvement of property, equipment, or services for telecommunications pursuant to this subsection in an amount not greater than one million dollars the contract limitation amount without prior authorization by a constitutional majority of each house of the general assembly, or approval by the legislative council if the general assembly is not in session, or the approval of the executive council as provided pursuant to paragraph "b". A contract entered into under this subsection for an amount exceeding the contract limitation amount shall require prior authorization or approval by the general assembly, the legislative council, or the executive council as provided in this subsection. The commission shall not issue any bonding or other long-term financing arrangements as defined in section 12.30, subsection 1, paragraph "b". Real or personal property to be purchased by the commission through the use of a financing agreement shall be done in accordance with the provisions of section 12.28, provided, however, that the commission shall not may purchase property, equipment, or services for telecommunications pursuant to this subsection a financing agreement in an amount not greater than one million dollars the contract limitation amount without prior authorization by a constitutional majority of each house of the general assembly, or approval by the legislative council if the general assembly is not in session, or the approval of the executive council as provided pursuant to paragraph "b". A contract entered into under this subsection for an amount exceeding the contract limitation amount shall require prior authorization or approval by the general assembly, the legislative council, or the executive council as provided in this subsection.
- b. Approval by the executive council as provided under paragraph "a" shall only be permitted if the contract for which the commission is seeking approval is necessary as the result of circumstances constituting a natural disaster or a threat to homeland security.
- c. For purposes of this subsection, "contract limitation amount" means two million dollars. However, beginning July 1, 2008, and on each succeeding July 1, the director shall adjust the contract limitation amount to be applicable for the twelve-month period commencing on Sep-

tember 1 of the year in which the adjustment is made. The new contract limitation amount shall be published annually as a notice in the Iowa administrative bulletin prior to September 1. The adjusted contract limitation amount shall be calculated by applying the percentage change in the consumer price index for all urban consumers for the most recent available twelve-month period published in the federal register by the United States department of labor, bureau of labor statistics, to the existing contract limitation amount as an increase or decrease, rounded to the nearest dollar. The calculation and publication of the contract limitation amount by the director are exempt from the provisions of chapter 17A.

Approved April 26, 2007

CHAPTER 117

GOVERNMENT INNOVATION AND EXCELLENCE INITIATIVES

S.F. 155

AN ACT relating to local governments by creating a local government innovation commission and fund, creating a center for governing excellence, and including an effective date.

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

Section 1. Section 8.64, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

8.64 DEFINITIONS.

For purposes of sections 8.65 through 8.68:

- 1. "Commission" means the local government innovation commission.
- 2. "Community-wide area" means a distinct geographical area voluntarily formed by and comprised of counties, cities, or townships, or any combination thereof, all of which possess a degree of autonomy in a varying number of matters. State agencies and school districts may also participate in a community-wide area if joined by a county, city, or township.
 - 3. "Department" means the department of management.

Sec. 2. <u>NEW SECTION</u>. 8.65 LOCAL GOVERNMENT INNOVATION COMMISSION.

- 1. A local government innovation commission is created consisting of fifteen voting members and six nonvoting members.
 - $a. \ \ Voting \, members \, of \, the \, commission \, shall \, be \, appointed \, for \, a \, term \, of \, three \, years \, as \, follows:$
- (1) One member representing the executive branch appointed by the governor.
- (2) Two members representing county government appointed by the president of the Iowa state association of counties.
- (3) Two members representing city government appointed by the president of the Iowa league of cities.
- (4) One member representing community colleges appointed by the president of the Iowa association of community college presidents.
- (5) One member representing school districts appointed by the president of the Iowa association of school boards.
- (6) One member representing the councils of governments appointed by the president of the Iowa association of councils of government.¹
- (7) One member representing local law enforcement or fire protection appointed by the governor.

¹ See chapter 215, §240 herein

- (8) Two members appointed by the governor, both of whom shall possess private business expertise and who are not employees of any level of government.
- (9) Four members representing the general public, one each appointed by the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives.
- b. Four nonvoting members of the general assembly shall be appointed for a term of two years commencing at the convening of each general assembly, one each appointed by the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives. However, initial appointments of members under this paragraph shall be made on the effective date of this Act.
- c. Two nonvoting members shall be appointed for a term of three years. One of the members shall be the administrator of the homeland security and emergency management division of the Iowa department of public defense, and the other member shall be the director of the department of economic development or the director's designee.
- d. To the extent feasible, in making the appointments under paragraphs "a" through "c", the persons authorized to appoint shall give consideration to the appointment of minority persons to the commission.
- 2. a. Terms of voting members and of nonvoting members specified in subsection 1, paragraph "c", shall begin and end as provided by section 69.19. Any vacancy shall be filled in the same manner as regular appointments are made for the unexpired portion of the regular term.
- b. Members of the commission shall be allowed their actual and necessary expenses incurred in the performance of their duties. The members of the commission representing the general public shall also be compensated as provided in section 7E.6. Per diem and expenses paid to commission members shall be paid from moneys appropriated to the local government innovation fund, except that the per diem and expenses of members of the general assembly shall be paid pursuant to section 2.12.
- c. The commission shall meet in May of each year for the purpose of electing one of its voting members as chairperson. The commission shall meet at the call of the chairperson or when a majority of the voting members of the commission files a written request with the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the commission.
- d. A majority of the voting members of the commission constitutes a quorum. Any action taken by the commission must be adopted by the affirmative vote of a majority of its voting membership.
- e. The commission is located for administrative purposes within the department. The department shall provide office space, staff assistance, administrative support, and necessary supplies and equipment to the commission.

Sec. 3. NEW SECTION. 8.66 DUTIES OF COMMISSION.

The commission shall do all of the following:

- 1. Promote, encourage, and advance innovation and creativity in local governance.
- 2. Develop an application and review process for local governance and revenue models submitted to the commission by a community-wide area. Results, strategies, and desired outcomes identified by the commission in developing its application and review process shall include but not be limited to the following:
 - a. Cost savings to citizens, in particular lowering of local government property taxes.
- b. Creation of, or inducement to create, high-wage, stable employment opportunities for a local government's citizens and more effective leveraging of resources to improve competitive advantage.
 - c. Elimination of duplication of government administration.
- d. More efficient and effective delivery of services by government, including eliminating duplication of service delivery by more than one unit of government in the same area and modernizing services and service delivery to meet the changing public service needs of the area.
- e. Creation of a state-local partnership in one or more areas of service delivery and governance that would increase quality and efficiency on the local level.

- 3. Design an application form to be completed by a community-wide area seeking review of a local governance and revenue model. The application form shall require the community-wide area to demonstrate how the local governance and revenue model will result in reduced local government or state general fund expenditures, how local government fund revenues will increase without an increase in state costs, how local government services will be provided more efficiently or will be of increased quality resulting in greater value from the expenditure of local government revenues, or how the model develops partnerships with the state to provide increased quality and efficiency on the local level.
- 4. Utilize the department of management, the department of revenue, or other sources of technical expertise designated by the commission to certify savings projected for a proposed local governance and revenue model.
- 5. Report to the general assembly on or before June 30, 2010, and every three years thereafter, on the accomplishments of community-wide area efforts funded by grants from the local government innovation fund authorized under section 8.67, in achieving the objectives described in subsection 2, paragraphs "a" through "e".
- 6. On or before January 1, 2009, submit to the general assembly and to the office of the governor recommendations for legislation that would provide flexibility and freedom to local governments in implementing governance and revenue models.
- 7. a. Prepare a request for proposals for establishment of the Tim Shields center for governing excellence in Iowa as provided in section 8.68, and prepare procedures and a timetable for submission and review of proposals and for selection of a proposal. The proposal process shall be open to public and private not-for-profit institutions of higher education, either individually or in collaboration, located in this state and accredited by the north central association of colleges and secondary schools.
- b. The request for proposals shall require each proposal to provide for employment of a fulltime director and administrative assistant at the center.
 - c. The request for proposals shall require each proposal to specify all of the following:
- (1) The number and subject area specialties of the research staff; the office space; the support staff; and the computer, library, and research facilities to be provided by the proposing institution or institutions.
- (2) The personnel, facilities, and support provided for the training of policymakers, public officials, and students in areas including but not limited to public administration and management, budgetary preparation and analysis, electronic government, local-state government relations, and public policy formulation, implementation, and evaluation.
 - (3) The funding to be committed by the proposing institution or institutions.
- 8. Oversee and direct the activities of the Tim Shields center for governing excellence in Iowa.

Sec. 4. NEW SECTION. 8.67 LOCAL GOVERNMENT INNOVATION FUND.

- 1. A local government innovation fund is created in the state treasury under the control of the department of management for the purpose of stimulating and encouraging innovation in local government by providing moneys for the purpose of providing grants to assist in the implementation of local governance and revenue models.
- 2. Officials of a community-wide area who have submitted a local governance and revenue model to the commission for review may apply to the commission for a grant from the local government innovation fund to implement all or a portion of such governance and revenue model. Officials seeking a grant from the fund shall complete an application form designed by the commission. Minimum requirements for local government grant requests shall be determined by the commission and adopted by rule by the department of management.
- 3. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the local government innovation fund shall be credited to the local government innovation fund. Notwithstanding section 8.33, moneys appropriated to and moneys remaining in the local government innovation fund at the end of a fiscal year shall not revert to the general fund of the state.

- Sec. 5. <u>NEW SECTION</u>. 8.67A FUTURE REPEAL OF COMMISSION AND FUND. Sections 8.64 through 8.67 and this section are repealed effective June 30, 2019.
- Sec. 6. <u>NEW SECTION</u>. 8.68 TIM SHIELDS CENTER FOR GOVERNING EXCELLENCE IN IOWA.
- 1. The commission shall establish the Tim Shields center for governing excellence in Iowa. The purpose of the Tim Shields center for governing excellence in Iowa is to do all of the following:
- a. Enhance the accountability, effectiveness, and efficiency of Iowa's local governments and state agencies by providing objective and nonpartisan research and training support for policymakers and government officials.
- b. Integrate the research capacities of the community colleges and public and private universities located in this state and of organizations representing local governments to support management and policy research.
- c. Facilitate dialogues among Iowa's state agencies, local governments, community colleges, public and private universities, organizations representing local governments, and citizens on government policy design, implementation, and evaluation.
- 2. After its creation, the center may solicit, accept, and administer moneys contributed to the center by any source, and may enter into contracts with public or private agencies or may enter into agreements subject to chapter 28E with public and private agencies in order to carry out its purposes. All records of the center including but not limited to records of donations to the center and contracts or agreements entered into by the center shall be public records for purposes of chapter 22.
- 3. The center shall submit an annual report of the activities of the center to the governor and to the general assembly as provided in section 7A.11A by January 15 of each year.
- 4. The local government innovation commission created in section 8.65, or a successor agency, shall oversee and direct the activities of the Tim Shields center for governing excellence in Iowa.
- Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 27, 2007

CHAPTER 118

CONSUMER CREDIT OR CREDIT UNION TRANSACTIONS
S.F. 347

AN ACT relating to the authority of creditors and credit unions in consumer credit or credit union transactions.

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

Section 1. Section 533.4, Code 2007, is amended by adding the following new subsections: <u>NEW SUBSECTION</u>. 29. Sell, to persons in the field of membership, negotiable checks, including traveler's checks; money orders; and other similar money transfer instruments including international and domestic electronic fund transfers.

<u>NEW SUBSECTION</u>. 30. Cash checks and money orders, and receive international and domestic electronic fund transfers, for persons in the field of membership.

Sec. 2. Section 537.2501, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. For a consumer loan where the amount financed does not exceed three thousand dollars and the term of the loan does not exceed twelve months, a bank, savings bank, savings and loan association, or credit union incorporated pursuant to state or federal law may charge an additional application fee not to exceed the lesser of ten percent of the amount financed or thirty dollars. If the loan is not approved, the application fee shall not exceed the lesser of ten percent of the amount applied for by the applicant or thirty dollars. The fee permitted pursuant to this paragraph shall not be charged in connection with a loan used for the purchase of a motor vehicle, or for a loan where the borrower's dwelling is used as security.

Sec. 3. IMPLEMENTATION OF LAW. The provisions of this Act amending section 533.4 shall be deemed to amend section 533.301, relating to powers of credit unions, if enacted in 2007 Iowa Acts, Senate File 557,¹ or successor legislation, and the Code editor shall harmonize the provisions as necessary.

Approved April 27, 2007

CHAPTER 119

GAMES OF SKILL OR CHANCE AND CARD GAMES CONDUCTED BY QUALIFIED ORGANIZATIONS $S.F.\ 414$

AN ACT concerning the licensure, operation, and taxation of card game tournaments by organizations representing veterans and allowable prizes at annual game nights by certain qualified organizations and making penalties applicable.

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

Section 1. <u>NEW SECTION</u>. 99B.7B CARD GAME TOURNAMENTS CONDUCTED BY QUALIFIED ORGANIZATIONS REPRESENTING VETERANS.

- 1. As used in this section, unless the context otherwise requires:
- a. "Card game" means only poker, pinochle, pitch, gin rummy, bridge, euchre, hearts, or cribbage.
- b. "Qualified organization representing veterans" means any licensed organization representing veterans, which is a post, branch, or chapter of a national association of veterans of the armed forces of the United States which is a federally chartered corporation, dedicates the net receipts of a game of skill, game of chance, or raffle as provided in section 99B.7, is exempt from federal income taxes under section 501(c)(19) of the Internal Revenue Code as defined in section 422.3, has an active membership of not less than twelve persons, and does not have a self-perpetuating governing body and officers.
 - 2. Notwithstanding any provision of this chapter to the contrary, card game tournaments

¹ Chapter 174, §32 herein

lawfully may be conducted by a qualified organization representing veterans if all of the following are complied with:

- a. The organization conducting the card game tournament has been issued a license pursuant to subsection 4 and prominently displays that license in the playing area of the card game tournament.
- b. The card games to be conducted during a card game tournament, including the rules of each card game and how winners are determined, shall be displayed prominently in the playing area of the card game tournament. Each card game shall be conducted in a fair and honest manner and shall not be operated on a build-up or pyramid basis. Every participant in a card game tournament must be given the same chances of winning the tournament and shall not be allowed any second chance entries or multiple entries in the card game tournament.
- c. Participation in a card game tournament conducted by a qualified organization representing veterans shall only be open to members of the qualified organization representing veterans and guests of members of the qualified organization participating in the tournament, subject to the requirements of this section. The total number of members and guests participating in a card game tournament shall not exceed the occupancy limit of the premises where the card game tournament is being conducted. Participants in a card game tournament shall be at least twenty-one years of age.
- d. (1) If the card game tournament is limited to one guest for each member of the qualified organization representing veterans participating in the tournament, then the requirements of this subparagraph shall apply. The cost to participate in a card game tournament shall be limited to one hundred dollars and shall be the same for every participant in the card game tournament. Cash or merchandise prizes may be awarded during a card game tournament and shall not exceed one thousand dollars and no participant shall win more than a total of five hundred dollars.
- (2) If the card game tournament is not limited to one guest for each member of the qualified organization representing veterans participating in the tournament, then the requirements of this subparagraph shall apply. The cost to participate in a card game tournament shall be limited to twenty-five dollars and shall be the same for every participant in the card game tournament. Cash or merchandise prizes may be awarded during a card game tournament and shall not exceed three hundred dollars and no participant shall win more than a total of two hundred dollars.
- (3) A qualified organization representing veterans shall distribute amounts awarded as prizes on the day they are won and merchandise prizes shall not be repurchased. An organization conducting a card game tournament shall only display prizes in the playing area of the card game tournament that can be won.
- e. The qualified organization representing veterans shall conduct each card game tournament and any card game conducted during the tournament and shall not contract with or permit another person to conduct the card game tournament or any card game during the tournament. In addition, the card game tournament and any card game conducted during the tournament shall be conducted on the premises of the qualified organization representing veterans as identified in the license application pursuant to subsection 4.
- f. No person receives or has any fixed or contingent right to receive, directly or indirectly, any profit, remuneration, or compensation from or related to a game in a card game tournament, except any amount which the person may win as a participant on the same basis as the other participants.
- g. A qualified organization representing veterans licensed under this section shall not hold more than two card game tournaments per month and shall not hold a card game tournament within seven calendar days of another card game tournament conducted by that qualified organization representing veterans. Card game tournaments held under an annual game night license shall not count toward the limit of one card game tournament per week for a license holder. A qualified organization representing veterans shall be allowed to hold only one card game tournament during any period of twenty-four consecutive hours, starting from the time the card game tournament begins.
 - h. At the conclusion of each card game tournament, the person conducting the card game

tournament shall announce the gross receipts received, the total amount of money withheld for expenses, and the amount withheld for state taxes.

- i. The person conducting the card game tournament does none of the following:
- (1) Hold, currently, another license issued under this section.
- (2) Own or control, directly or indirectly, any class of stock of another person who has been issued a license to conduct games under this section.
- (3) Have, directly or indirectly, an interest in the ownership or profits of another person who has been issued a license to conduct games under this section.
- 3. The qualified organization representing veterans licensed to hold card game tournaments under this section shall keep a journal of all dates of events, amount of gross receipts, amount given out as prizes, expenses, amount collected for taxes, and the amount collected as revenue.
- a. The qualified organization representing veterans shall dedicate and distribute the net receipts from each card game tournament as provided in section 99B.7, subsection 3, paragraph "b".
- b. Each qualified organization representing veterans shall withhold that portion of the gross receipts subject to taxation pursuant to section 423.2, subsection 4, which shall be kept in a separate account and sent to the state along with the organization's quarterly report.
- c. A qualified organization representing veterans licensed to conduct card game tournaments is allowed to withhold no more than five percent of the gross receipts from each card game tournament for qualified expenses. Qualified expenses include but are not limited to the purchase of supplies and materials used in conducting card games. Any money collected for expenses and not used by the end of the calendar year shall be donated for educational, civic, public, charitable, patriotic, or religious uses as described in section 99B.7, subsection 3, paragraph "b". The qualified organization representing veterans shall attach a receipt for any donation made to the fourth quarter quarterly report required to be submitted pursuant to section 99B.2.
- d. Each qualified organization representing veterans licensed under this section shall make recordkeeping and all deposit receipts available as provided in section 99B.2, subsection 2.
- 4. An organization wishing to conduct card game tournaments pursuant to this section as a qualified organization representing veterans shall submit an application and annual license fee of one hundred dollars to the department. The application shall identify the premises where the card game tournaments are to be conducted and the occupancy limit of the premises, and shall include documentation that the qualified organization representing veterans has conducted regular meetings of the organization at the premises during the previous eight months.
- 5. a. A person under twenty-one years of age who participates in a card game tournament in violation of this section is deemed to violate the legal age for gambling wagering provisions under section 725.19, subsection 1.
- b. The department shall revoke, for a period of one year, the license of a qualified organization representing veterans to conduct card game tournaments under this section if the licensee knowingly permits a person under the age of twenty-one years to participate in a card game tournament.
- Sec. 2. Section 99B.8, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Games of skill, games of chance, and card games lawfully may be conducted during a period of twelve sixteen consecutive hours within a period of twenty-four consecutive hours once each year by any person. The games may be conducted at any location except one for which a license is required pursuant to section 99B.3 or section 99B.5, but only if all of the following are complied with:

Sec. 3. Section 99B.8, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 6. a. Notwithstanding any provision of section 99B.7 to the contrary,

if the games are conducted by an eligible qualified organization issued a license pursuant to subsection 3, the sponsor may award cash or merchandise prizes in any games of skill, games of chance, or card games lawfully conducted during the annual game night in an aggregate amount not to exceed ten thousand dollars and no participant shall win more than a total of five thousand dollars.

- b. For purposes of this subsection, an "eligible qualified organization" means any of the following:
 - (1) A qualified organization representing veterans as defined in section 99B.7B.
- (2) A qualified organization that represents volunteer emergency services providers as defined in section 100B.31.
- (3) A qualified organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code and that has conducted an annual game night during the period beginning January 1, 2001, and ending December 31, 2006.
- Sec. 4. Section 99B.9, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Except as otherwise permitted by section 99B.3, 99B.5, 99B.6, 99B.7, <u>99B.7B.</u> 99B.8, 99B.11, or 99B.12A, it is unlawful to permit gambling on any premises owned, leased, rented, or otherwise occupied by a person other than a government, governmental agency, or governmental subdivision, unless all of the following are complied with:

Sec. 5. Section 99B.12, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Except in instances where because of the location of the game or the circumstances of the game section 99B.3, section 99B.5, section 99B.6, section 99B.7, section 99B.7, section 99B.8, or section 99B.9 is applicable, individuals may participate in gambling specified in subsection 2, but only if all of the following are complied with:

- Sec. 6. Section 423.2, subsection 4, Code 2007, is amended to read as follows:
- 4. A tax of five percent is imposed upon the sales price derived from the operation of all forms of amusement devices and games of skill, games of chance, raffles, and bingo games as defined in chapter 99B, and card game tournaments conducted under section 99B.7B, that are operated or conducted within the state, the tax to be collected from the operator in the same manner as for the collection of taxes upon the sales price of tickets or admission as provided in this section. Nothing in this subsection shall legalize any games of skill or chance or slot-operated devices which are now prohibited by law.

The tax imposed under this subsection covers the total amount from the operation of games of skill, games of chance, raffles, and bingo games as defined in chapter 99B, <u>card game tournaments conducted under section 99B.7B</u>, and musical devices, weighing machines, shooting galleries, billiard and pool tables, bowling alleys, pinball machines, slot-operated devices selling merchandise not subject to the general sales taxes and on the total amount from devices or systems where prizes are in any manner awarded to patrons and upon the receipts from fees charged for participation in any game or other form of amusement, and generally upon the sales price from any source of amusement operated for profit, not specified in this section, and upon the sales price from which tax is not collected for tickets or admission, but tax shall not be imposed upon any activity exempt from sales tax under section 423.3, subsection 78. Every person receiving any sales price from the sources described in this section is subject to all provisions of this subchapter relating to retail sales tax and other provisions of this chapter as applicable.

CHAPTER 120

GREENHOUSE GAS EMISSIONS — MISCELLANEOUS PROVISIONS

S.F. 485

AN ACT relating to greenhouse gas emissions.

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

Section 1. Section 455B.131, Code 2007, is amended by adding the following new subsection:

<u>NEW SUBSECTION</u>. 6A. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

- Sec. 2. Section 455B.134, subsection 3, paragraph d, Code 2007, is amended to read as follows:
- d. (1) All applications for conditional permits for electric power generating facilities shall be subject to such notice and opportunity for public participation as may be consistent with chapter 476A or any agreement pursuant thereto under chapter 28E. The applicant or intervenor may appeal to the commission from the denial of a conditional permit or any of its conditions. For the purposes of chapter 476A, the issuance or denial of a conditional permit by the director or by the commission upon appeal shall be a determination that the electric power generating facility does or does not meet the permit and licensing requirements of the commission. The issuance of a conditional permit shall not relieve the applicant of the responsibility to submit final and detailed construction plans and drawings and an application for a construction permit for control equipment that will meet the emission limitations established in the conditional permit.
- (2) In applications for conditional permits for electric power generating facilities the applicant shall quantify the potential to emit greenhouse gas emissions due to the proposed project.
- Sec. 3. Section 455B.134, subsection 3, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. g. All applications for construction permits or prevention of significant deterioration permits shall quantify the potential to emit greenhouse gas emissions due to the proposed project.

- Sec. 4. NEW SECTION. 455B.152 GREENHOUSE GAS INVENTORY AND REGISTRY.
- 1. DEFINITIONS. For purposes of this section, "greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulphur¹ hexafluoride.
 - 2. GREENHOUSE GAS INVENTORY.
- a. By January 1, 2008, the department shall establish a method for collecting data from producers of greenhouse gases regarding generated greenhouse gases. The data collection method shall provide for mandatory reporting to collect information from affected entities individually and shall include information regarding the amount and type of greenhouse gases generated, the type of source, and other information deemed relevant by the department in developing a baseline measure of greenhouse gases produced in the state.
- b. The department may allow a series of reporting requirements to be phased in over a period of time and may provide for phasing in by producer sector, geographic area, size of producer, or other factors. The reporting requirements shall apply to the departments, agencies, boards, and commissions of the state, in addition to any other entities subject to the reporting requirements established by the department.
 - 3. GREENHOUSE GAS REGISTRY.
 - a. The department shall establish a voluntary greenhouse gas registry for purposes of coop-

¹ According to enrolled Act; the word "sulfur" probably intended

erating with other states in tracking, managing, and crediting entities in the state that reduce their generation of greenhouse gases or that provide increased energy efficiency.

- b. The department shall develop a mechanism to coordinate the information obtained in the greenhouse gas inventory with the greenhouse gas registry.
- 4. AVAILABILITY. By January 1, 2009, the greenhouse gas registry shall be made available on an internet website.

Sec. 5. NEW SECTION. 455B.851 IOWA CLIMATE CHANGE ADVISORY COUNCIL.

- 1. The department shall create an Iowa climate change advisory council consisting of twenty-three voting members serving three-year staggered terms and four nonvoting, ex officio members.
- 2. a. The voting members shall be appointed by the governor and shall represent the following:
 - (1) The university of Iowa center for global and regional environmental research.
 - (2) The university of northern Iowa center for energy and environmental education.
 - (3) The Iowa farm bureau.
 - (4) The Iowa public transit association.
 - (5) Rural electric cooperatives.
 - (6) Investor-owned utilities.
 - (7) Municipal utilities.
 - (8) The Iowa utilities board.
 - (9) One association with environmental interests or activities.
 - (10) One association with conservation interests or activities.
 - (11) The international brotherhood of electrical workers.
 - (12) The Iowa association of business and industry.
 - (13) The Iowa energy center.
 - (14) The Iowa renewable fuels association.
 - (15) The office of consumer advocate of the department of justice.
 - (16) A representative from local government.
 - (17) The director of the office of energy independence.
 - (18) A manufacturer of equipment used for alternative energy production.
 - (19) The department of agronomy at Iowa state university of science and technology.
 - (20) Four members of the general public.
- b. The four nonvoting, ex officio members shall consist of four members of the general assembly, two from the senate and two from the house of representatives, with not more than one member from each chamber being from the same political party. The two senators shall be designated by the majority leader of the senate after consultation with the president and the minority leader of the senate. The two representatives shall be designated by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives.
- 3. Voting members of the council shall serve at the pleasure of the governor and shall serve without compensation.
- 4. The chairperson of the council shall be designated by the governor and may convene the council at any time.
- 5. A vacancy in the membership shall not impair the right of a quorum to exercise all the rights and perform all the duties of the council. A majority of the council members then appointed constitutes a quorum. A majority vote of the quorum is required for council action.
 - 6. The department shall provide necessary staff assistance to the council.
- 7. After consideration of a full range of policies and strategies, including the cost-effectiveness of the strategies, the council shall develop multiple scenarios designed to reduce statewide greenhouse gas emissions including one scenario that would reduce such emissions by fifty percent by 2050. The council shall also develop short-term, medium-term, and long-term scenarios designed to reduce statewide greenhouse gas emissions and shall consider the cost-effectiveness of the scenarios. The council shall establish a baseline year for purposes of calcu-

lating reductions in statewide greenhouse gas emissions. The council shall submit the proposal to the governor and the general assembly by January 1, 2008.

- 8. The council may periodically adopt recommendations designed to encourage the reduction of statewide greenhouse gas emissions.
- 9. By September 1 of each year, the department shall submit a report to the governor and the general assembly regarding the greenhouse gas emissions in the state during the previous calendar year and forecasting trends in such emissions. The first submission by the department shall be filed by September 1, 2008, for the calendar year beginning January 1, 2007.

Approved April 27, 2007

CHAPTER 121

ALZHEIMER'S DISEASE TASK FORCE

S.F. 489

AN ACT creating an Alzheimer's disease task force.

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

Section 1. ALZHEIMER'S DISEASE TASK FORCE.

- 1. The Alzheimer's disease task force is established. The task force shall consist of the following members:
- a. The joint chairpersons of the legislative health and human services appropriations subcommittee and the chairs of the human resources standing committees of the senate and the house of representatives.
 - b. The following members appointed by the governor:
 - (1) One person with Alzheimer's disease.
 - (2) One caregiver of a person with Alzheimer's disease.
 - (3) A representative of the nursing facility industry.
 - (4) A representative of the assisted living industry.
 - (5) A representative of the adult day services industry.
 - (6) A representative of the health care provider community.
 - (7) A person who conducts Alzheimer's disease research.
 - (8) A representative of the Alzheimer's association.
 - (9) A representative of Iowa AARP.
 - (10) A licensed health care provider specializing in the practice of gerontology.
 - c. The director, or the director's designee, of each of the following agencies:
 - (1) The department of elder affairs.
 - (2) The department of human services.
 - (3) The department of public health.
 - (4) The department of workforce development.
 - (5) The department of inspections and appeals.
- 2. The department of elder affairs shall convene the task force and provide necessary administrative support for the task force.
- 3. The task force shall assess the current and future impact of Alzheimer's disease and related disorders on the residents of the state; examine the existing industries, services, and resources addressing the needs of persons with Alzheimer's disease or related disorders, their families, and their caregivers; and develop a strategy to mobilize a state response to this public health crisis.

- 4. The task force shall include an examination of the following in its assessment and recommendations:
- a. Trends in the state's population of persons with Alzheimer's disease or related disorders and the needs of such persons including but not limited to:
- (1) The state role in long-term care, family caregiver support, and assistance to persons with early-stage and early onset of Alzheimer's disease or related disorders.
 - (2) State policy regarding persons with Alzheimer's disease or related disorders.
 - b. Existing services, resources, and capacity including but not limited to:
 - (1) The type, cost, and availability of dementia services.
 - (2) Dementia-specific training requirements for long-term care staff.
 - (3) Quality care measures for residential care facilities.
- (4) The capacity of public safety and law enforcement agencies to respond to persons with Alzheimer's disease or related disorders.
- (5) The availability of home and community-based resources for persons with Alzheimer's disease or related disorders and respite care to assist families.
 - (6) An inventory of long-term care dementia care units.
- (7) The adequacy and appropriateness of geriatric-psychiatric units for persons with behavior disorders associated with Alzheimer's disease and related dementia.
 - (8) Assisted living residential options for persons with dementia.
- (9) State support of research of Alzheimer's disease and related disorders through the state's institutions of higher education and other resources.
- c. Needed state policies or responses including but not limited to directions for the provision of clear and coordinated services and support to persons and families living with Alzheimer's disease or related disorders, and strategies to address any identified gaps in services.
- 5. All meetings of the task force shall comply with chapter 21 and the task force shall utilize technological means, such as webcasts, to gather feedback on its discussions and recommendations from persons and families affected by Alzheimer's disease and related disorders and from the general public.
- 6. The task force shall submit a report of its findings and date-specific recommendations to the general assembly and the governor in the form of a state Alzheimer's disease and related disorders plan by January 1, 2008. The task force shall be dissolved upon the submission of the plan.

Approved April 27, 2007

CHAPTER 122

TARGETED INDUSTRY PROMOTION, DEVELOPMENT, AND EDUCATION ACTIVITIES

H.F. 829

AN ACT relating to the development and commercialization of businesses in the targeted industry areas of advanced manufacturing, bioscience, and information technology and including appropriations and an effective date provision.

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

Section 1. NEW SECTION. 15.411 TARGETED INDUSTRIES DEVELOPMENT — FINANCIAL ASSISTANCE.

1. As used in this section, unless the context otherwise requires:

- a. "Internship" means temporary employment of a student that focuses on providing the student with work experience in the student's field of study.
- b. "Targeted industries" means the industries of advanced manufacturing, biosciences, and information technology.
- 2. The department shall, upon board approval, contract with a provider through a request for proposals process for services related to statewide commercialization development in the targeted industries. Services provided shall include all of the following:
- a. Assistance provided directly to businesses by experienced serial entrepreneurs for all of the following activities:
 - (1) Business plan development.
 - (2) Due diligence.
 - (3) Market assessments.
 - (4) Technology assessments.
 - (5) Other planning activities.
- b. Operation and coordination of various available competitive seed and prototype development funds.
 - c. Connecting businesses to private angel investors and the venture capital community.
- d. Assistance in obtaining access to an experienced pool of managers and operations talent that can staff, mentor, or advise start-up enterprises.
 - e. Support and advice for accessing sources of early stage financing.
- 3. The department shall establish and administer a program to provide financial and technical assistance to encourage prototype and concept development activities that have a clear potential to lead to commercially viable products or services within a reasonable period of time in the targeted industries. Financial assistance shall be awarded on a per project basis upon board approval. The amount of financial assistance available for a single project shall not exceed one hundred fifty thousand dollars. In order to receive financial assistance, an applicant must demonstrate the ability to secure one dollar of nonstate moneys for every two dollars received from the department.
- 4. The department shall, upon board approval, establish and administer a program to provide financial assistance for projects designed to encourage collaboration between commercial users and developers of information technology in the state for the purpose of commercializing existing software and applications technologies. Financial assistance shall not exceed one hundred thousand dollars per project. In order to receive financial assistance, an applicant must demonstrate the ability to secure two dollars of nonstate moneys for every one dollar received from the department. Financial assistance shall be awarded to projects that will result in technologies being developed as commercial products for sale by Iowa companies rather than as custom applications for proprietary use by a participating firm.
- 5. The department shall, upon board approval, establish and administer a program to provide financial assistance to businesses or departments of businesses engaged in the delivery of information technology services in the state for the purpose of upgrading the high-level technical skills of existing employees. The amount of financial assistance shall not exceed twenty-five thousand dollars for any business site. In order to receive financial assistance, an applicant must demonstrate the ability to secure two dollars of nonstate moneys for every one dollar received from the department.
- 6. The department shall, upon board approval, establish and administer a targeted industries internship program for students of Iowa community colleges, private colleges, or institutions of higher learning under the control of the state board of regents. The purpose of the program is to link Iowa students to small and medium sized firms in the targeted industries through internship opportunities. An employer may receive financial assistance in an amount of one dollar for every two dollars paid by the employer to an intern. The amount of financial assistance shall not exceed three thousand one hundred dollars for any single internship, or nine thousand three hundred dollars for any single employer. In order to be eligible to receive financial assistance under this subsection, the employer must have five hundred or fewer employees and must be engaged in a targeted industry. The department shall encourage youth

who reside in economically distressed areas, youth adjudicated to have committed a delinquent act, and youth transitioning out of foster care to participate in the targeted industries internship program.

- 7. The department of economic development shall work with the department of workforce development to create a statewide supplier capacity and product database to assist the department of economic development in linking suppliers to Iowa-based companies. The department of economic development may procure technical assistance for the creation of the database from a third party through a request for proposals process.
- 8. The technology commercialization committee created pursuant to section 15.116 shall review all applications for financial assistance and requests for proposals pursuant to this section and make recommendations to the board.
- 9. The board shall adopt rules pursuant to chapter 17A necessary for the administration of this section.
- Sec. 2. Section 15G.111, subsection 1, paragraph a, Code 2007, 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, 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 2007, 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, 2007, and ending June 30, 2009, to the department of economic development thirty million dollars for programs administered by the department of economic development.
- (3) (4) 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 thirty-two million dollars for programs administered by the department of economic development.
- Sec. 3. Section 15G.111, subsection 2, unnumbered paragraph 3, Code 2007, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

By September 30, 2007, the legislative services agency shall submit a written report to the fiscal committee of the legislative council and the standing committees on economic growth in the senate and the house of representatives regarding a review of expenditures by the state board of regents from appropriations under this subsection and 2006 Iowa Acts, chapter 1179, section 14.

- Sec. 4. Section 15G.111, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 7A. For the fiscal period beginning July 1, 2007, and ending June 30, 2015, there is appropriated for each fiscal year from the grow Iowa values fund created in section 15G.108 to the department of economic development three million dollars for the purpose of providing the commercialization services described in section 15.411, subsections 2 and 3.
 - Sec. 5. Section 262B.21, subsection 1, Code 2007, is amended to read as follows:
- 1. For purposes of this section, and sections 262B.22 and section 262B.23, "core platform areas" means the areas of advanced manufacturing, biosciences, information solutions, and financial services.
 - Sec. 6. Section 262B.22, Code 2007, is repealed.
- Sec. 7. ALLOCATION OF CERTAIN MONEYS FROM LOAN REPAYMENTS AND OTHER RECAPTURES. For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the

department of economic development may expend additional moneys that may become available from loan repayments or other recaptures of awards from federal economic stimulus funds for implementation of the recommendations provided in separate consultant reports on bioscience, advanced manufacturing, information technology, and entrepreneurship submitted to the department of economic development in the calendar years 2004, 2005, and 2006. The allocation of any additional available moneys shall be as follows:

The allocation of any additional available moneys shall be as follows: 1. For study and planning for the creation of a statewide lean manufacturing institute to pro-
vide executive level, in-depth training assistance to manufacturing companies in the state:
\$ 100,000
2. For the study, planning, and creation of a statewide supplier capacity and product database:
500,000
3. For the commercialization of orphaned technology as provided in section 15.411, subsection 4:
\$ 500,000
4. For information technology job training as provided in section 15.411, subsection 5:
\$ 500,000
5. For the targeted industries internship program provided in section 15.411, subsection 6:
\$ 480,000
6. For the sponsorship of student competitions in the areas of advanced manufacturing,
biosciences, information technology, and entrepreneurial development:\$ 130,000
7. For the sponsorship of connectivity events to bring together private industry and public
sector researchers to facilitate technology transfer:
\$ 160,000
8. For the purpose of recruitment from out-of-state, personnel to fulfill the executive-level
management and operations needs of new and expanding companies in the targeted industries:
\$ 280,000
9. For a statewide public awareness campaign aimed at educating Iowans about the job career opportunities available in the targeted industries including career academies:
\$ 250,000
10. For deployment of equipment and training software that is current and competitive to Iowa's community colleges for use in training programs and courses related to the targeted industrials.
industries:
Sec. 9. MATH AND SCIENCE EDUCATION IMPROVEMENT CRANT DILOT DROJECT

Sec. 8. MATH AND SCIENCE EDUCATION IMPROVEMENT GRANT PILOT PROJECT — APPROPRIATION.

- 1. a. The department of education shall establish and administer a math and science education improvement grant pilot project to provide a grant to an area education agency for purposes of providing a regional and cooperative program for one or more of the following purposes:
- (1) Teacher training, professional development, and teacher-in-residence programs in the areas of math and science.
- (2) Supplemental math, science, engineering, and other technology-oriented educational opportunities for students, including opportunities for low-income, female, and minority students.
 - (3) Internships and workplace learning opportunities in the areas of math and science.
 - (4) Expansion and alignment of curriculum in the areas of math and science.
- b. Participation of one or more Iowa targeted businesses or business organizations is required in order for an area education agency to receive a grant.
- c. Not more than two percent of the grant amount awarded shall be used for administrative costs.
- d. The department, in consultation with business organizations, shall award a grant and require a report from the recipient regarding uses of the grant and progress of projects.

- e. The area education agency receiving the grant, in collaboration with the department, shall share the methods and results of its program with other area education agencies.
- 2. a. 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, two hundred thousand dollars for purposes of this section.
- b. 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. 9. LEGISLATIVE INTENT. It is the intent of the general assembly to recognize the strong role that innovation in the advanced manufacturing, biosciences, and information technology industries will play in the growth of this state's economy. To that end, the department of economic development, the department of workforce development, and the department of education shall work together for the purpose of addressing key issues that impact these industries by leveraging their different competencies and resources to work on the following areas:
 - 1. Career awareness.
 - 2. Data integration and assessment tools.
 - 3. Identification of workforce competencies.
 - 4. Retention of Iowans in the workforce and recruitment of new workers to Iowa.
- Sec. 10. REPORTING REQUIREMENT. By January 15, 2008, the department of economic development shall file a written report with the general assembly and the governor detailing all expenditures of moneys appropriated and allocated to the department pursuant to this Act and 2007 Iowa Acts, House File $911.^1$
- Sec. 11. EFFECTIVE DATE. Section 8 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 27, 2007

CHAPTER 123

COUNTY OFFICES — DEPUTY OFFICER SALARIES AND RECORDED DOCUMENT CONTENT

S.F. 212

AN ACT relating to county offices, by protecting certain identity information contained in documents recorded with the county recorder and by increasing salary limits for certain deputy officers and providing an applicability date.

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

Section 1. Section 331.606A, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

331.606A DOCUMENT CONTENT — PERSONALLY IDENTIFIABLE INFORMATION.

- 1. DEFINITIONS.
- a. "Personally identifiable information" means one or more of the following specific unique identifiers when combined with an individual's name:

¹ Chapter 219 herein

- (1) Social security number.
- (2) Checking, savings, or share account number, credit, debit, or charge card number.
- b. "Preparer" means the person or entity who creates, drafts, edits, revises, or last changes the documents that are recorded with the recorder.
- c. "Redact" or "redaction" means the process of removing personally identifiable information from documents.
- 2. INCLUSION OF PERSONALLY IDENTIFIABLE INFORMATION. The preparer of a document shall not include an individual's personally identifiable information in a document that is prepared and presented for recording in the office of the recorder. This subsection shall not apply to documents that were executed by an individual prior to July 1, 2007. Unless provided otherwise by law, all documents described by this section are subject to inspection and copying by the public.
- 3. REDACTION ON A RECORDER'S INTERNET WEBSITE. If a document that includes an individual's personally identifiable information was recorded with the recorder and is available on the recorder's internet website, the individual may request that the recorder redact such information from the website. The recorder shall establish a procedure by which individuals may request that such personally identifiable information be redacted from the internet record available on the recorder's internet website, at no fee to the requesting individual. The recorder shall comply with an individual's request to redact personally identifiable information.
- 4. LIABILITY OF PREPARER. A preparer who, in violation of subsection 2, enters personally identifiable information in a document that is prepared and presented for recording is liable to the individual whose personally identifiable information appears in the recorded public document for actual damages of up to five hundred dollars for each act of recording.
- 5. APPLICABILITY. This section shall not apply to a preparer of a state or federal tax lien, a military separation or discharge record, or a death certificate that is prepared for recording in the office of county recorder. If a military separation or discharge record or a death certificate is recorded in the office of the county recorder, the military separation or discharge record or the death certificate shall not be accessible through the internet.
 - Sec. 2. Section 331.904, subsection 1, Code 2007, is amended to read as follows:
- 1. The annual <u>base</u> salary of the first and second deputy officer of the office of auditor, treasurer, and recorder, 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 <u>eighty eighty-five</u> percent of the annual salary of the deputy's principal officer. In offices where more than two deputies are required, <u>the annual base salary of</u> each additional deputy shall be <u>paid</u> an amount not to exceed <u>seventy-five eighty</u> percent of the principal officer's salary. The amount of the annual <u>base</u> salary of each deputy shall be certified by the principal officer to the board and, if a deputy's <u>annual base</u> salary does not exceed the limitations specified in this subsection, the board shall certify the <u>annual base</u> salary to the auditor. The board shall not certify a deputy's <u>annual base</u> salary which exceeds the limitations of this subsection.

As used in this subsection, "base salary" means the basic compensation excluding overtime pay, longevity pay, shift differential pay, or other supplement pay and fringe benefits.

Sec. 3. APPLICABILITY DATE. This Act applies to county budgets¹ for the fiscal year beginning July 1, 2008, and all subsequent fiscal years.

Approved May 9, 2007

¹ The phrase "Section 2 of this Act applies to county budgets" probably intended

CHAPTER 124

FAMILY INVESTMENT PROGRAM REQUIREMENTS S.F. 254

AN ACT revising family investment program requirements.

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

DIVISION I GENERAL FAMILY INVESTMENT PROGRAM CHANGES

- Section 1. Section 239B.1, subsection 10, Code 2007, is amended to read as follows:
- 10. "Participant" means a person who is receiving full or partial family investment program assistance. For the purposes of sections 239B.8 and 239B.9, "participant" also includes each individual who does not directly receive assistance but who is required to be engaged in work or training options specified in the participant's family investment agreement entered into under section 239B.8.
 - Sec. 2. Section 239B.4, subsection 1, Code 2007, is amended to read as follows:
- 1. The department is the state entity designated to administer federal funds received for purposes of the family investment program and the JOBS program under this chapter, including, but not limited to, the funding received under the federal temporary assistance for needy families block grant as authorized under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, as reauthorized under the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171, and as codified in 42 U.S.C. § 601 et seq., and as such is the lead agency in preparing and filing state plans, state plan amendments, and other reports required by federal law.
 - Sec. 3. Section 239B.7, subsection 1, Code 2007, is amended to read as follows:
- 1. WORK EXPENSE DEDUCTION. If an individual's earned income is considered by the department, the individual shall be allowed a work expense deduction equal to twenty percent of the earned income. The work expense deduction is intended to include all work-related expenses other than child care. These expenses shall include but are not limited to all of the following: taxes, transportation, meals, uniforms, and other work-related expenses. However, the work expense deduction shall not be allowed for an individual who is subject to a sanction for failure to comply with family investment program requirements.
 - Sec. 4. Section 239B.7, subsection 5, Code 2007, is amended to read as follows:
- 5. INCOME CONSIDERATION. If an individual has timely reported an absence of income to the department, consideration of the individual's income shall cease beginning in the first month the income is absent. However, this provision shall not apply to an individual who has quit employment without good cause as defined in rules.
 - Sec. 5. Section 239B.8, subsection 2, Code 2007, is amended to read as follows:
- 2. AGREEMENT OPTIONS. A family investment agreement shall require an individual who is subject to the agreement to participate engage in one or more of the work or training options enumerated in this subsection. An individual's level of participation engagement in one or more of the work or training options shall be equivalent to the level of commitment required for full-time employment or shall be significant so as to move the individual's level of participation engagement toward that level. The department shall adopt rules for each option defining option requirements and establishing assistance provisions for child care, transportation, and other support services. A leave from engagement in work or training options shall be offered to a participant parent to address the birth of a child or the placement of a child with

the participant parent for adoption or foster care. If such a leave is requested by the parent the combined duration of the leave shall not exceed the minimum leave duration, as outlined in the federal Family and Medical Leave Act of 1993, § 102(a) and (b)(1), as codified in 29 U.S.C. § 2612(a) and (b)(1). The terms of the leave shall be incorporated into the family investment agreement. The work or training options shall include but are not limited to all of the following:

- a. Employment. Full-time or part-time employment.
- b. Employment search. Active job search.
- c. JOBS. Participation in the JOBS program.
- d. Education. Participation in other education or training programming.
- e. <u>Family development</u>. Participation in a family development and self-sufficiency grant program under section 217.12 or other family development program.
 - f. Work experience. Work experience placement.
- g. <u>Community service</u>. Unpaid community service. <u>Community service shall be authorized in any nonprofit association which has been determined under section 501(c)(3) of the Internal Revenue Code to be exempt from taxation or in any government agency. Upon request, the department shall provide a listing of potential community service placements to an individual. However, an individual shall locate the individual's own placement and perform the number of hours required by the agreement. The individual shall file a monthly report with the department which is signed by the director of the community service placement verifying the community service hours performed by the individual during that month. The department shall develop a form for this purpose.</u>
- h. Any other <u>Parenting skills. Participation in an</u> arrangement which would strengthen the individual's ability to be a better parent, including but not limited to participation in a parenting education program. Parental leave from employment shall be authorized for a parent of a child who is less than three months of age. An opportunity to participate in a parental education program shall also be authorized for such a parent. An individual who is not a parent who is nineteen years of age or younger or a parent of a child who is less than three months of age shall simultaneously participate in at least one other option enumerated in this subsection.
- i. <u>Family or domestic violence</u>. Participation in a safety plan to address or prevent family or domestic violence. The safety plan may include a temporary waiver period from required participation in the JOBS program or other employment-related activities, as appropriate for the situation of the applicant or participant. All applicants and participants shall be informed regarding the existence of this option. Participation in this option shall be subject to review in accordance with administrative rule.
- j. Incremental family investment agreements. If an individual <u>participant</u> or <u>the entire</u> family has an acknowledged barrier, the <u>individual's or family's</u> plan for self-sufficiency may be specified in one or more incremental family investment agreements.

DIVISION II FAMILY INVESTMENT PROGRAM WORK INCENTIVE DISREGARD

Sec. 6. Section 239B.7, subsection 2, Code 2007, is amended to read as follows:

2. WORK-AND-EARN INCENTIVE. If an individual's earned income is considered by the department, the individual shall be allowed a work-and-earn incentive. The incentive shall be equal to fifty fifty-eight percent of the amount of earned income remaining after all other deductions are applied. The department shall disregard the incentive amount when considering the earned income available to the individual. The incentive shall not have a time limit. The work-and-earn incentive shall not be withdrawn as a penalty for failure to comply with family investment program requirements.

CHAPTER 125

ASBESTOS REMOVAL AND ENCAPSULATION S.F. 265

AN ACT relating to asbestos removal and encapsulation regulations as enforced by the labor commissioner.

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

- Section 1. Section 88B.1, subsection 1, Code 2007, is amended to read as follows:
- 1. "Asbestos project" means an activity involving the removal or encapsulation of asbestos and affecting a building or structure. "Asbestos project" includes the preparation of the project site and all activities through the transportation of the asbestos-containing materials off the premises. "Asbestos project" includes the removal or encapsulation of building materials containing asbestos from the site of a building or structure renovation, demolition, or collapse.
 - Sec. 2. Section 88B.11, Code 2007, is amended to read as follows:
 - 88B.11 BIDS FOR GOVERNMENTAL PROJECTS.

A state agency or political subdivision shall not accept a bid in connection with any asbestos project from a business entity that does not hold a permit from the division at the time the bid is submitted, unless the business entity provides the state agency or political subdivision with written proof that ensures that the business entity has contracted to have the asbestos removal or encapsulation performed by a licensed asbestos contractor.

Sec. 3. NEW SECTION. 88B.2 JURISDICTION OF OTHER AGENCIES.

This chapter shall not be construed to prevent the department of natural resources from implementing and enforcing the federal national emission standard for asbestos under 40 C.F.R. pt. 61, subpt. M, and other relevant provisions of environmental law.

Approved May 9, 2007

CHAPTER 126

SUBSTANTIVE CODE CORRECTIONS

S.F. 333

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 2C.11, Code 2007, is amended to read as follows: 2C.11 SUBJECTS FOR INVESTIGATIONS.

- 1. An appropriate subject for investigation by the office of the citizens' aide is an administrative action that might be:
 - 1. a. Contrary to law or regulation.

- 2. <u>b.</u> Unreasonable, unfair, oppressive, or inconsistent with the general course of an agency's functioning, even though in accordance with law.
 - 3. c. Based on a mistake of law or arbitrary in ascertainments of fact.
 - 4. d. Based on improper motivation or irrelevant consideration.
 - 5. e. Unaccompanied by an adequate statement of reasons.
- <u>2.</u> The citizens' aide may also be concerned with strengthening procedures and practices which lessen the risk that objectionable administrative actions will occur.
- Sec. 2. Section 8F.3, subsection 1, paragraph d, Code 2007, is amended to read as follows: 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, the office of the attorney general, 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.
- Sec. 3. Section 10B.7, unnumbered paragraph 1, Code 2007, is amended to read as follows: Lessees of agricultural land under section 9H.4, subsection 2, paragraph "c", for research or experimental purposes, shall file a biennial report with the secretary of state on or before March 31 of each odd-numbered year on forms adopted pursuant to chapter 17A and supplied by the secretary of state. However, a lessee required to file a biennial report pursuant to chapter 490, 490A, 496C, 497, 498, 499, 501, 501A, or 504 shall file the report required by this section in the same year as required by that chapter. The lessee may file the report required by this section together with the biennial report required to be filed by one of the other chapters referred to in this paragraph. The report shall contain the following information for the reporting period:
- Sec. 4. Section 11.2, subsection 1, unnumbered paragraph 2, Code 2007, is amended to read as follows:

Provided, that the accounts, records, and documents of the treasury department treasurer of state shall be audited daily.

- Sec. 5. Section 15.108, subsection 5, unnumbered paragraph 2, Code 2007, is amended to read as follows:
- <u>p.</u> The department may establish <u>Establish</u>, if the department deems necessary, a revolving fund to receive contributions and funds from the product sales center to be used for start-up or expansion of tourism special events, fairs, and festivals as established by department rule.
 - Sec. 6. Section 15E.192, subsection 3, Code 2007, is amended to read as follows:
- 3. 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 3. 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 that apply to an enterprise zone commission for incentives and assistance during that fiscal year and that are located in an enterprise zone certified pursuant to this subsection. For purposes of this subsection and section 15E.194, subsection 3, "city" means a city that includes at least three census tracts, as determined in the most recent federal census.

- Sec. 7. Section 15E.193, subsection 1, paragraph f, Code 2007, is amended to read as follows:
- f. If the business is only partially located in an enterprise zone, the business must be located on contiguous parcels of land.
 - Sec. 8. Section 15E.197, Code 2007, is amended to read as follows:

15E.197 NEW JOBS CREDIT FROM WITHHOLDING.

An eligible business may enter into an agreement with the department of revenue and a community college for a supplemental new jobs credit from withholding from jobs created under the program. The agreement shall be for program services for an additional job training project, as defined in chapter 260E.

PARAGRAPH DIVIDED. 1. The agreement shall provide for the following:

- 1. a. That the project shall be administered in the same manner as a project under chapter 260E and that a supplemental new jobs credit from withholding in an amount equal to one and one-half percent of the gross wages paid by the eligible business pursuant to section 422.16 is authorized to fund the program services for the additional project.
- 2. b. That the supplemental new jobs credit from withholding shall be collected, accounted for, and may be pledged by the community college in the same manner as described in section 260E.5.
- 3. 2. That the The auditor of state shall perform an annual audit regarding how the training funds are being used.
- 3. To provide funds for the payment of the costs of the additional project, a community college may borrow money, issue and sell certificates, and secure the payment of the certificates in the same manner as described in section 260E.6, including but not limited to providing the assessment of an annual levy as described in section 260E.6, subsection 4. The program and credit authorized by this section is in addition to, and not in lieu of, the program and credit authorized in chapter 260E.
- 4. For purposes of this section, "eligible business" means a business which has been approved to receive incentives and assistance by the department of economic development pursuant to application as provided in section 15E.195.
 - Sec. 9. Section 15G.203, subsections 1 and 3, Code 2007, are amended to read as follows:
- 1. The purpose of the program is to improve a retail motor fuel site <u>sites</u> 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.
- 3. To all the extent practical practicable, the program shall be administered in conjunction with the programs provided in section 15.401.
 - Sec. 10. Section 15G.204, subsection 2, Code 2007, is amended to read as follows:
- 2. To all the extent practical practicable, the program shall be administered in conjunction with the programs provided in section 15.401.
 - Sec. 11. Section 22.7, subsection 52, Code 2007, is amended to read as follows:
- 52. <u>a.</u> 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:
- a. (1) Portions of records that disclose a donor's or prospective donor's personal, financial, estate planning, or gift planning matters.
- b. (2) Records received from a donor or prospective donor regarding such donor's prospective gift or pledge.

- e. (3) 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. (4) 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.
- e. (5) 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 subparagraph does not apply to a gift or pledge from a publicly held business corporation.
- f. b. The confidential records described in paragraphs "a" through "e" paragraph "a", subparagraphs (1) through (5), 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. c. Except as provided in paragraphs "a" through "f" paragraphs "a" and "b", 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.
- <u>d.</u> This subsection does not apply to a report filed with the ethics and campaign disclosure board pursuant to section 8.7.

Sec. 12. Section 29A.28, subsection 1, Code 2007, is 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, 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, 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.

Sec. 13. Section 29A.57, subsection 2, Code 2007, is amended to read as follows:

2. The board may acquire land or real estate by purchase, contract for purchase, gift, or bequest and acquire, own, contract for the construction of, erect, purchase, maintain, alter, operate, and repair installations and facilities of the Iowa army national guard and the Iowa air national guard when funds for the installations and facilities are made available by the federal government, the state of Iowa, municipalities, corporations or individuals. The title to the property so acquired shall be taken in the name of the state of Iowa and the real estate may be sold or exchanged by the executive council, upon recommendation of the board, when it is no longer needed for the purpose for which it was acquired. Income or revenue derived from the sale of the real estate shall be credited to the national guard facilities improvement fund and used for the purposes specified in section 29A.14, subsection 2.

- Sec. 14. Section 35A.10, subsection 2, Code 2007, is 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 the competitive bid threshold in section 26.3, 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 licensed professional engineer.
 - Sec. 15. Section 68B.32A, subsection 4, Code 2007, is amended to read as follows:
- 4. Receive and file registration and reporting reports from lobbyists of the executive branch of state government, client disclosure from clients of lobbyists of the executive branch of state government, 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.
 - Sec. 16. Section 68B.32B, subsection 1, Code 2007, is 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 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.
 - Sec. 17. Section 68B.32C, subsection 3, Code 2007, is amended to read as follows:
- 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, chapter 68A, section 8.7, 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. 18. Section 70A.28, subsection 6, Code 2007, is amended to read as follows:
- 6. 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 receives a reduction 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 in regard to 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.

Sec. 19. Section 80.34, Code 2007, is amended to read as follows: 80.34 PEACE OFFICER — AUTHORITY.

An authorized peace officer of the department designated to conduct examinations, investigations, or inspections and enforce the laws relating to controlled or counterfeit substances shall have all the authority of other peace officers and may arrest a person without warrant for offenses under this chapter committed in the peace officer's presence or, in the case of a felony, if the peace officer has probable cause to believe that the person arrested has committed or is committing such offense. A peace officer of the department shall have the same authority as other peace officers to seize controlled or counterfeit substances or articles used in the manufacture or sale of controlled or counterfeit substances which they have reasonable grounds to believe are in violation of law. Such controlled or counterfeit substances or articles shall be subject to condemnation forfeiture.

- Sec. 20. Section 100C.10, subsection 2, paragraph d, Code 2007, is amended to read as follows:
 - d. One professional engineer or architect licensed or registered in the state.
 - Sec. 21. Section 103A.19, Code 2007, is amended to read as follows: 103A.19 ADMINISTRATION AND ENFORCEMENT.
- 1. The examination and approval or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings or structures, and the administration and enforcement of building regulations shall be the responsibility of the governmental subdivisions of the state and shall be administered and enforced in the manner prescribed by local law or ordinance. All provisions of law relating to the administration and enforcement of local building regulations in any governmental subdivision shall be applicable to the administration and enforcement of the state building code in the governmental subdivision. An application made to a local building department or to a state agency for permission to construct a building or structure pursuant to the provisions of the state building code shall, in addition to any other requirement, be signed by the owner or the owner's authorized agent, and shall contain the address of the owner, and a statement that the application is made for permission to construct in accordance with the provisions of the code.
- <u>2.</u> In aid of administration and enforcement of the state building code, and in addition to and not in limitation of powers vested in them by law, each governmental subdivision of the state may:
- 1. a. Examine and approve or disapprove plans and specifications for the construction of any building or structure, the construction of which is pursuant or purports to be pursuant to the provisions of the state building code, and to direct the inspection of buildings or structures during the course of construction.
- 2. <u>b.</u> Require that the construction of any building or structure shall be in accordance with the applicable provisions of the state building code, subject, however, to the powers granted to the board of review in section 103A.16.
- 3. c. Order in writing any person to remedy any condition found to exist in, or about any building or structure in violation of the state building code. Orders may be served upon the owner or the owner's authorized agent personally or by certified mail at the address set forth in the application for permission to construct a building or structure. Any local building department may grant in writing such time as may be reasonably necessary for achieving compliance with an order.

4. <u>d.</u> Issue certificates of occupancy or use, permits, licenses, and other documents in connection with the construction of buildings or structures as may be required by ordinance.

A certificate of occupancy or use for a building or structure constructed in accordance with the provisions of the state building code shall certify that the building or structure conforms to the requirements of the code. The certificate shall be in the form the governing body of the governmental subdivision prescribes.

Every certificate of occupancy or use shall, until set aside or vacated by the board of review, director, or a court of competent jurisdiction, be binding and conclusive upon all state and local agencies, as to all matters set forth and no order, direction, or requirement at variance therewith shall be made or issued by any other state or local agency.

- 5. <u>e.</u> Make, amend, and repeal rules for the administration and enforcement of the provisions of this section, and for the collection of reasonable fees in connection therewith.
- $6. \ \underline{f}$. Prohibit the commencement of construction until a permit has been issued by the local building department after a showing of compliance with the requirements of the applicable provisions of the state building code.
- 3. The specifications for all buildings to be constructed after July 1, 1977, and which exceed a total volume of one hundred thousand cubic feet of enclosed space that is heated or cooled shall be reviewed by a registered architect or registered licensed engineer for compliance with applicable energy efficiency standards. A statement that a review has been accomplished and that the design is in compliance with the energy efficiency standards shall be signed and sealed by the responsible registered architect or registered licensed engineer. This statement shall be filed with the commissioner prior to construction. If the specifications relating to energy efficiency for a specific structure have been approved, additional buildings may be constructed from those same plans and specifications without need of further approval if construction begins within five years of the date of approval. Alterations of a structure which has been previously approved shall not require a review because of these changes, provided the basic structure remains unchanged.
 - Sec. 22. Section 103A.21, subsection 1, Code 2007, is amended to read as follows:
- 1. Any person served with an order pursuant to the provisions of section 103A.19, subsection 3.2, paragraph "c", who fails to comply with the order within thirty days after service or within the time fixed by the local building department for compliance, whichever is longer, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any other person taking part or assisting in the construction or use of any building or structure who shall knowingly violate any of the applicable provisions of the state building code or any lawful order of a local building department made thereunder, shall be guilty of a simple misdemeanor.
 - Sec. 23. Section 123.53, subsection 3, Code 2007, 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. Of the amounts transferred, two million dollars, plus an additional amount determined by the general assembly, shall be appropriated to the Iowa department of public health for use by the staff who administer the comprehensive substance abuse program under chapter 125 to be used for substance abuse treatment and prevention programs. Any amounts received in excess of the amounts appropriated to 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. 24. Section 124.401, subsection 1, paragraph b, subparagraph (2), subparagraph subdivisions (a), (b), and (c), Code 2007, are amended to read as follows:
- (a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or <u>and</u> 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.

- Sec. 25. Section 124.552, subsection 1, paragraphs c and d, Code 2007, are amended to read as follows:
 - c. Prescriber Prescribing practitioner identification.
 - d. The date the prescription was issued by the prescriber prescribing practitioner.
 - Sec. 26. Section 124.552, subsection 4, Code 2007, is amended to read as follows:
- 4. This section shall not apply to a prescriber prescribing practitioner furnishing, dispensing, supplying, or administering drugs to the prescriber's prescribing practitioner's patient, or to dispensing by a licensed pharmacy for the purposes of inpatient hospital care, inpatient hospite care, or long-term residential facility patient care.
- Sec. 27. Section 124.553, subsection 1, paragraph a, Code 2007, is amended to read as follows:
- a. (1) A pharmacist or prescriber prescribing practitioner 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 prescribing practitioner. Neither a pharmacist nor a prescriber prescribing practitioner may delegate program information access to another individual.
- (2) Notwithstanding subparagraph (1), a <u>prescriber prescribing practitioner</u> 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 <u>prescriber prescribing practitioner</u> was required to access the information personally.
 - Sec. 28. Section 124.553, subsections 6 and 7, Code 2007, are amended to read as follows:
- 6. Nothing in this section shall require a pharmacist or prescriber prescribing practitioner to obtain information about a patient from the program. A pharmacist or prescriber prescribing practitioner 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 prescribing practitioner did or did not seek or obtain or use information from the program. A pharmacist or prescriber prescribing practitioner 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 prescribing practitioner for the establishment, 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. 29. Section 124.554, subsection 1, paragraphs g and h, Code 2007, are amended to read as follows:
- 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 prescribing practitioner.
- h. Access by a pharmacist or prescriber prescribing practitioner to information in the program pursuant to a written agreement with the board and advisory council.
- Sec. 30. Section 124.554, subsection 2, paragraphs b and c, Code 2007, are amended to read as follows:
- b. Information from pharmacies, prescribers prescribing practitioners, the board, the advisory council, and others regarding the benefits or detriments of the program.
- c. Information from pharmacies, prescribers prescribing practitioners, the board, the advisory council, and others regarding the board's effectiveness in providing information from the program.

- Sec. 31. Section 124.555, subsection 1, Code 2007, is amended to read as follows:
- 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 prescribing practitioner 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.
- Sec. 32. Section 124.555, subsection 3, paragraphs a and d, Code 2007, are amended to read as follows:
- a. Ensuring the confidentiality of the patient, prescriber prescribing practitioner, and dispensing pharmacist and pharmacy.
- d. Making recommendations regarding the continued benefits of maintaining the program in relationship to cost and other burdens to the patient, prescriber prescribing practitioner, pharmacist, and the board. The council's recommendations shall be included in reports required by section 124.554, subsection 2.
 - Sec. 33. Section 124.556, Code 2007, is amended to read as follows: 124.556 EDUCATION AND TREATMENT.

The program for drug prescribing and dispensing shall include education initiatives and outreach to consumers, prescribers prescribing practitioners, 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 124.554, to implement this section.

- Sec. 34. Section 124.558, Code 2007, is amended to read as follows: 124.558 PROHIBITED ACTS PENALTIES.
- 1. FAILURE TO COMPLY WITH REQUIREMENTS. A pharmacist, pharmacy, or prescriber prescribing practitioner 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 prescribing practitioner 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. 35. Section 135.22B, subsections 6 and 7, Code 2007, are amended to read as follows:
- 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 5141. The individ-

ual <u>must meets</u> the cost-share component's financial eligibility requirements and be <u>is</u> 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. 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.
- a. b. 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. c. 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.
 - Sec. 36. Section 149.3, subsection 4, Code 2007, is amended to read as follows:
- 4. Have successfully completed a residency as determined by the board by rule. This subsection applies to all applicants who graduate from podiatric college a school of podiatry on or after January 1, 1995.

Sec. 37. Section 151.12, Code 2007, is amended to read as follows: 151.12 TEMPORARY CERTIFICATE.

The chiropractic examiners may, in their discretion, issue a temporary certificate authorizing the licensee certificate holder 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 certificate, 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 certificate, whether or not examinations shall be given, the type of examinations, and the duration of the license certificate. No requirements of the law pertaining to regular permanent licensure are mandatory for this temporary license certificate except as specifically designated by the chiropractic examiners. The granting of a temporary license certificate 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 issue the person a regular license.

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 certificate 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 fee for the temporary license certificate shall be based on the administrative costs of issuing the licenses certificates.

Sec. 38. Section 161A.23, unnumbered paragraph 1, Code 2007, is amended to read as follows:

After obtaining agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than fifty percent of the lands situated in the subdistrict, the governing body of the subdistrict shall have the authority to establish a special tax for the purpose of organization, construction, repair, alteration, enlargement, extension and operation of present and future works of improvement within the boundaries of said subdistrict. The governing body shall appoint three appraisers to assess benefits and classify the land affected by such improvements. One of such appraisers shall be a competent registered licensed professional engineer and two of them shall be resident landowners of the county or counties in which the subdistrict is located but not living within nor owning or operating any lands included in said subdistrict.

Sec. 39. Section 174.2, unnumbered paragraph 3, Code 2007, is amended to read as follows:

No salary or compensation of any kind shall be paid to the president, vice president, treasurer, or to a director of the association <u>fair</u> for such duties. However, the president, vice president, treasurer, or a director of the association <u>fair</u> may be reimbursed for actual expenses incurred by carrying out duties under this chapter or chapter 173, including, but not limited to attending the convention provided under section 173.2. A person claiming expenses under this paragraph shall be reimbursed to the same extent that a state employee is entitled to be reimbursed for expenses.

Sec. 40. Section 185C.29, unnumbered paragraph 1, Code 2007, is amended to read as follows:

After the <u>direct and indirect costs incurred by the secretary and the</u> costs of elections, <u>referendum referendums</u>, necessary board expenses, and administrative costs have been paid, at least seventy-five percent of the remaining moneys from a state assessment deposited in the corn promotion fund shall be used to carry out the purposes of this chapter as provided in section 185C.11.

Sec. 41. Section 210.12, Code 2007, is amended to read as follows:

210.12 SALE OF FRUITS AND VEGETABLES IN BASKETS.

Grapes, other fruits, and vegetables may be sold in climax baskets; but when said commodities are sold in such manner and the containers are labeled with the net weight of the contents in accordance with the provisions of section 189.9, all the provisions of the chapter relative to labeling foods 191 shall be deemed to have been complied with.

Sec. 42. Section 214.6, Code 2007, is amended to read as follows: 214.6 OATH OF WEIGHMASTERS.

All persons keeping <u>public scales</u> a <u>commercial weighing and measuring device</u>, before entering upon their duties as weighmasters, shall be sworn before some person having authority to administer oaths, to keep their <u>scales</u> <u>device</u> correctly balanced, to make true weights, and to render a correct account to the person having weighing done.

- Sec. 43. Section 215.26, subsection 1, Code 2007, is amended to read as follows:
- 1. "Commercial weighing and measuring device" means a weight or measure or weighing or measuring device used to establish size, quantity, area or other quantitative measurement of a commodity sold by weight or measurement, or where the price to be paid for producing the commodity is based upon the weight or measurement of the commodity. The term includes an accessory attached to or used in connection with a commercial weighing or measuring device when the accessory is so designed or installed that its operation may affect the accuracy of the device. Commercial weighing and measuring device includes a public scale as defined under section 214.1.
 - Sec. 44. Section 218.58, subsection 2, Code 2007, is 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 the competitive bid threshold in section 26.3, 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 licensed 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.
 - Sec. 45. Section 232.133, subsection 2, Code 2007, is amended to read as follows:
 - 2. Except for appeals from orders entered in child in need of assistance proceedings or or-

ders 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 orders entered pursuant to section 232.117.

Sec. 46. Section 256.57, subsection 1, Code 2007, is amended to read as follows:

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.

Sec. 47. Section 256.57, subsection 2, paragraph a, Code 2007, is amended to read as follows:

a. The level of compliance by the eligible public library with the performance measures adopted by the commission as provided in this paragraph section.

Sec. 48. Section 256.57, subsection 5, Code 2007, is amended to read as follows:

5. Each eligible public library shall maintain a separate listing within its budget for payments received and expenditures made pursuant to this subsection section, and shall annually submit this listing to the division.

Sec. 49. Section 262.58, Code 2007, 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 executive director of the state board of regents, secretary, or other official thereof performing the duties of the 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 executive director, secretary, or other official. 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. 50. Section 279.34, Code 2007, is amended to read as follows:

279.34 MOTOR VEHICLES REQUIRED TO OPERATE ON 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 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. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 51. Section 297.14, Code 2007, is amended to read as follows: 297.14 BARBED WIRE.

No <u>school attendance center</u> fence shall be constructed of barbed wire, nor shall any barbed wire fence be placed within ten feet of any school attendance center. Any person violating the provisions of this section shall be guilty of a simple misdemeanor.

Sec. 52. Section 309.17, Code 2007, is amended to read as follows: 309.17 ENGINEER — TERM.

The board of supervisors shall employ one or more registered <u>licensed</u> civil engineers who shall be known as county engineers. The board shall fix their term of employment which shall not exceed three years, but the tenure of office may be terminated at any time by the board.

Sec. 53. Section 321.30, Code 2007, is amended to read as follows: 321.30 GROUNDS FOR REFUSING REGISTRATION OR TITLE.

- <u>1.</u> The department or the county treasurer shall refuse registration and issuance of a certificate of title or any transfer of title and registration upon any of the following grounds:
- 1. a. That the application contains any false or fraudulent statement or that the applicant has failed to furnish required information or reasonable additional information requested by the department or that the applicant is not entitled to registration and issuance of a certificate of title of the vehicle under this chapter.
- 2. <u>b.</u> That the vehicle is mechanically unfit or unsafe to be operated or moved upon the highways, providing such condition is revealed by a member of this department, or any peace officer.
- 3. <u>c.</u> That the department or the county treasurer has reasonable ground to believe that the vehicle is a stolen or embezzled vehicle or that the granting of registration and issuance of a certificate of title would constitute a fraud against the rightful owner.
- 4. <u>d.</u> That the registration of the vehicle stands suspended or revoked for any reason as provided in the motor vehicle laws of this state.
 - 5. e. That the required fee has not been paid except as provided in section 321.48.
 - 6. f. That the required use tax has not been paid.
- 7. g. If application for registration and certificate of title for a new vehicle is not accompanied by a manufacturer's or importer's certificate duly assigned.
- 8. <u>h.</u> If application for a transfer of registration and issuance of a certificate of title for a used vehicle registered in this state is not accompanied by a certificate of title duly assigned.
- 9. i. If application and supporting documents are insufficient to authorize the issuance of a certificate of title as provided by this chapter, except that an initial registration or transfer of registration may be issued as provided in section 321.23.
- 10. j. In the case of a mobile home or manufactured home, that taxes are owing under chapter 435 for a previous year.
- 11. <u>k.</u> In the case of a mobile home or manufactured home converted from real estate, real estate taxes which are delinquent.
- 12. I. If a commercial motor vehicle has been assigned to be operated by a commercial motor carrier whose ability to operate has been terminated or denied by a federal agency.
 - 13. 2. 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.

- 3. The department or the county treasurer shall refuse registration of a vehicle on the following grounds:
- 14. The department or the county treasurer knows that an applicant for renewal of a registration has a delinquent account, charge, fee, loan, taxes, or other indebtedness owed to or being collected by the state, from information received pursuant to sections 8A.504 and 421.17. An applicant may contest this action by requesting a contested case proceeding from the agency that referred the debt for collection pursuant to section 8A.504. This subsection shall apply only to a renewal of registration and shall not apply to the issuance of an original registration or to the issuance of a certificate of title.
- 15. a. The department or the county treasurer shall refuse registration of a vehicle if <u>If</u> the applicant is under the age of eighteen years, unless the applicant has an Iowa driver's license or the application is being made by more than one applicant and one of the applicants is at least eighteen years of age.
- 16. <u>b.</u> The department or the county treasurer shall also refuse registration of a vehicle if If the applicant for registration of the vehicle has failed to pay the required registration fees of any vehicle owned or previously owned when the registration fee was required to be paid by the applicant, and for which vehicle the registration was suspended or revoked under section 321.101, subsection 1, paragraph "d", or section 321.101A, until the fees are paid together with any accrued penalties.
- Sec. 54. Section 321.40, unnumbered paragraph 6, Code 2007, is amended to read as follows:

The <u>department or the</u> county treasurer shall refuse to renew the registration of a vehicle registered to the applicant if the <u>department or the</u> county treasurer knows that the applicant has a delinquent account, charge, fee, loan, taxes, or other indebtedness owed to or being collected by the state, from information provided pursuant to sections 8A.504 and 421.17. An applicant may contest this action by requesting a contested case proceeding from the agency that referred the debt for collection pursuant to section 8A.504.

Sec. 55. Section 321.101, subsection 3, unnumbered paragraph 2, Code 2007, is amended to read as follows:

If a vehicle, for which the registration has been suspended or revoked pursuant to subsection 1, paragraph "d", or section 321.101A, is transferred to a bona fide purchaser for value without actual knowledge of such suspension or revocation, then the vehicle shall be deemed to be registered and the provisions of sections 321.28 and 321.30, subsections 4 subsection 1, paragraphs "d" and 5 "e", shall not be applicable to such vehicle for the failure of the previous owner to pay the required fees.

Sec. 56. Section 331.610, Code 2007, is amended to read as follows:

331.610 ABOLITION OF OFFICE OF RECORDER — IDENTIFICATION OF OFFICE — PLACE OF FILING.

If the office of county recorder is abolished in a county, the auditor of that county shall be referred to as the county auditor and recorder. After abolition of the office of county recorder, references in the Code requiring filing or recording of documents with the county recorder shall be deemed to require the filing in the office of the county auditor and recorder, and all duties of the abolished office of recorder shall be performed by the county auditor and recorder. However, the board of supervisors may direct that any of the duties of the abolished office of recorder prescribed in section 331.602, subsection 9, 10, 11, or 16, or section 331.605, subsection 1, 2, 3, or 4, or 5, shall be performed by other county officers or employees as provided in section 331.323.

Sec. 57. Section 357A.11, subsection 11, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Have authority to execute an agreement with a governmental entity, including a county, city, sanitary sewer district, or another district, for purposes of managing or administering the works, facilities, or waterways which are useful for the collection, disposal, or treatment of wastewater or sewage and which are located within the jurisdiction of the governmental entity or the district. The board may do what is necessary to carry out the agreement, including but not limited to any of the following:

Sec. 58. Section 357A.22A, unnumbered paragraph 2, Code 2007, is amended to read as follows:

A rural water district or rural water association incorporated under this chapter or chapter 504 which provides water service to cities, benefited fire districts, or townships shall not be liable for a claim against the district or association for failure to provide or maintain fire hydrants, facilities, or an adequate supply of water or water pressure for fire protection purposes if the purpose of the hydrants, facilities, or water used is not for fire protection. Not later than July 1, 2006, the legislative council shall provide for a review of the liability exemption or limitation provided for rural water districts or rural water associations under this paragraph and assess its effect on the provision of fire protection in areas served by the rural water districts or rural water associations.

Sec. 59. Section 358.16, unnumbered paragraph 7, Code 2007, is amended to read as follows:

However, in the event of an emergency when the delay of notice and hearing might cause serious loss or injury to persons or property within the district, the board of trustees may perform any action which may be required under this section without prior notice and hearing, and assess the cost as provided in this section, following notice to the property owner and hearing in the time and manner provided in the preceding paragraph. In that event the board of trustees shall, by resolution, make a finding of the necessity to institute emergency proceedings under this section, and shall procure a certificate from a competent registered licensed professional engineer or registered architect certifying that emergency action is necessary.

Sec. 60. Section 358.40, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

After three years from the establishment of a sanitary sewer district, a petition may be filed in the office of the county auditor, addressed to the board of supervisors, signed by a majority of persons owning land in the district and who in aggregate own at least sixty percent of the land in the district. The petition shall include the above facts and recite each of the following:

- Sec. 61. Section 384.37, subsection 5, Code 2007, is amended to read as follows:
- 5. "Engineer" means a professional engineer, registered licensed in the state of Iowa, authorized by the council to render services in connection with the public improvement.
- Sec. 62. Section 384.103, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

When emergency repair of a public improvement is necessary and the delay of advertising and a public letting might cause serious loss or injury to the city, the governing body shall, by resolution, make a finding of the necessity to institute emergency proceedings under this section, and shall procure a certificate from a competent registered licensed professional engineer or registered architect, not in the regular employ of the city, certifying that emergency repairs are necessary.

- Sec. 63. Section 403.19A, subsection 3, paragraphs e, f, and k, Code 2007, are amended to read as follows:
 - e. (1) The employer shall certify to the department of revenue that the targeted jobs with-

holding 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 of the agreement 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 created.
- 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 an agreement.
 - Sec. 64. Section 421.9, subsection 3, Code 2007, is amended to read as follows:
- 3. The director may make application to the district court or judicial magistrate in the county where the books, records, or assets are located for an administrative search warrant as authorized by section 808.14, to ensure equitable administration of state tax law, if any of the following occurs:
- a. A person refuses to allow the director or the director's authorized representative to audit the person's books or records or to inspect or value the person's assets.
- b. The director has good and sufficient reason to believe that a person will not allow the department to audit books or records or inspect or value assets or to believe that the person will destroy books or records or secrete or transfer assets.
- 4. Immediately upon issuance of a distress warrant authorized by section 422.26, the director may make application to the district court or judicial magistrate for an administrative search warrant as authorized by section 808.14 to execute the distress warrant.
- Sec. 65. Section 422.5, subsection 2A, unnumbered paragraphs 1 and 2, Code 2007, are amended to read as follows:

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.

Sec. 66. Section 422.11N, subsection 5, paragraph b, unnumbered paragraph 1, Code 2007, is amended to read as follows:

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:

Sec. 67. Section 422.11O, subsection 4, unnumbered paragraph 1, Code 2007, is amended to read as follows:

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:

- Sec. 68. Section 422.12I, subsection 2, Code 2007, 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 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 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. 69. Section 423.4, subsection 1, paragraphs b and c, Code 2007, are amended to read as follows:
- b. Such governmental unit, educational institution, nonprofit Iowa affiliate, or nonprofit private museum shall, not more than one year after the final settlement has been made, make application to the department for any refund of the amount of the sales or use tax which shall have been paid upon any goods, wares, or merchandise, or services furnished, the application to be made in the manner and upon forms to be provided by the department, and the department shall forthwith audit the claim and, if approved, issue a warrant to the governmental unit, educational institution, nonprofit Iowa affiliate, or nonprofit private museum in the amount of the sales or use tax which has been paid to the state of Iowa under the contract.
- <u>c.</u> 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.

e. 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. 70. Section 423A.6, unnumbered paragraph 3, Code 2007, is amended to read as follows:

Section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70, 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection 1, and sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35, 423.37 to through 423.42, and 423.47, consistent with the provisions of this chapter, apply with respect to the taxes authorized under this chapter, in the same manner and with the same effect as if the state and local hotel and motel taxes were retail sales taxes within the meaning of those statutes. Notwithstanding this paragraph, the director shall provide for quarterly filing of returns and for other than quarterly filing of returns both as prescribed in section 423.31. The director may require all persons who are engaged in the business of deriving any sales price subject to tax under this chapter to register with the department. All taxes collected under this chapter by a retailer or any individual are deemed to be held in trust for the state of Iowa and the local jurisdictions imposing the taxes.

Sec. 71. Section 423D.4, unnumbered paragraph 3, Code 2007, is amended to read as follows:

Section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70, 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection 1, and sections 423.23, 423.24, 423.25, 423.31 to through 423.35, 423.37 to through 423.42, and 423.47, consistent with the provisions of this chapter, apply with respect to the tax authorized under this chapter, in the same manner and with the same effect as if the excise taxes on equipment sales or use were retail sales taxes within the meaning of those statutes. Notwithstanding this paragraph, the director shall provide for quarterly filing of returns and for other than quarterly filing of returns both as prescribed in section 423.31. All taxes collected under this chapter by a retailer or any user are deemed to be held in trust for the state of Iowa.

Sec. 72. Section 446.19A, subsection 3, Code 2007, is amended to read as follows:

3. If after the date that a parcel is sold pursuant to this chapter, or after the date that a parcel is sold under section 446.18, 446.38, or 446.39, the parcel assessed as residential property or as commercial multifamily housing property is identified as abandoned or as a vacant lot pursuant to a verified statement filed with the county treasurer by a city or county in the form set forth in subsection 2, a city or county may require the assignment of the tax sale certificate that had been issued for such parcel by paying to the holder of such certificate the total amount due on the date the assignment of the certificate is made to the county or city and recorded with the county treasurer. If a certificate holder fails to assign the certificate of purchase to the city or county, the county treasurer is authorized to issue a duplicate certificate of purchase, which shall take the place of the original certificate, and assign the duplicate certificate to the city or county. If the certificate is not assigned by the county or city pursuant to subsection 4, the county or city, whichever is applicable, is liable for the tax sale interest that was due the certificate holder pursuant to section 447.1, as of the date of assignment.

Sec. 73. Section 446.20, subsection 2, unnumbered paragraph 2, Code 2007, 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 a 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. 74. Section 455B.171, subsection 27, Code 2007, is amended to read as follows:
- 27. "Semi-public sewage disposal system" means a system for the treatment or disposal of domestic sewage which is not a private sewage disposal system and which is not owned by a city, a sanitary sewer district, or a designated and approved management agency under section 1288 of the federal Water Pollution Control Act (33 U.S.C. § 1288).
- Sec. 75. Section 455B.183, subsection 1, paragraph a, Code 2007, is amended to read as follows:
- a. The construction, installation, or modification of any disposal system or public water supply system or part thereof or any extension or addition thereto except those sewer extensions and water supply distribution system extensions that are subject to review and approval by a city or county public works department pursuant to this section, the use or disposal of sewage sludge, and private sewage disposal systems. Unless federal law or regulation requires the review and approval of plans and specifications, a permit shall be issued for the construction, installation, or modification of a public water supply system or part of a system if a qualified, registered licensed engineer certifies to the department that the plans for the system or part of the system meet the requirements of state and federal law or regulations. The permit shall state that approval is based only upon the engineer's certification that the system's design meets the requirements of all applicable state and federal laws and regulations and the review of the department shall be advisory.
- Sec. 76. Section 455B.183, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Upon adoption of standards by the commission pursuant to section 455B.173, subsections 5 to 8, plans and specifications for sewer extensions and water supply distribution system extensions covered by this section shall be submitted to the city or county public works department for approval if the local public works department employs a qualified, registered licensed engineer who reviews the plans and specifications using the specific state standards known as the Iowa Standards for Sewer Systems and the Iowa Standards for Water Supply Distribution Systems that have been formulated and adopted by the department pursuant to section 455B.173, subsections 5 to 8. The local agency shall issue a written permit to construct if all of the following apply:

- Sec. 77. Section 455B.183, subsection 4, Code 2007, is amended to read as follows:
- 4. Plans and specifications for all other waste disposal systems and public water supply systems, including sewer extensions and water supply distribution system extensions not reviewed by a city or county public works department under this section, shall be submitted to the department before a written permit may be issued. Plans and specifications for public water supply systems and water supply distribution system extensions must be certified by a registered licensed engineer as provided in subsection 1, paragraph "a". The construction of any such waste disposal system or public water supply system shall be in accordance with standards formulated and adopted by the department pursuant to section 455B.173, subsections 5 to 8. If it is necessary or desirable to make material changes in the plans or specifications, revised plans or specifications together with reasons for the proposed changes must be submitted to the department for a supplemental written permit. The revised plans and specifications for a public water supply system must be certified by a registered licensed engineer as provided in subsection 1, paragraph "a".
- Sec. 78. Section 455B.803, subsection 2, paragraph b, subparagraph (7), subparagraph subdivision (c), Code 2007, is amended to read as follows:
- (c) Confirmation that the vehicle recycler has submitted switches at least <u>once</u> every twelve months since joining the program.

- Sec. 79. Section 455G.18, subsection 2, paragraph b, Code 2007, is amended to read as follows:
 - b. A professional engineer registered <u>licensed</u> in Iowa.
 - Sec. 80. Section 455G.18, subsection 8, Code 2007, is amended to read as follows:
- 8. The board may provide for exemption from the certification requirements of this section for a professional engineer registered licensed pursuant to chapter 542B, if the person is qualified in the field of geotechnical, hydrological, environmental groundwater, or hydrogeological engineering.
 - Sec. 81. Section 459.314B, subsection 3, Code 2007, is amended to read as follows:
- 3. Knowingly employing or executing a contract with a person who acts as a commercial manure service representative <u>and</u> who is not certified pursuant to section 459.315.
 - Sec. 82. Section 459A.401, subsection 1, Code 2007, is amended to read as follows:
- 1. All settleable solids from open feedlot effluent shall be removed prior to discharge into the waters a water of the state.
- a. The settleable solids shall be removed by use of a solids settling facility. The construction of a solids settling facility is not required where existing site conditions provide for removal of settleable solids prior to discharge into the waters a water of the state.
- b. The removal of settleable solids shall be deemed to have occurred when the velocity of flow of the open feedlot effluent has been reduced to less than point five feet per second for a minimum of five minutes. A solids settling facility shall have sufficient capacity to store settled solids between periods of land application and to provide required flow-velocity reduction for open feedlot effluent flow volumes resulting from a precipitation event of less intensity than a ten-year, one-hour frequency event. A solids settling facility which receives open feedlot effluent shall provide a minimum of one square foot of surface area for each eight cubic feet of open feedlot effluent per hour resulting from a ten-year, one-hour frequency precipitation event.
 - Sec. 83. Section 464A.5, Code 2007, is amended to read as follows: 464A.5 APPRAISAL OF DAMAGES.

If, at the time of the hearing, the claims for damages shall have been filed, further proceedings shall be continued to an adjourned, regular, or special session, the date and place of which shall be fixed at the time of adjournment and of which all interested parties shall take notice, and the commission shall have the damages appraised by three appraisers to be appointed by the chief justice of the supreme court. One of these appraisers shall be a registered licensed civil engineer resident of the state and two shall be freeholders of the state, who shall not be interested in nor related to any person affected by the proposed project.

- Sec. 84. Section 468.3, subsection 6, Code 2007, is amended to read as follows:
- 6. The term "engineer" and the term "civil engineer", within the meaning of this subchapter, parts 1 through 5, subchapter II, parts 1, 4, 5, and 6, and subchapter V, shall mean a person registered <u>licensed</u> as a professional engineer under the provisions of chapter 542B.
 - Sec. 85. Section 479.29, subsection 2, Code 2007, is amended to read as follows:
- 2. The county board of supervisors shall cause an on-site inspection for compliance with the standards adopted under this section to be performed at any pipeline construction project in the county. A licensed professional engineer familiar with the standards adopted under this section and registered licensed under chapter 542B shall be responsible for the inspection. A county board of supervisors may contract for the services of a licensed professional engineer for the purposes of the inspection. The reasonable costs of the inspection shall be borne by the pipeline company.

Sec. 86. Section 501A.1101, subsection 4, paragraph c, Code 2007, is amended to read as follows:

c. After the plan has been adopted, articles of merger or consolidation stating the plan and that the plan was adopted according to this subsection shall be signed by the chairperson, vice chairperson, <u>or</u> records officer, <u>or documents officer</u> of each cooperative merging or consolidating.

Sec. 87. Section 502.404, subsection 5, Code 2007, 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. 88. Section 504.801, subsection 2, Code 2007, is amended to read as follows:

2. Except as otherwise provided in this <u>subchapter</u> <u>chapter</u> or subsection 3, all corporate powers shall be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, its board.

Sec. 89. Section 507.16, Code 2007, is amended to read as follows: 507.16 UNLAWFUL SOLICITATION OF BUSINESS.

It shall be unlawful for any officer, manager, agent, or representative of any insurance company contemplated by this chapter, who, with knowledge that its certificate of authority has been suspended or revoked, or that it is insolvent, or is doing an unlawful or unauthorized business, to solicit or receive applications for insurance for the company, or to do any other act or thing toward receiving or procuring any new business for the company. The provisions of sections 511.16 505.7A and 511.17 are extended to all companies contemplated by this chapter.

Sec. 90. Section 512B.25, Code 2007, is amended to read as follows: 512B.25 ANNUAL LICENSE — RENEWAL.

The authority of a society to transact business in this state may be renewed annually. A license terminates on the succeeding first day of June 1 following issuance or renewal. 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. 91. Section 533.27, unnumbered paragraph 1, Code 2007, is amended to read as follows:

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 section 533.26, this section, and section 533.29. In any cause or proceedings in which any such records or files may be called into question or be demanded of the credit union or of any officer or employee of the credit union, a showing that such records or files have been destroyed in accordance with the terms of 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.

- Sec. 92. Section 533A.2, subsection 3, Code 2007, is amended to read as follows:
- 3. The application for a license shall be in the form prescribed by the superintendent. <u>If the applicant is not a natural person</u>, a copy of the legal documents creating the applicant shall be filed with the application. The application shall contain all of the following:
 - a. The name of the applicant.
- 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, including information as to any branch office of the applicant.
- 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. If the applicant is not a natural person, a copy of the legal documents creating the applicant shall be filed with the application.
 - e. Other pertinent information as the superintendent may require, including a credit report.
 - Sec. 93. Section 533A.5, subsection 1, Code 2007, is amended to read as follows:
- 1. To continue in the business of debt management, each licensee shall <u>annually</u> apply on or before June 1 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.
 - Sec. 94. Section 533A.9A, Code 2007, is amended to read as follows: 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 <u>deducted</u> 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. 95. Section 544A.17, subsections 1 and 2, Code 2007, are amended to read as follows:
- 1. Professional engineers registered <u>licensed</u> under chapter 542B.
- 2. Persons acting under the instruction, control or supervision of, and those executing the plans of, a registered architect or a professional engineer registered <u>licensed</u> under chapter 542B, provided that such unregistered <u>or unlicensed</u> persons shall not be placed in responsible charge of architectural or professional engineering work.
 - Sec. 96. Section 544A.18, subsection 5, Code 2007, is amended to read as follows:
- 5. Factory built buildings which are not more than two stories in height and not exceeding twenty thousand square feet in gross floor area or which are certified by a professional engineer registered licensed under chapter 542B.
 - Sec. 97. Section 544B.12, Code 2007, is amended to read as follows: 544B.12 SEAL.

Every professional landscape architect shall have a seal, approved by the board, which shall contain the name of the landscape architect and the words "Professional Landscape Architect, State of Iowa", and such other words or figures as the board may deem necessary. All landscape architectural plans and specifications, prepared by such professional landscape architect or under the supervision of such professional landscape architect, shall be dated and bear the legible seal of such professional landscape architect. Nothing contained in this section shall be construed to permit the seal of a professional landscape architect to serve as a substi-

tute for the seal of a <u>licensed registered</u> architect, a licensed professional engineer, or a licensed land surveyor whenever the seal of an architect, engineer or land surveyor is required under the laws of this state.

- Sec. 98. Section 544B.20, subsections 1 and 3, Code 2007, are amended to read as follows:
- 1. To apply to a professional engineer duly registered licensed under the laws of this state.
- 3. To prevent a registered architect or <u>licensed</u> professional engineer from doing landscape planning and designing.
 - Sec. 99. Section 571.1A, subsection 3, Code 2007, is amended to read as follows:
- 3. "Harvesting services" means baling, chopping, combining, cutting, husking, picking, shelling, stacking, threshing, or winnowing windrowing a crop, regardless of the means or method employed.
- Sec. 100. Section 602.11101, subsection 6, Code 2007, is amended by striking the subsection.
- Sec. 101. Section 617.3, unnumbered paragraph 5, Code 2007, is amended to read as follows:

The original notice of suit filed with the secretary of state shall be in form and substance the same as provided in rule of civil procedure 1.901 1.1901, form 3, Iowa court rules.

Sec. 102. Section 622.31, Code 2007, is amended to read as follows: 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 regulated by one of the examining boards listed in section 272C.1 and or in 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.

Sec. 103. Section 622A.1, Code 2007, is amended to read as follows: 622A.1 DEFINITION DEFINITIONS.

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

- 1. "Administrative agency" means any department, board, commission, or agency of the state or any political subdivision of the state.
- <u>2. "Legal proceeding"</u> means any action before any court, or any legal action preparatory to appearing before any court, whether civil, criminal, or juvenile in nature; and any administrative proceeding before any state <u>administrative</u> agency or governmental subdivision which is quasi-judicial in nature and which has direct legal implications to any person.
 - Sec. 104. Section 627.6, subsection 9, Code 2007, is amended to read as follows:
 - 9. The debtor's interest in the following:
 - a. One one motor vehicle, not to exceed in value seven thousand dollars in the aggregate.
- b. $\underline{9A}$. 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.

Sec. 105. Section 654.15A, Code 2007, is amended to read as follows: 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 request for 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. 106. Section 654.17, Code 2007, is amended to read as follows: 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 mortgage loan 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. 107. Section 655A.3, subsection 3, Code 2007, is amended to read as follows:

3. 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 commencing from the filing of proof of service on the mortgagors and terminate terminating 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. 108. Section 715.6, Code 2007, is amended to read as follows: 715.6 EXCEPTIONS.

Sections 715.4 and 715.5 shall not apply to the monitoring of, or interaction with, an owner's or an operator's internet or other network connection, service, or computer, by a telecommunications carrier, cable operator, computer hardware or software provider, or provider of information service or interactive computer service for network or computer security purposes, diagnostics, technical support, maintenance, repair, authorized updates of computer software or system firmware, authorized remote system management, or detection¹ or prevention of the unauthorized use of or fraudulent or other illegal activities prohibited in this chapter in connection with a network, service, or computer software, including scanning for and removing computer software prescribed under this chapter. Nothing in this chapter shall limit the rights of providers of wire and electronic communications under 18 U.S.C. § 2511.

Sec. 109. Section 726.6, subsection 7, Code 2007, is amended to read as follows:

7. A person who commits child endangerment that is not subject to penalty under subsection 4, 5, or 6 is guilty of an aggravated misdemeanor.

¹ See chapter 215, §257 herein

Sec. 110. Section 802.2, Code 2007, is amended to read as follows: 802.2 SEXUAL ABUSE — FIRST, SECOND, OR THIRD DEGREE.

- 1. An information or indictment for sexual abuse in the first, second, or third degree committed on or with a person who is under the age of eighteen years shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age, or if the identity of the person against whom the information or indictment is sought is established identified through the use of a DNA profile, an information or indictment shall be found within three years from the date the identity of the person is identified by the person's DNA profile, whichever is later.
- 2. An information or indictment for any other sexual abuse in the first, second, or third degree shall be found within ten years after its commission, or if the identity of the person against whom the information or indictment is sought is established identified through the use of a DNA profile, an information or indictment shall be found within three years from the date the identity of the person is identified by the person's DNA profile, whichever is later.
- 3. As used in this section, "identified" means a person's legal name is known and the person has been determined to be the source of the DNA.

Sec. 111. Section 802.10, Code 2007, is amended to read as follows: 802.10 DNA PROFILE OF ACCUSED.

- 1. As used in this section:
- a. "DNA profile" means the same as defined in section 81.1.
- b. "Identified" means the same as defined in section 802.2.
- 2. An indictment or information may be found containing only the DNA profile of the person charged sought. 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, <u>notwithstanding subsection 2</u>, an indictment or information shall be found <u>against a person</u> within three years from the date the <u>identity of the</u> 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.

Sec. 112. 2006 Iowa Acts, chapter 1112, section 2, is amended to read as follows:

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. 113. Section 13B.8A, Code 2007, is repealed.
- Sec. 114. Sections 15E.131 through 15E.149, Code 2007, are repealed.
- Sec. 115. Sections 260F.10, 260G.10, and 446.38, Code 2007, are repealed.
- Sec. 116. EFFECTIVE DATE. The section of this Act amending 2006 Iowa Acts, chapter 1112, section 2, takes effect January 1, 2009.

Approved May 9, 2007

CHAPTER 127

CITY CIVIL SERVICE COMMISSIONERS — NUMBER S.F. 336

AN ACT allowing certain cities to appoint additional civil service commissioners.

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

Section 1. Section 400.1, Code 2007, is amended to read as follows: 400.1 APPOINTMENT OF COMMISSION.

In cities having a population of eight thousand or over and having a paid fire department or a paid police department, the mayor, one year after a regular city election, with the approval of the council, shall appoint three civil service commissioners who shall hold office, one until the first Monday in April of the second year, one until the first Monday in April of the third year, and one until the first Monday in April of the fourth year after such appointment, whose successors shall be appointed for a term of four years. In cities having a population of more than one hundred seventy thousand, the city council may establish, by ordinance, the number of civil service commissioners at not less than three.

For the purpose of determining the population of a city under this chapter, the federal census conducted in 1980 shall be used.

Approved May 9, 2007

CHAPTER 128

WORKERS' COMPENSATION — INSURANCE COVERAGE AND DEBT COLLECTION PRACTICES

S.F. 421

AN ACT relating to workers' compensation laws by regulating insurance policy exclusions and debt collection practices.

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

Section 1. Section 85.1, subsection 6, Code 2007, is amended to read as follows:

- 6. Employers may with respect to an employee or a classification of employees exempt from coverage provided by this chapter pursuant to subsection 1, 2, or 3, 4, or 5, other than the employee or classification of employees with respect to whom a rule of liability or a method of compensation is established by the Congress of the United States, assume a liability for compensation imposed upon employers by this chapter, for the benefit of employees within the coverage of this chapter, by the purchase of valid workers' compensation insurance that does not specifically including exclude the employee or classification of employees. The purchase of and acceptance by an employer of valid workers' compensation insurance applicable to the employee or classification of employees constitutes an assumption by the employer of liability without any further act on the part of the employer, but only with respect to the employee or classification of employees as are within the coverage of the workers' compensation insurance contract and only for the time period in which the insurance contract is in force. Upon an election of such coverage, the employee or classification of employees shall accept compensation in the manner provided by this chapter and the employer shall be relieved from any other liability for recovery of damage, or other compensation for injury.
 - Sec. 2. Section 85.27, subsections 3 and 6, Code 2007, are amended to read as follows:
- 3. Notwithstanding section 85.26, subsection 4, charges believed to be excessive or unnecessary may be referred by the employer, insurance carrier, or health service provider to the workers' compensation commissioner for determination, and the commissioner may utilize the procedures provided in sections 86.38 and 86.39, or set by rule, and conduct such inquiry as the commissioner deems necessary. Any health service provider charges not in dispute shall be paid directly to the health service provider prior to utilization of procedures provided in sections 86.38 and 86.39 or set by rule. A health service provider rendering treatment to an employee whose injury is compensable under this section agrees to be bound by such charges as allowed by the workers' compensation commissioner and shall not recover in law or equity any amount in excess of charges set by the commissioner. When a dispute under chapter 85, 85A, or 85B regarding reasonableness of a fee for medical services arises between a health service provider and an employer or insurance carrier, the health service provider, employer, or insurance carrier shall not seek payment from the injured employee. A health service provider shall not seek payment for fees in dispute from the insurance carrier or employer until the commissioner finds, pursuant to informal dispute resolution procedures established by rule by the commissioner, that the disputed amount is reasonable. This section does not affect the responsibility of an insurance carrier or an employer to pay amounts not in dispute or a health service provider's right to receive payment from an employee's nonoccupational plan as provided in section 85.38, subsection 2.
- 6. While a contested case proceeding for determination of liability for workers' compensation benefits is pending before the workers' compensation commissioner relating to an injury alleged to have given rise to treatment, no debt collection, as defined by section 537.7102, shall be undertaken against an employee or the employee's dependents for the collection of charges for that treatment rendered an employee by any health service provider. If debt collection is undertaken after a creditor receives actual notice that a contested case proceeding for determination of liability for workers' compensation benefits is pending to an injury alleged to have given rise to treatment, no debt collection, as defined by section 537.7102, shall be undertaken against an employee or the employee's dependents for the collection of charges for that treatment rendered an employee by any health service provider.

nation of liability for workers' compensation benefits is pending, such debt collection shall constitute a prohibited practice under section 537.7103, and the employee or the employee's dependents are entitled to the remedies provided in section 537.5201. However, the health service provider may send one itemized written bill to the employee setting forth the amount of the charges in connection with the treatment after notification of the contested case proceeding.

- Sec. 3. Section 537.5301, subsection 4, Code 2007, is amended to read as follows:
- 4. A person who willfully and knowingly violates the provisions of section 537.7103 is guilty of a serious misdemeanor. However, this subsection is not applicable to a violation of section 537.7103, subsection 7.
- Sec. 4. Section 537.7103, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 7. A debt collector shall not collect or attempt to collect charges from an employee or an employee's dependents for treatment rendered the employee by any health service provider, after receiving actual notice that a contested case proceeding for determination of liability of workers' compensation benefits is pending as provided in section 85.27, subsection 6.

Approved May 9, 2007

CHAPTER 129

DEER HUNTING — YOUTH LICENSES S.F. 435

AN ACT relating to youth deer hunting licenses.

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

Section 1. Section 483A.8, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 7. A person who is issued a youth deer hunting license and does not take a deer during the youth deer hunting season may use the deer hunting license and unused tag during any other firearm season that is established by the commission to take a deer of either sex.

Approved May 9, 2007

CHAPTER 130

SCHOOL DISTRICT REORGANIZATION AND SHARING INCENTIVES

S.F. 447

AN ACT relating to incentives for school district reorganizations and shared operational functions, and making an appropriation.

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

Section 1. Section 257.3, subsection 2, paragraph d, Code 2007, is amended to read as follows:

- d. For purposes of this section, a reorganized school district is one which absorbs at least thirty percent of the enrollment of the school district affected by a reorganization or dissolved during a dissolution and in which action to bring about a reorganization or dissolution is initiated by a vote of the board of directors or jointly by the affected boards of directors to take effect on or after July 1, 2002 2007, and on or before July 1, 2006 2014. Each district which initiated, by a vote of the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution to take effect on or after July 1, 2002 2007, and on or before July 1, 2006 2014, shall certify the date and the nature of the action taken to the department of education by January 1 of the year in which the reorganization or dissolution takes effect. For a reorganization or dissolution that took effect on or after July 1, 2002, and on or before July 1, 2006, the reorganized school district shall continue to receive the benefits of paragraphs "a" and "b" of this subsection for the time specified in those paragraphs.
- Sec. 2. Section 257.11, subsection 2, paragraph c, Code 2007, is amended by striking the paragraph and inserting in lieu thereof the following:
- c. Pupils attending class for all or a substantial portion of a school day pursuant to a whole grade sharing agreement executed under sections 282.10 through 282.12 shall be eligible for supplementary weighting pursuant to this subsection. A school district which executes a whole grade sharing agreement and which adopts a resolution jointly with other affected boards to study the question of undergoing a reorganization or dissolution to take effect on or before July 1, 2014, shall receive a weighting of one-tenth of the percentage of the pupil's school day during which the pupil attends classes in another district, attends classes taught by a teacher who is jointly employed under section 280.15, or attends classes taught by a teacher who is employed by another school district. A district shall be eligible for supplementary weighting pursuant to this paragraph for a maximum of three years. Receipt of supplementary weighting for a second and third year shall be conditioned upon submission of information resulting from the study to the school budget review committee indicating progress toward the objective of reorganization on or before July 1, 2014.
- Sec. 3. Section 257.11, subsection 5, paragraph a, Code 2007, is amended to read as follows:
- a. For the school budget year beginning July 1, 2002, and succeeding budget years through the school budget year beginning July 1, 2007, in order to provide additional funds for school districts in which a regional academy is located, a supplementary weighting plan for determining enrollment is adopted.
- Sec. 4. Section 257.11, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 5A. SHARED OPERATIONAL FUNCTIONS INCREASED STUDENT OPPORTUNITIES.
- a. In order to provide additional funding to increase student opportunities and redirect more resources to student programming for school districts that share operational functions, a supplementary weighting of two hundredths per pupil shall be assigned to pupils enrolled

in a district that shares with a political subdivision one or more operational functions in the areas of superintendent management, business management, human resources, transportation, or operation and maintenance for at least twenty percent of the school year. The additional weighting shall be assigned for each discrete operational function shared. For the purposes of this section, "political subdivision" means a city, township, county, school corporation, merged area, area education agency, institution governed by the state board of regents, or any other governmental subdivision.

- b. Supplementary weighting pursuant to this subsection shall be available to a school district for a maximum of five years during the period commencing with the budget year beginning July 1, 2008, through the budget year beginning July 1, 2013. The minimum amount of additional weighting for which a school district shall be eligible is an amount equivalent to ten additional pupils, and the maximum amount of additional weighting for which a school district shall be eligible is an amount equivalent to forty additional pupils. Receipt of supplementary weighting by a school district pursuant to this subsection for more than one year shall be contingent upon the annual submission of information by the district to the department documenting cost savings directly attributable to the shared operational functions. Criteria for determining the number of years for which supplementary weighting shall be received pursuant to this subsection, subject to the five-year maximum, and for determining qualification of operational functions for supplementary weighting shall be determined by the department by rule, through consideration of long-term savings by the school district or increased student opportunities.
- c. Supplementary weighting pursuant to this subsection shall be available to an area education agency for a maximum of five years during the period commencing with the budget year beginning July 1, 2008. The minimum amount of additional funding for which an area education agency shall be eligible is fifty thousand dollars, and the maximum amount of additional funding for which an area education agency shall be eligible is two hundred thousand dollars. The department of management shall annually set a weighting for each area education agency to generate the approved operational sharing expense using the area education agency's special education cost per pupil amount and foundation level. Receipt of supplementary weighting by an area education agency for more than one year shall be contingent upon the annual submission of information by the district to the department documenting cost savings directly attributable to the shared operational functions. Criteria for determining the number of years for which supplementary weighting shall be received pursuant to this subsection, subject to the five-year maximum, and the amount generated by the supplementary weighting, and for determining qualification of operational functions for supplementary weighting shall be determined by the department by rule, through consideration of long-term savings by the area educational agency or increased student opportunities.
- d. The amount of any supplementary weighting originally received under this subsection shall be reduced by an additional twenty percent from the original amount for each subsequent budget year that supplementary weighting may be received.
 - e. This subsection is repealed effective July 1, 2014.

Sec. 5. Section 257.11A, Code 2007, is amended to read as follows: 257.11A SUPPLEMENTARY WEIGHTING AND SCHOOL REORGANIZATION.

1. In determining weighted enrollment under section 257.6, if the board of directors of a school district has approved a contract for sharing pursuant to section 257.11 and the school district has approved an action to bring about a reorganization to take effect on and after July 1, 2002 2007, and on or before July 1, 2006 2014, the reorganized school district shall include, for a period of three years following the effective date of the reorganization, additional pupils added by the application of the supplementary weighting plan, equal to the pupils added by the application of the supplementary weighting plan in the year preceding the reorganization. For the purposes of this subsection, the weighted enrollment for the period of three years following the effective date of reorganization shall include the supplementary weighting in the base year used for determining the combined district cost for the first year of the reorganiza-

tion. However, the weighting shall be reduced by the supplementary weighting added for a pupil whose residency is not within the reorganized district.

- 2. For purposes of this section, a reorganized district is one in which the reorganization was approved in an election pursuant to sections 275.18 and 275.20 and takes effect on or after July 1, $2002\ 2007$, and on or before July 1, $2006\ 2014$. Each district which initiates, by a vote of the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution to take effect on or after July 1, $2002\ 2007$, and on or before July 1, $2006\ 2014$, shall certify the date and the nature of the action taken to the department of education by January 1 of the year in which the reorganization or dissolution takes effect.
- 3. Notwithstanding subsection 1, a school district which was participating in a whole grade sharing arrangement during the budget year beginning July 1, 2001, and which received a maximum of two years of supplementary weighting pursuant to section 257.11, subsection 2, paragraph "c", shall include additional pupils added by the application of the supplementary weighting plan, equal to the pupils added by the application of the supplementary weighting plan in the year preceding the reorganization, for a period of four years following the effective date of the reorganization.
- 4. 3. A school district shall be eligible for a combined maximum total of six years of supplementary weighting under the provisions of this section and section 257.11, subsection 2, paragraph "c". A school district participating in a whole grade sharing arrangement during the budget year beginning July 1, 2001, that adopted a resolution jointly with other affected boards to study the question of undergoing a reorganization or dissolution to take effect on or after July 1, 2002, and on or before July 1, 2006, shall continue to receive the supplementary weighting to which it was entitled pursuant to the provisions of this section and section 257.11, subsection 2, paragraph "c".
- Sec. 6. SCHOOL DISTRICT SHARING AND EFFICIENCIES APPROPRIATION. For the fiscal year beginning July 1, 2007, and ending June 30, 2008, there is appropriated from the general fund of the state to the department of education the following amount, or so much thereof as is necessary, to be used for the purposes designated in this section:

The amount appropriated shall be utilized by the department for development of a uniform process to facilitate discussions to promote reductions in the costs of operations and create additional resource availability as provided in subsections 1 through 5.

- 1. Not later than September 15, 2007, the department of education shall, in consultation with the boards of directors of the area education agencies and other appropriate education stakeholders as necessary, develop a uniform process to facilitate discussion between school district leaders in order to support rigorous and relevant student programming and efforts to increase student achievement through identification and realization of sharing and efficiency of operations efforts with other school districts, educational partners, and governmental subdivisions. The process is intended to promote reductions in the costs of operations and create additional resource availability. The process shall provide a framework for a consistent regional plan for use by area education agencies pursuant to subsection 3.
- 2. The department of education shall employ staff members to be placed in the area education agencies to coordinate and facilitate the processes developed pursuant to subsection 1, between area education agency personnel, community college representatives, postsecondary institutions, and school district leaders from every school district located within each area education agency. Processes to be developed shall include but shall not be limited to school district and area education agency services available to improve efficiencies, areas of potential sharing, and efficiency of operations. Other governmental subdivisions and private entities may be consulted for efficiency proposals. Districts involved in the processes shall consider operational efficiencies, shared programming, transportation sharing, expansion of area education agency cooperatives, common schedules for school districts and community colleges, energy and insurance efficiencies, effective structure and delivery models that promote optimum student achievement, graduation requirements, and a rigorous, relevant curriculum.

- 3. By January 15, 2008, each area education agency shall submit a plan to the department which identifies the existing, new, or expanded opportunities for school district sharing or efficiency of operations determined as a result of completing the process. The plan shall provide for long-term measures that identify money or time saved as a result of the sharing or efficiency of operations efforts, list the cooperative partners in specific sharing or efficiency of operations efforts, describe effective structure and delivery models that promote optimum student achievement, and include provisions for making educational stakeholders aware of the sharing and efficiency in operations opportunities available in each area.
- 4. The department of education shall compile and review the plans submitted pursuant to subsection 3, identify barriers to potential sharing and efficiency in operations efforts, recommend a timeline for implementation of sharing and efficiency of operations efforts and a reduction in funding related to penalties for noncompliance with the implementation of sharing and efficiency of operations efforts, and shall submit its findings and recommendations to the general assembly by March 15, 2008.
- 5. For purposes of subsection 1, "school district leaders" includes superintendents, administrators, central office staff, educators, and school board members, although a school district may designate one school district leader to represent the school district regularly at the meetings held pursuant to subsection 2.

Approved May 9, 2007

CHAPTER 131

MOTOR HOMES AND MANUFACTURERS' CLUB RALLIES

S.F. 469

AN ACT concerning financial and regulatory matters, including by providing for the sale of motor homes by a manufacturer at a camping rally sponsored and conducted by the manufacturer and providing for applicability to a pilot project, and providing an effective date.

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

Section 1. Section 321.18, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 9. A motor home purchased by a nonresident at a rally in this state pursuant to section 322E.2, which is driven on a highway solely for the purpose of removing the motor home from the state.

Sec. 2. NEW SECTION. 322E.1 DEFINITIONS.

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

- 1. "Department" means the state department of transportation.
- 2. "Class A motor home", "class B motor home", and "class C motor home" mean the same as defined in section 321.124.
 - 3. "Manufacturer" means a motor home manufacturer licensed under chapter 322.
 - 4. "Nonresident" means a person who is not a resident of this state.
- Sec. 3. <u>NEW SECTION</u>. 322E.2 MOTOR HOME MANUFACTURER'S CLUB RALLY RETAIL SALES OF MOTOR HOMES.
- 1. Notwithstanding chapter 322, a manufacturer of class A motor homes that sponsors a club composed of owners of motor homes manufactured by the manufacturer may display and

sell new class A motor homes manufactured by the manufacturer at a rally of those club members if all of the following conditions apply:

- a. The rally is sponsored and conducted by the manufacturer.
- b. The rally is held on the grounds of a county fair as described in chapter 174.
- c. The manufacturer conducts no more than one rally annually in this state.
- d. The rally is conducted for a single period of not more than seven consecutive days.
- e. The rally is not open to the public.
- f. Attendance at the rally is restricted to bona fide members of the club sponsored by the manufacturer and the members' immediate families.
- g. Persons who attend the rally camp on the fairgrounds where the rally is held in their respective motor homes manufactured by the manufacturer sponsoring and conducting the rally.
- h. Sales of class A motor homes are made by the manufacturer only to nonresident attendees of the rally who meet the requirements of paragraphs "f" and "g".
- 2. Notwithstanding chapter 322, a manufacturer of class A motor homes that sponsors and conducts a rally as provided in subsection 1 may accept trade-ins of used motor homes manufactured by the manufacturer from attendees of the rally who meet the requirements of subsection 1, paragraphs "f" and "g" who purchase from the manufacturer a new class A motor home manufactured by the manufacturer. A manufacturer may sell or trade such a used motor home acquired from a purchaser in trade at the rally, provided that the manufacturer has in its possession at the rally the certificate of title to the motor home, assigned to the manufacturer. A manufacturer shall not sell or trade, at a rally, a used motor home acquired from a purchaser in trade at the rally to any person other than a nonresident attendee who meets all of the requirements of subsection 1, paragraphs "f" and "g".
- 3. A manufacturer of class A motor homes shall provide notice to the department not less than ninety days prior to the beginning date of a rally to be sponsored and conducted by the manufacturer. The notice shall be in a form and contain such information as may be required by the department.
- 4. An Iowa certificate of title and registration shall not be issued for a motor home sold by a manufacturer at a rally pursuant to this section.
- 5. A motor home sold by a manufacturer at a rally pursuant to this section may be operated or moved on the highways of this state only for the purpose of removing the motor home from the state, as provided in section 321.18, subsection 9.
- 6. Notwithstanding chapter 322, a manufacturer of class A motor homes that sponsors and conducts a rally as provided in subsection 1 may display but not sell at the rally new class B and class C motor homes manufactured by the manufacturer.

Sec. 4. <u>NEW SECTION</u>. 322E.3 FUTURE REPEAL. This chapter is repealed June 30, 2012.

Sec. 5. The sections of 2007 Iowa Acts, Senate File 403, amending section 260C.14, subsection 6, and section 313.2, unnumbered paragraph 5, if enacted, are repealed.

Sec. 6. TEMPORARY APPLICABILITY — CLAY COUNTY PILOT PROJECT.

- 1. For the period beginning July 1, 2007, and ending June 30, 2012, this Act applies only to motor home manufacturer's club rallies held on the grounds of the county fair in Clay county, provided that not more than one such rally shall be held in Clay county annually during the five-year pilot project. The Clay county fair board shall report to the senate and house standing committees on transportation on or before December 31 annually during the five-year period regarding any rally held at the fairgrounds during the year or any other information relevant to the pilot project.
- 2. The Clay county fair board shall inform the department of transportation of any suspected violation of the sales provisions of this Act brought to the attention of the board. Upon receiving information regarding a transaction constituting a possible violation of this Act, the

¹ Chapter 206 herein; see also chapter 215, §133 herein

department shall investigate the claim to determine whether evidence exists proving that a violation occurred. If the department determines from the investigation that a violation occurred, the department shall report the substantiated violation to the Clay county fair board and shall send a copy of the report to the senate and house standing committees on transportation. Upon receiving a report from the department of a substantiated violation of this Act, the Clay county fair board shall not permit any future rally to be conducted on the fairgrounds by a motor home manufacturer.

Sec. 7. EFFECTIVE DATE. The section of this Act repealing sections of 2007 Iowa Acts, Senate File 403,² if enacted, being deemed of immediate importance, takes effect upon enactment.

Approved May 9, 2007

CHAPTER 132

PARENT'S CAUSE OF ACTION FOR INJURY OR DEATH OF CHILD

S.F. 538

AN ACT relating to a parent's cause of action for the recovery of expenses and actual loss of services, companionship, and society resulting from the injury to or death of a child and including an applicability date provision.

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

Section 1. NEW SECTION. 613.15A INJURY TO OR DEATH OF A CHILD.

A parent or the parents of a child may recover for the expense and actual loss of services, companionship, and society resulting from injury to or death of a minor child and may recover for the expense and actual loss of services, companionship, and society resulting from the death of an adult child.

Sec. 2. Section 633.336, Code 2007, is amended to read as follows:

633.336 DAMAGES FOR WRONGFUL DEATH.

When a wrongful act produces death, damages recovered as a result of the wrongful act shall be disposed of as personal property belonging to the estate of the deceased; however, if the damages include damages for loss of services and support of a deceased spouse, and parent, or child, the damages shall be apportioned by the court among the surviving spouse, and children, and parents of the decedent in a manner as the court may deem equitable consistent with the loss of services and support sustained by the surviving spouse, and children, and parents respectively. Any recovery by a parent for the death of a child shall be subordinate to the recovery, if any, of the spouse or a child of the decedent. If the decedent leaves a spouse, child, or parent, damages for wrongful death shall not be subject to debts and charges of the decedent's estate, except for amounts to be paid to the department of human services for payments made for medical assistance pursuant to chapter 249A, paid on behalf of the decedent from the time of the injury which gives rise to the decedent's death up until the date of the decedent's death.

² Chapter 206 herein

Sec. 3. APPLICABILITY. This Act applies to all actions filed on or after the effective date of this Act.

Approved May 9, 2007

CHAPTER 133

STATE OBLIGATIONS — UNIFORM FINANCE PROCEDURES
S.F. 539

AN ACT establishing uniform finance procedures for obligations issued by the state.

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

Section 1. NEW SECTION. 12F.1 DEFINITIONS.

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

- 1. "Authorizing document" means the resolution of the issuer, indenture of trust, or other instrument setting forth the terms and conditions of obligations issued in accordance with the provisions of this chapter.
- 2. "Enabling legislation" means legislation enabling the issuance by an issuer of obligations in accordance with the provisions of this chapter.
- 3. "Issuer" means the state, a department or public or quasi-public agency or instrumentality of the state, or an authority of the state authorized to issue obligations and enabled to issue the obligations in accordance with the provisions of this chapter.
- 4. "Obligations" means notes, bonds, including refunding bonds, and other evidences of indebtedness of an issuer.

Sec. 2. NEW SECTION. 12F.2 PROVISIONS APPLICABLE.

An issuer may issue obligations in accordance with the provisions of this chapter if enabling legislation enacted on or after the effective date of this Act provides that the obligations shall or may be issued in accordance with the provisions of this chapter. This chapter establishes the terms, conditions, and procedures applicable to the issuance of obligations by an issuer enabled to issue obligations under this chapter.

Sec. 3. NEW SECTION. 12F.3 LIMITED OBLIGATIONS.

Obligations issued under this chapter are payable solely out of the moneys, assets, or revenues pledged to the payment of the obligations pursuant to the enabling legislation and any bond reserve funds established in accordance with this chapter, all of which may be deposited with trustees or depositories in accordance with the authorizing documents and pledged by the issuer to the payment thereof. Obligations issued under this chapter shall contain a statement that the obligations are issued pursuant to this chapter; are payable solely from the moneys, assets, and revenues pledged for their payment and any bond reserve funds established; and that such obligations do not constitute an indebtedness of the state. The issuer shall not pledge the credit or taxing power of this state or any political subdivision of this state or make obligations issued pursuant to this chapter payable out of any moneys except those pledged in the enabling legislation and any bond reserve funds established by the issuer.

Sec. 4. <u>NEW SECTION</u>. 12F.4 GENERAL POWERS.

1. An issuer may issue obligations under this chapter and do all things necessary with re-

spect to the issuance of the obligations. An issuer shall have all of the powers necessary to issue and secure obligations and carry out the purposes for which the obligations are to be issued, including the power to secure credit enhancement or support and to enter into agreements providing interest rate protection, as deemed appropriate by the issuer. The issuer may issue obligations in principal amounts consistent with the enabling legislation and which the issuer determines are necessary to provide sufficient funds for the purposes for which the obligations are issued, and to provide for the payment of capitalized interest on the obligations, the establishment of reserves to secure the obligations, the payment of the costs of issuance of the obligations, the payment of other expenditures of the issuer incident to and necessary or convenient to carry out the issue, and the payment of all other expenditures necessary or convenient to the purposes for which the obligations are issued.

- 2. The proceeds of obligations issued by the issuer and not required for immediate disbursement may be deposited with a trustee or depository or the treasurer of state as provided in the authorizing documents. Proceeds shall be invested or reinvested as directed by the treasurer of state and specified in the authorizing documents without regard to any limitation otherwise provided by law.
 - 3. Obligations shall be issued as follows:
- a. In a form, issued in denominations, executed in a manner, and payable over terms and with rights of redemption, and subject to such other terms and conditions as prescribed in the authorizing documents.
- b. Sold at prices, at public or private sale, and in a manner, as prescribed by the issuer. Chapters 73A, 74, 74A, 75, and 76 do not apply to the sale, issuance, or retirement of the obligations if this chapter is utilized.
- 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 chapter and as determined by the authorizing documents.
- 4. Obligations issued under this chapter are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code, chapter 554. Obligations 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 obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.
- 5. Obligations must be authorized by a trust indenture, resolution, or other instrument of the issuer. A trust indenture, resolution, or other instrument authorizing the issuance of obligations may, however, delegate to an officer of a board or of a governing body of an issuer the power to negotiate and fix the details of an issue of obligations.
- 6. A resolution, trust agreement, or any other instrument by which a pledge is created shall not be required to be recorded or filed under the uniform commercial code, chapter 554, to be valid, binding, or effective.
- 7. Subject to the terms of the authorizing documents, the proceeds of obligations may be expended for administrative expenses.
- 8. An issuer may issue obligations for the purpose of refunding any obligations 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 obligations. Until the proceeds of obligations issued for the purpose of refunding outstanding obligations are applied to the purchase or retirement of outstanding obligations or the redemption of outstanding obligations, the proceeds may be placed in escrow and be invested and reinvested in accordance with the provisions of this chapter, the authorizing documents, and any applicable escrow agreement. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding obligations to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any bal-

ance of proceeds and interest earned or realized on the investments may be returned to the issuer. All refunding obligations shall be issued and secured and subject to the provisions of this chapter in the same manner and to the same extent as other obligations issued pursuant to this chapter.

Sec. 5. <u>NEW SECTION</u>. 12F.5 RESERVE FUNDS.

- 1. An issuer may create and establish one or more special funds, to be known as bond reserve funds, to secure one or more issues of obligations. The issuer shall pay into each bond reserve fund any moneys appropriated and made available by the state for the purpose of that reserve fund, any proceeds of the sale of obligations to the extent provided in the authorizing documents, and any other moneys which may be available from any other sources and which the issuer determines to deposit in the reserve fund. 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 obligations secured in whole or in part by the fund or of the sinking fund or other payments with respect to the obligations, the purchase or redemption of the obligations, the payment of interest on the obligations, or the payments of any redemption premium required to be paid when the obligations are redeemed prior to maturity.
- 2. Moneys in a bond reserve fund shall not be withdrawn 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, except for the purpose of making, with respect to obligations secured in whole or in part by the fund, payment when due of principal, interest, redemption premiums, and the sinking fund and other payments with respect to the obligations for which other moneys are not available, all in accordance with the authorizing documents. For the purposes of this chapter, "bond reserve fund requirement" means, as of any particular date of computation, the amount of moneys, provided in the authorizing documents with respect to which the fund is established. Any income or interest earned by, or incremental to, a bond reserve fund due to its investment may be transferred to other funds or accounts as provided in the authorizing documents to the extent the transfer does not reduce the amount of that bond reserve fund below its bond reserve fund requirement.
- 3. The issuer shall not at any time issue obligations, secured in whole or in part by a bond reserve fund if, upon the issuance of the obligations, the amount in the bond reserve fund for the obligations will be less than the bond reserve fund requirement for the fund, unless the issuer at the time of issuance of the obligations deposits in the fund from the proceeds of the obligations issued or from other sources an amount which, together with the amount then in the fund, will not be less than the bond reserve fund requirement for the fund.
- 4. In order to assure maintenance of bond reserve funds, an issuer shall, on or before January 1 of each calendar year, make and deliver to the governor the issuer'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 issuer pursuant to this subsection shall be deposited by the issuer in the applicable bond reserve fund.

Sec. 6. NEW SECTION. 12F.6 PLEDGE OF FUNDS.

- 1. Amounts authorized to be pledged as security for obligations shall be held in separate and distinct funds in the state treasury. Moneys in a fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for debt service on the obligations and other amounts as set forth in the authorizing documents. The treasurer of state shall act as custodian of the funds and disburse moneys contained in the funds as directed by the authorizing documents.
- 2. Moneys in any fund pledged as security for obligations are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the funds shall be credited to the applicable fund.

Sec. 7. NEW SECTION. 12F.7 RESOLUTION PROVISIONS.

Authorizing document provisions, which shall be a part of the contract with the holders of the obligations to be issued, may contain the following:

- 1. Pledging or assigning the revenue of a project with respect to which the obligations are to be issued or the revenue of other property or facilities.
 - 2. Setting aside reserves or sinking funds, and their regulation, investment, and disposition.
 - 3. Limitations on the use of a project.
- 4. Limitations on the purpose to which or the investments in which the proceeds of sale of an issue of obligations then or thereafter to be issued may be applied and pledging the proceeds to secure the payment of the obligations or an issue of the obligations.
- 5. Limitations on the issuance of additional obligations, the terms upon which additional obligations may be issued and secured, and the refunding of outstanding obligations.
- 6. The procedure, if any, by which the terms of any contract with the holder of an obligation may be amended or abrogated, the amount of obligations may be specified for which the holders must consent to amendment or abrogation, and the manner in which the consent may be given.
- 7. Defining the acts or omissions to act which constitute a default in the duties of the issuer to holders of obligations and providing the rights and remedies of the holders in the event of a default.
 - 8. Other matters relating to the obligations as may be provided by the issuer.

Sec. 8. NEW SECTION. 12F.8 OBLIGATIONS SECURED BY TRUST AGREEMENT.

Obligations issued under this chapter may be secured by a trust agreement by and between the issuer and an incorporated trustee, which may be a trust company or bank having the powers of a trust company in this state or another state. The trust agreement or the resolution providing for the issuance of the obligations may pledge or assign the revenue to be received for payment of the obligations or the proceeds of any contract pledged. A pledge or assignment made by the issuer pursuant to this chapter is valid and binding from the time that the pledge or assignment is made, and the revenue pledged and thereafter received by the issuer is immediately subject to the lien of the pledge or assignment without physical delivery or any further act. The lien of the pledge or assignment is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the issuer irrespective of whether the parties have notice of the lien. The trust agreement or resolution by which a pledge is created or an assignment made shall be filed in the records of the issuer. The trust agreement or resolution providing for the issuance of the obligations may contain provisions for protecting and enforcing the rights and remedies of the holders of an obligation as are reasonable and proper, not in violation of law, or provided for in this chapter. A bank or trust company incorporated under the laws of this state or another state which acts as depository of proceeds of the obligations, revenue, or other moneys shall furnish the indemnifying obligations or pledge securities as and to the extent required by the issuer. The trust agreement or resolution may set forth the rights and remedies of the holders of an obligation and of the trustee, and may restrict the individual right of action by holders of an obligation. The trust agreement or resolution may contain other provisions the issuer deems reasonable and proper for the security of the obligation holders.

Sec. 9. NEW SECTION. 12F.9 STATE TAX.

Obligations issued under the provisions of this chapter are declared to be issued for a general public and governmental purpose and the obligations and interest on the obligations shall be exempt from state income and inheritance tax.

Sec. 10. NEW SECTION. 12F.10 AGREEMENT OF THE STATE.

The state pledges to and agrees with the holders of any obligations issued under this chapter, and with those parties who enter into contracts with an issuer pursuant to this chapter, that the state will not limit or alter the rights vested in the issuer until the obligations, together with

the interest on the obligations, are fully met and discharged and the contracts are fully performed on the part of the issuer, except that this chapter does not preclude a limitation or alteration if adequate provision is made by law for the protection of the rights of the holders of the obligations of the issuer or those entering into contracts with the issuer.

Sec. 11. NEW SECTION. 12F.11 PROVISIONS CONTROLLING.

The powers granted issuers under this chapter are in addition to the powers of each issuer contained elsewhere in the Code. Nothing in this chapter limits the powers of an issuer to issue obligations under any other applicable provisions of the Code or to otherwise carry out its responsibilities as otherwise set forth in the Code.

Sec. 12. NEW SECTION. 12F.12 CONSTRUCTION.

This chapter, being necessary for the welfare of this state and its inhabitants, shall be liberally construed to effect its purpose.

Approved May 9, 2007

CHAPTER 134

TRUSTS AND ESTATES — MISCELLANEOUS CHANGES S.F.~540

AN ACT relating to trusts and estates including fiduciaries and beneficiaries and including applicability provisions.

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

Section 1. Section 421.27, subsection 1, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. m. The failure to file a timely inheritance tax return resulting solely from a disclaimer that required the personal representative to file an inheritance tax return. The penalty shall be waived if such return is filed and any tax due is paid within the later of nine months from the date of death or sixty days from the delivery or filing of the disclaimer pursuant to section 633E.12.

- Sec. 2. Section 450.4, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 9. On the value of tangible personal property as defined in section 633.276 which is distributed in kind from the estate if the aggregate of all tangible personal property in the estate does not exceed five thousand dollars.
 - Sec. 3. Section 561.1, Code 2007, is amended to read as follows: 561.1 "HOMESTEAD" DEFINED.
- <u>1.</u> The homestead must embrace the house used as a home by the owner, and, if the owner has two or more houses thus used, the owner may select which the owner will retain. It may contain one or more contiguous lots or tracts of land, with the building and other appurtenances thereon, habitually and in good faith used as part of the same homestead.
 - 2. As used in this chapter, "owner" includes but is not limited to the person, or the surviving

spouse of the person, occupying the homestead as a beneficiary of a trust that includes the property in the trust estate.

Sec. 4. NEW SECTION. 598.20A BENEFICIARY REVOCATION — LIFE INSURANCE.

- 1. Except as preempted by federal law, if a decree of dissolution, annulment, or separate maintenance is issued after an insured has designated the insured's spouse or one or more relatives of the insured's spouse as a beneficiary under a life insurance policy in effect on the date of the decree, a provision in the life insurance policy making such a designation is voided by the issuance of the decree unless any of the following apply:
- a. The decree designates the insured's former spouse or one or more relatives of the insured's spouse as beneficiary.
- b. After issuance of the decree, the insured executes a designation of beneficiary form provided by the insurance company naming the insured's former spouse or one or more relatives of the insured's former spouse as beneficiary.
 - c. The insured and the insured's former spouse remarry.
- 2. If a beneficiary designation is not effective pursuant to subsection 1, the benefits or proceeds of the life insurance policy are payable to an alternate beneficiary, or if there is no alternate beneficiary, to the estate of the insured.
- 3. An insurer who pays benefits or proceeds of a life insurance policy to a beneficiary under a designation that is void pursuant to subsection 1 is not liable for payment to an alternative beneficiary as provided under subsection 2 unless both of the following apply:
- a. At least ten days prior to payment of the benefits or proceeds of the life insurance policy to the designated beneficiary, the insurer receives written notice at the home office of the insurer that the designation of the beneficiary is not effective pursuant to subsection 1.
- b. The insurer has failed to interplead the benefits or proceeds of the life insurance policy in a court of competent jurisdiction in accordance with the rules of civil procedure.
- 4. This section does not limit the right of a beneficiary to seek recovery from any person or entity that erroneously receives or collects the benefits or proceeds from a life insurance policy.
- 5. This section does not affect the right of an insured's former spouse to assert an ownership interest in a life insurance policy that is not disclosed to the insured's spouse prior to the decree of dissolution, annulment, or separate maintenance and that is not addressed by the decree.
- 6. For purposes of this section, "relative of the insured's spouse" means a person who is related to the insured's former spouse by blood, adoption, or affinity, and who, subsequent to a decree of dissolution, annulment, or separate maintenance, ceases to be related to the insured by blood, adoption, or affinity.

Sec. 5. NEW SECTION. 598.20B BENEFICIARY REVOCATION—OTHER CONTRACTS.

- 1. Except as preempted by federal law, if a decree of dissolution, annulment, or separate maintenance is issued after a participant, annuitant, or account holder has designated the participant's, annuitant's, or account holder's spouse or one or more relatives of the participant's, annuitant's, or account holder's spouse as beneficiary under any individual retirement account, stock option plan, transfer on death account, payable on death account, or annuity in force at the date of the decree, a provision in the retirement account, stock option plan, transfer on death account, payable on death account, or annuity designating the participant's, annuitant's, or account holder's spouse or one or more relatives of the participant's, annuitant's, or account holder's spouse as beneficiary is voided by the issuance of the decree unless any of the following apply:
- a. The decree designates the participant's, annuitant's, or account holder's spouse or one or more relatives of the participant's, annuitant's, or account holder's spouse as beneficiary.
- b. After issuance of the decree, the participant, annuitant, or account holder executes a designation of beneficiary form provided by the plan or company naming the participant's, annuitant's, or account holder's former spouse or one or more relatives of the participant's, annuitant's, or account holder's former spouse as the beneficiary.

- c. The participant, annuitant, or account holder and the participant's, annuitant's, or account holder's former spouse remarry.
- d. Prior to the issuance of the decree, annuity payments have irrevocably commenced based on the joint life expectancies of the participant, annuitant, or account holder and the participant's, annuitant's, or account holder's former spouse.
- 2. If a beneficiary designation is not effective pursuant to subsection 1, the benefits or proceeds from the individual retirement account, stock option plan, transfer on death account, payable on death account, or annuity are payable to an alternate beneficiary, or if there is no alternate beneficiary, to the estate of the participant, annuitant, or account holder.
- 3. A business entity, employer, insurer, financial institution, or other person or entity obligated to pay the benefits or proceeds from an individual retirement account, stock option plan, transfer on death account, payable on death account, or annuity to a beneficiary under a designation that is void pursuant to subsection 1 is not liable for payment of the benefits or proceeds to a beneficiary as provided under subsection 2 unless both of the following apply:
- a. At least ten days prior to payment of the benefits or proceeds to the designated beneficiary, the business entity, employer, insurer, financial institution, or other person or entity obligated to pay the benefits or proceeds receives written notice at the home office of the business entity, employer, insurer, financial institution, or other person or entity that the designation of the beneficiary is not effective pursuant to subsection 1.
- b. The business entity, employer, insurer, financial institution, or other person or entity has failed to interplead the benefits or proceeds in a court of competent jurisdiction in accordance with the rules of civil procedure.
- 4. This section does not limit the right of a beneficiary to seek recovery from any person or entity that erroneously receives or collects the benefits or proceeds of an individual retirement account, stock option plan, transfer on death account, payable on death account, or annuity.
- 5. This section does not affect the right of the participant's, annuitant's, or account holder's former spouse to assert an ownership interest in an individual retirement account, stock option plan, transfer or payable on death account, or annuity that is not disclosed to the participant's, annuitant's, or account holder's spouse prior to the issuance of the decree of dissolution, annulment, or separate maintenance and that is not addressed by the decree.
- 6. For purposes of this section, "relative of the participant's, annuitant's, or account holder's spouse" means a person who is related to the participant's, annuitant's, or account holder's former spouse by blood, adoption, or affinity, and who, subsequent to a decree of dissolution, annulment, or separate maintenance ceases to be related to the participant, annuitant, or account holder by blood, adoption, or affinity.
 - Sec. 6. Section 602.8102, subsection 106, Code 2007, 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 chapter 635.

Sec. 7. NEW SECTION. 633.123 PRUDENT INVESTMENTS — FIDUCIARIES.

- 1. When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing property for the benefit of another, a fiduciary shall consider all of the following circumstances along with the circumstances identified in section 633A.4302, if applicable:
- a. The length of time the fiduciary will have control over the estate assets and the anticipated costs of complying with the provisions of this section.
 - b. The unique nature of all of the following:
 - (1) The duties of a personal representative or conservator.
 - (2) The assets, income, expenses, and distribution requirements of the estate.
 - (3) The needs and rights of the beneficiaries or the ward.
 - c. The express provisions of a will, codicil, or other controlling instrument.
- 2. The standards identified in this section shall be applied differently than similar standards for investment and management of trust property. Special consideration shall be given to the expected term of estates. Because some estates will have limited duration, there may be situations where an investment or a change in an investment is not warranted.

Sec. 8. Section 633.168, Code 2007, is amended to read as follows:

633.168 OATH — CERTIFICATION.

Every fiduciary, before entering upon the duties of the fiduciary's office and within such time as the court or clerk directs, shall subscribe an oath or certify under penalties of perjury that the fiduciary will faithfully discharge the duties imposed by law, according to the best of the fiduciary's ability.

Sec. 9. Section 633.178, Code 2007, is amended to read as follows: 633.178 LETTERS.

Upon the filing of an oath of office <u>or certification</u> and a bond, if any is required, the clerk shall issue letters under the seal of the court, giving the fiduciary the powers authorized by law.

Sec. 10. Section 633.199, Code 2007, is amended to read as follows:

633.199 EXPENSES AND EXTRAORDINARY SERVICES.

Such further allowances as are just and reasonable may be made by the court to personal representatives and their attorneys for actual necessary and extraordinary expenses of and services. Necessary and extraordinary services shall be construed to also include but not be limited to services in connection with real estate, tax matters, and litigated issues, disputed matters, nonprobate assets, reopening the estate, location of unknown and lost heirs and beneficiaries, and management and disposition of unusual assets. Relevant factors to be considered in determining the value of such services shall include but not be limited to the following:

- 1. Time necessarily spent by the personal representatives and their attorneys.
- 2. Nature of the matters or issues and the extent of the services provided.
- 3. Complexity of the issues and the importance of the issues to the estate.
- 4. Responsibilities assumed.

I. 41 - D'-4-1-4 C---4 -6 I----

- 5. Resolution.
- 6. Experience and expertise of the personal representatives and their attorneys.

Sec. 11. Section 633.231. Code 2007, is amended to read as follows:

633.231 NOTICE IN INTESTATE ESTATES — MEDICAL ASSISTANCE CLAIMS.

Upon opening administration of an intestate estate, the administrator may shall, in accordance with section 633.410, provide by ordinary mail to the entity designated by the department of human services, a notice of opening administration of the estate and of the appointment of the administrator, which shall include a notice to file claims with the clerk within the later to occur of fifteen four months from the second publication of the notice to creditors or two six months from the date of mailing of this notice, or thereafter be forever barred.

The notice shall be in substantially the following form:

NOTICE OF OPENING ADMINISTRATION OF ESTATE, OF APPOINTMENT OF ADMINISTRATOR, AND NOTICE TO CREDITOR

In the District Court of lowa
In and for County.
In the Estate of , Deceased
Probate No
To the Department of Human Services Who May Be Interested in the Estate of
Deceased, who died on or about (date):
You are hereby notified that on the day of (month), (year), an intestate
estate was opened in the above-named court and that was appointed ad
ministrator of the estate.
You are further notified that the birthdate of the deceased is and the deceased's
social security number is The name of the spouse is The birth
date of the spouse is and the spouse's social security number is, and
that the spouse of the deceased is alive as of the date of this notice, or deceased as of
(date).

Date of second publication

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

You are further notified that the deceased was/was not a disabled or a blind child of the medical assistance recipient by the name of , who had a birthdate of and a social security number of , and the medical assistance debt of that medical assistance recipient was waived pursuant to section 249A.5, subsection 2, paragraph "a", subparagraph (1), and is now collectible from this estate pursuant to section 249A.5, subsection 2, paragraph "b".

Notice is hereby given that if the department of human services has a claim against the estate for the deceased person or persons named in this notice, the claim shall be filed with the clerk of the above-named district court, as provided by law, duly authenticated, for allowance, and unless so filed by the later to occur of <u>fifteen four</u> months from the second publication of the notice to creditors or <u>two six</u> months from the date of the mailing of this notice, unless otherwise allowed or paid, the claim is thereafter forever barred.

Sec. 12. Section 633.272, Code 2007, is amended to read as follows: 633.272 PARTIAL INTESTACY.

If part but not all of the estate of a decedent is validly disposed of by will, the part not disposed of by will shall be distributed as provided herein for intestate estates. If the testator left a surviving spouse, and the spouse does not elect to take against the will take an elective share, the spouse shall receive, in addition to the property given to the spouse by the will, all so much of the intestate property which shall be subject to the payment of its proportionate share of debts and charges against the estate as the spouse would receive pursuant to section 633.211 or 633.212.

Sec. 13. Section 633.304A, Code 2007, is amended to read as follows: 633.304A NOTICE OF PROBATE OF WILL — MEDICAL ASSISTANCE CLAIMS.

On admission of a will to probate, the executor may shall, in accordance with section 633.410, provide by ordinary mail to the entity designated by the department of human services, a notice of admission of the will to probate and of the appointment of the executor, which shall include a notice to file claims with the clerk within the later to occur of fifteen four months from the second publication of the notice to creditors or two six months from the date of mailing of this notice, or thereafter be forever barred.

The notice shall be in substantially the following form:

NOTICE OF PROBATE OF WILL, OF APPOINTMENT OF EXECUTOR, AND NOTICE TO CREDITORS

In the District Court of Iowa
In and for County.
In the Estate of , Deceased
Probate No
To the Department of Human Services, Who May Be 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 cou	rt and that was ap-
pointed executor of the estate.	
You are further notified that the birthdate of the deceased is	
social security number is <u>The name of the spous</u>	
of the spouse is and the spouse's social security num	ber is \dots - \dots , and that the
spouse of the deceased is alive as of the date of this notice, or	r deceased as of (date).
You are further notified that the deceased was/was not a disa	bled or a blind child of the medi-
cal assistance recipient by the name of, who had	d a birthdate of and a
social security number of , and the medical assist	ance debt of that medical assis-
tance recipient was waived pursuant to section 249A.5, subsec	ction 2, paragraph "a", subpara-
graph (1), and is now collectible from this estate pursuant to se	ection 249A.5, subsection 2, par-
agraph "b".	
Notice is hereby given that if the department of human service	es has a claim against the estate
for the deceased person or persons named in this notice, the cl	aim shall be filed with the clerk
of the above-named district court, as provided by law, duly au	thenticated, for allowance, and
unless so filed by the later to occur of fifteen four months from	m the second publication of the
notice to creditors or two six months from the date of mailing	of this notice, unless otherwise
allowed or paid, the claim is thereafter forever barred.	
Dated this day of (month), (year)	
	Executor of estate
	Address
	Address
Attorney for executor	
•	
Address	
Date of second publication	
Dute of second publication	

Sec. 14. Section 633.410, subsection 2, Code 2007, is amended to read as follows:

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

- 2. Notwithstanding subsection 1, claims for debts created under section 249A.5, subsection 2, relating to the recovery of medical assistance payments shall be barred under this section unless filed with the clerk within the later to occur of <u>fifteen four</u> months after the date of the second publication of the notice to creditors, or <u>two six</u> months after service of notice by ordinary mail, on the form prescribed in section 633.231 for intestate estates or on the form prescribed in section 633.304A for testate estates, to the entity designated by the department of human services to receive notice.
- Sec. 15. Section 633.551, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 5. Except as otherwise provided in sections 633.672 and 633.673, in proceedings to establish a guardianship or conservatorship, the costs, including attorney fees and expert witness fees, shall be assessed against the ward or the ward's estate unless the proceeding is dismissed either voluntarily or involuntarily, in which case fees and costs may be assessed against the petitioner for good cause shown.
- Sec. 16. Section 633.669, subsection 1, paragraph b, Code 2007, is amended to read as follows:
- b. An annual report, within ninety days of the close of the reporting period, unless the court otherwise orders on good cause shown.
- Sec. 17. Section 633.670, subsection 1, paragraph b, subparagraph (1), Code 2007, is amended to read as follows:
- (1) Annually, within ninety days of the close of the reporting period, unless the court otherwise orders on good cause shown.

Sec. 18. Section 633.700, unnumbered paragraph 1, Code 2007, is amended to read as follows:

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

Sec. 19. Section 633A.4703, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Except as otherwise provided by the governing instrument, where necessary to abate shares of the beneficiaries of a trust for the payment of debts and charges, federal and state estate taxes, bequests, the share of the surviving spouse who takes an elective share, and the shares of children born or adopted after the execution of the trust, abatement shall occur in the following order:

- Sec. 20. Section 633A.4703, subsection 4, Code 2007, is amended to read as follows:
- 4. Notwithstanding subsections 1, 2, or 3, a disposition in favor of the grantor's settlor's surviving spouse who does not take an elective share shall not be abated where such abatement would have the effect of increasing the amount of federal estate or federal gift taxes payable by a person or an entity.
- Sec. 21. Section 635.1, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

635.1 WHEN APPLICABLE.

When the gross value of the probate assets of a decedent subject to the jurisdiction of this state does not exceed one hundred thousand dollars, and upon a petition as provided in section 635.2 of an authorized petitioner in accordance with section 633.227, 633.228, or 633.290, the clerk shall issue letters of appointment for administration to the proposed personal representative named in the petition, if qualified to serve. Unless otherwise provided in this chapter, the provisions of chapter 633 apply to an estate probated pursuant to this chapter.

Sec. 22. Section 635.2, Code 2007, is amended to read as follows: 635.2 PETITION REQUIREMENTS.

The petition for administration of a small estate must contain the following:

- 1. The name, domicile, and date of death of the decedent.
- 2. The name and address of the surviving spouse, if any, the name and address of each child of the decedent, the name and address of each parent of the decedent, if the parent is an heir or beneficiary of the decedent, and the name and address of each grandchild of the decedent if the grandchild is an heir or beneficiary of the decedent, unless none are beneficiaries under the will of the decedent, and the name and address of each relative within the fourth degree of consanguinity of the decedent who is an heir or beneficiary of the decedent, unless none are beneficiaries under the will of the decedent.
- 3. Whether the decedent died intestate or testate, and, if testate, the date of the will was executed.
- 4. A statement that the probate and nonprobate property of the decedent subject to the jurisdiction of this state does not have an aggregate gross value of more than the amount permitted under the provisions of section 635.1.
- 5. The name and address of the proposed executor or administrator personal representative.
 - Sec. 23. Section 635.7, Code 2007, is amended to read as follows:
- 635.7 REPORT AND INVENTORY EXCESS VALUE AND TERMINATION CONVERSION.
 - 1. The executor or administrator personal representative is required to file the report and

inventory for which provision is made in section 633.361, including all probate and nonprobate assets. Nothing in sections 635.1 to 635.3 shall This chapter does not exempt the executor or administrator personal representative from complying with the requirements of section 422.27, 450.22, 450.58, 633.480, or 633.481, and the administration of an estate whether converted to or from a small estate shall be considered one proceeding pursuant to section 633.330.

- 2. If the inventory and report shows the gross value of probate assets subject to the jurisdiction of this state which exceed the total gross value of the amount permitted the a small estate under the applicable provision of section 635.1, the clerk shall terminate the letters issued under section 635.1 without prejudice to the rights of persons who delivered property as permitted under section 635.3. The executor or administrator shall then be required to petition for administration of the estate shall be administered as provided in chapter 633.
- 3. If the inventory report in an estate probated pursuant to chapter 633 indicates the gross value of the probate assets subject to the jurisdiction of this state does not exceed the amount permitted under section 635.1, the estate shall be administered as a small estate upon the filing of a statement by the personal representative that the estate is a small estate.
- 4. Other interested parties may convert proceedings from a small estate to a regular estate or from a regular estate to a small estate only upon good cause shown with approval from the court.
 - Sec. 24. Section 635.8, Code 2007, is amended to read as follows: 635.8 CLOSING BY SWORN STATEMENT.
- 1. Unless an interested person petitions for administration of the estate on a basis other than for a small estate within four months after letters of administration for a small estate are issued, if those letters of administration are not terminated under the provisions of section 635.7, any property of the estate shall then be free of debts and charges, unless a claim has been filed as provided in section 635.13. The executor or administrator is personally liable for the payment of debts and charges against the estate to the extent the assets of the estate would be subject to the payment of those debts and charges under estate administration other than a small estate.
- 2. 1. The executor or administrator personal representative shall file with the court a closing statement within six months a reasonable time from the date of issuance of the letters of appointment, and the closing statement shall be verified or affirmed under penalty of perjury, stating all of the following:
- a. To the best knowledge of the <u>person personal representative</u>, the gross value of the <u>estate probate assets</u> subject to the jurisdiction of this state does not exceed the amount permitted the <u>small estate</u> under the <u>applicable provision of section 635.1</u>.
- b. The estate has been fully administered, dispersed, and will be disbursed and distributed to persons entitled to the estate and a if no objection is filed to the closing statement after the requisite time period has expired as provided in subsection 2.
- $\underline{c.\ A}$ description of the disbursement and distribution of the estate including an accurate description of all the real estate of which the decedent died seized, stating the nature and extent of the interest in the real estate and its disposition.
- e. d. A copy of the closing statement and an opportunity to object and request a hearing has been sent to all distributees of the estate and to all known creditors and a full account in writing of the administration of the estate has been furnished to the distributees whose interests are affected by proper notice, as provided in section 633.40, to all interested parties.
- e. The personal representative has complied with all statutory requirements pertaining to taxes, including whether federal estate tax was paid or a return was filed, whether Iowa inheritance tax was paid or a return was filed, whether the decedent's final personal income taxes were filed, whether fiduciary income tax returns for the estate were filed, and whether a lien continues to exist for any federal or state tax.
- 3. 2. If no actions or proceedings involving the estate are pending in the court sixty thirty days after notice of the closing statement is filed, the estate shall close after distribution and

the clerk shall discharge the administrator or executor personal representative shall be discharged.

- 4. 3. The closing statement shall include a statement as to the amount of fees to be paid for services rendered by the executor or administrator personal representative and the executor's or administrator's personal representative's attorney in administration of the estate. The fees for the executor or administrator and the executor's or administrator's attorney shall not be in excess of the fees permitted by section 633.197 personal representative shall not exceed three percent of the gross value of the probate assets of the estate, unless the personal representative itemizes the personal representative's services to the estate. The personal representative's attorney shall be paid reasonable fees as agreed to in writing by the personal representative at or before the time of filing the probate inventory or as approved by the court. All interested parties shall have the opportunity to object and request a hearing as to all fees reported in the closing statement.
- 5. 4. If a closing statement is not filed within twelve months of the date of issuance of a letter of appointment, an interlocutory report shall be filed within such time period. Such report shall be provided to all interested parties at least once every six months until the closing statement has been filed unless excused by the court for good cause shown. A closing statement filed under this section has the same effect as final settlement of the estate under chapter 633.

Sec. 25. Section 635.13, Code 2007, is amended to read as follows: 635.13 NOTICE — CLAIMS.

If a petition for administration of a small estate of a decedent is granted, the notice as provided in section 633.237, and either sections 633.230 and 633.231 or section sections 633.304 and 633.304A shall indicate administration as a small estate be given. Creditors having claims against the estate must file them with the clerk within four months from the second publication of the notice the applicable time periods provided in such notices. The notice has the same force and effect as in chapter 633. Claimants of the estate shall be interested parties of the estate as long as the claims are pending in the estate.

- Sec. 26. Sections 635.3, 635.4, 635.5, 635.6, 635.9, 635.10, 635.12, and 635.14, Code 2007, are repealed.
- Sec. 27. CODE EDITOR DIRECTIVE. The Code editor is directed to transfer and renumber sections 635.7, 635.8, and 635.13, as amended in this Act, to enhance the readability of Code chapter 635.

Sec. 28. APPLICABILITY.

- 1. The sections of this Act amending sections 633.168 and 633.178 apply to fiduciaries appointed on or after July 1, 2007.
- 2. The sections of this Act amending sections 421.27, 450.4, 602.8102, 633.199, 633.272, 633A.4703, 635.1, 635.2, 635.7, 635.8, and 635.13 apply to estates of decedents dying on or after July 1, 2007.
- 3. The section of this Act amending section 561.1 applies retroactively to beneficiaries of trusts in existence on or after July 1, 1997.
- 4. The sections of this Act enacting sections 598.20A and 598.20B apply to all decrees of dissolution, annulment, or separation entered on or after July 1, 2007.
- 5. The section of this Act enacting section 633.123 applies to all estates, conservatorships, and trusts under court supervision in existence on or after July 1, 2007.
- 6. The section of this Act amending section 633.551 applies to petitions filed on or after July 1,2007.
- 7. The sections of this Act amending sections 633.669, 633.670, and 633.700 apply to annual reports of guardians, conservators, and court-supervised trusts due on or after September 30, 2007.

8. The section of this Act repealing sections 635.3, 635.4, 635.5, 635.6, 635.9, 635.10, 635.12, and 635.14 applies to estates of decedents dying on or after July 1, 2007.

Approved May 9, 2007

CHAPTER 135

BOILER AND PRESSURE VESSEL SAFETY

H.F. 368

AN ACT relating to the boiler and pressure vessel safety program enforced by the division of labor services of the department of workforce development.

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

- Section 1. Section 89.3, subsections 3 and 4, Code 2007, are amended by striking the subsections.
 - Sec. 2. Section 89.3, subsection 8, Code 2007, is amended to read as follows:
- 8. Internal inspections of <u>cast aluminum steam</u>, <u>cast aluminum hot water heating</u>, sectional cast iron steam, and cast iron hot water heating boilers shall be conducted only as deemed necessary by the commissioner. External operating inspections shall be conducted annually.
 - Sec. 3. Section 89.3, subsection 9, Code 2007, is amended to read as follows:
- 9. Internal inspections of steel hot water boilers shall be conducted once every six years. The initial inspection of all affected boilers shall be apportioned by the commissioner over the six-year period after July 1, 1978. External operating inspections shall be conducted annually.
- Sec. 4. Section 89.4, subsection 1, Code 2007, is amended by adding the following new paragraph:
- <u>NEW PARAGRAPH</u>. i. Water heaters used for potable water if the capacity is less than or equal to fifty gallons, the burner input is less than or equal to fifty thousand British thermal units, and the maximum allowable working pressure is less than one hundred sixty pounds per square inch.
- Sec. 5. Section 89.7, Code 2007, is amended by striking the section and inserting in lieu thereof the following:
 - 89.7 SPECIAL INSPECTORS.
- 1. The inspection required by this chapter shall not be made by the commissioner if an owner or user of equipment specified by this chapter obtains an inspection by a representative of a reputable insurance company and obtains a policy of insurance upon the equipment from that insurance company.
- 2. The representative conducting the inspection shall be commissioned by the commissioner as a special inspector for the year during which the inspection occurs and shall meet such other requirements as the commissioner may by rule establish. The commission shall be valid for one year and the special inspector shall pay a fee for the issuance of the commission. The commissioner shall establish the amount of the fee by rule. The commissioner shall establish rules for the issuance and revocation of special inspector commissions. The rules are subject to the requirements of chapter 17A.

- 3. The insurance company shall file a notice of insurance coverage on forms approved by the commissioner stating that the equipment is insured and that inspection shall be made in accordance with section 89.3.
- 4. The special inspector shall provide the user and the commissioner with an inspection report including the nature and extent of all defects and violations, in a format approved by the labor commissioner.
- 5. The failure of a special inspector to inform the commissioner of violations shall not subject the commissioner to liability for any damages incurred.

Sec. 6. <u>NEW SECTION</u>. 89.7A CERTIFICATES.

- 1. The commissioner shall issue a certificate of inspection valid for the period specified in section 89.3 after the payment of a fee, the filing of an inspection report, and the correction or other appropriate resolution of any defects identified in the inspection report.
- 2. The owner or user of any equipment covered in this chapter, or persons in charge of such equipment, shall not allow or permit a greater pressure in any unit than is stated in the certificate of inspection issued by the commissioner.
- 3. The commissioner shall indicate to the user whether or not the equipment may be used without making repair or replacement of defective parts, or whether or how the equipment may be used in a limited capacity before repairs or replacements are made, and the commissioner may permit the user a reasonable time to make such repairs or replacements.

Sec. 7. Section 89.11, Code 2007, is amended to read as follows: 89.11 INJUNCTION.

In addition to any and all other remedies, if any owner, user, or person in charge of any equipment covered by this chapter, shall continue continues to use any equipment covered by this chapter, after receiving a notice of defect an inspection report identifying defects and exhausting appeal rights as provided by this chapter, without first correcting the defects or making replacements, the commissioner may apply to the district court or any judge thereof by petition in equity, in an action brought in the name of the state, for a writ of injunction to restrain the use of the alleged defective equipment. However, if the commissioner believes that the continued operation of equipment constitutes an imminent danger that could seriously injure or cause death to any person, in addition to all other remedies, the commissioner may apply to the district court in the county in which the imminently dangerous condition exists for a temporary order to enjoin the owner, user, or person in charge before exhausting administrative appeals.

- Sec. 8. Section 89.14, subsections 5 and 8, Code 2007, are amended to read as follows:
- 5. The board shall adopt rules pursuant to chapter 17A necessary to administer the duties of the board. Rules adopted by the board shall be in accordance with accepted engineering standards and practices. The board shall adopt rules relating to the equipment covered by this chapter that are in accordance with the ASME code, which may include addenda, interpretations, and code cases, as soon as reasonably practical following publication by the American society of mechanical engineers. The board shall adopt rules to require that operation of equipment cease in the event of imminent danger.
- 8. The board shall establish fees for examinations, commissions, inspections, annual statements, shop inspections, and other services. The fees shall reflect the actual costs and expenses necessary to operate the board and perform the duties of the commissioner.

CHAPTER 136

MEDICAL ASSISTANCE INCOME TRUST EXPENDITURES H.F.~397

AN ACT relating to the expenditures allowable from medical assistance income trusts.

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

Section 1. Section 633C.3, subsection 1, Code 2007, is amended to read as follows:

- 1. Regardless of the terms of a medical assistance income trust, if the beneficiary's total monthly income is less than the average statewide charge for nursing facility services to a private pay resident of a nursing facility, then, during the life of the beneficiary, any property received or held by the trust shall be expended only as follows, as applicable, and in the following order of priority:
- a. A reasonable amount may be paid or set aside each month for necessary expenses of the trust, not to exceed ten dollars per month without court approval.
- b. From the remaining principal or income of the trust, an amount sufficient to bring the beneficiary's available income up to three hundred percent of the benefit for an individual under the federal supplemental security income program shall be paid to or otherwise made available to the beneficiary on a monthly basis, to be counted as income or a resource in determining eligibility for medical assistance under chapter 249A amounts may be paid for expenses that qualify as required deductions from income pursuant to 42 C.F.R. § 435.725(c) or 435.726(c) for purposes of determining the amount by which medical assistance payments under chapter 249A for institutional services or for home and community-based services provided under a federal waiver will be reduced based on the beneficiary's income.
- c. If the beneficiary is an institutionalized individual <u>or receiving home and community-based services provided under a federal waiver</u>, the remaining principal or income of the trust shall be paid directly to the provider of institutional care <u>or home and community-based services</u>, on a monthly basis, for any cost not paid by the beneficiary from the beneficiary's available income <u>under paragraph "b"</u>, to reduce any amount paid as medical assistance under chapter 249A.
- d. Any remaining principal or income of the trust may, at the trustee's discretion or as directed by the terms of the trust, be paid directly to providers of other medical care or services that would otherwise be covered by medical assistance, paid to the state as reimbursement for medical assistance paid on behalf of the beneficiary, or retained by the trust.

Approved May 9, 2007

CHAPTER 137

REGULATION OF ENTITIES OR SERVICES BY THE COMMISSIONER OF INSURANCE

H.F. 499

AN ACT relating to various matters under the purview of the insurance division of the department of commerce including workers' compensation self-insurance, premium taxes, the uniform securities Act, powers and duties of the insurance division, regulation of insurance sales to military personnel, domestic insurance companies, life insurance companies, nonprofit health service corporations, external review of health care coverage decisions, investment limitations on insurers other than life insurers, property and casualty insurers' reserves, motor vehicle service contracts, county and state mutual associations, reciprocal or interinsurance contracts, protected cell companies, licensing of insurance producers and public adjusters, and life and fire insurance company boards of directors, and providing penalties.

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

Section 1. Section 87.11, Code 2007, is amended to read as follows:

87.11 RELIEF FROM INSURANCE — PROCEDURES UPON EMPLOYER'S INSOLVENCY.

1. a. When an employer coming under this chapter furnishes satisfactory proofs to the insurance commissioner of such employer's solvency and financial ability to pay the compensation and benefits as by law provided and to make such payments to the parties when entitled thereto, or when such employer deposits with the insurance commissioner security satisfactory to the insurance commissioner as guaranty for the payment of such compensation, such employer shall be relieved of the provisions of this chapter requiring insurance; but such employer shall, from time to time, furnish such additional proof of solvency and financial ability to pay as may be required by such insurance commissioner. Such security shall be held in trust for the sole purpose of paying compensation and benefits and is not subject to attachment, levy, execution, garnishment, liens, or any other form of encumbrance. However, the insurance commissioner shall be reimbursed from the security for all costs and fees incurred by the insurance commissioner in resolving disputes involving the security. A political subdivision, including a city, county, community college, or school corporation, that is self-insured for workers' compensation is not required to submit a plan or program to the insurance commissioner for review and approval.

b. If an approved self-insured employer discontinues its self-insured status or enters bankruptcy proceedings, the self-insured employer or its successor in interest, may petition the commissioner of insurance for release of its security. The commissioner shall release the security upon a finding of both of the following:

- (1) The employer has not been self-insured pursuant to this chapter for at least four years.
- (2) Ten years have elapsed from the date of the last open claim, claim activity, or claim payment involving the self-insured employer or its successor in interest, whichever is later.
- c. The commissioner shall release the security upon a finding that a self-insured employer presents acceptable replacement security.
- <u>2.</u> An employer seeking relief from the insurance requirements of this chapter shall pay to the insurance division of the department of commerce the following fees:
- 1. a. A fee of one hundred dollars, to be submitted annually along with an application for relief.
- 2. <u>b.</u> A fee of one hundred dollars for issuance of the certificate relieving the employer from the insurance requirements of this chapter.
- 3. c. A fee of fifty dollars, to be submitted with each filing required by the commissioner of insurance, including but not limited to the annual and quarterly financial statements, and material change statements.

- 3. a. If an employer becomes insolvent and a debtor under 11 U.S.C., on or after January 1, 1990, this paragraph applies. The the commissioner of insurance may request of the workers' compensation commissioner that all future payments of workers' compensation weekly benefits, medical expenses, or other payments pursuant to chapter 85, 85A, 85B, 86, or 87, be commuted to a present lump sum. The workers' compensation commissioner shall fix the lump sum of probable future medical expenses and weekly compensation benefits, or other benefits payable pursuant to chapter 85, 85A, 85B, 86, or 87, capitalized at their present value upon the basis of interest at the rate provided in section 535.3 for court judgments and decrees. The commissioner of insurance shall be discharged from all further liability for the commuted workers' compensation claim upon payment of the present lump sum to either the claimant, or a licensed insurer for purchase of an annuity or other periodic payment plan for the benefit of the claimant.
- <u>b.</u> The commissioner of insurance shall not be required to pay more for all claims of an insolvent self-insured employer than is available for payment of such claims from the security given under this section.
- <u>4.</u> Notwithstanding contrary provisions of section 85.45, any future payment of medical expenses, weekly compensation benefits, or other payments by the commissioner of insurance from the security given under this section, pursuant to chapter 85, 85A, 85B, 86, or 87, shall be deemed an undue expense, hardship, or inconvenience upon the employer for purposes of a full commutation pursuant to section 85.45, subsection 2.
- <u>5.</u> Financial statements provided to the commissioner of insurance pursuant to this section may be held as confidential, proprietary trade secrets, pursuant to section 22.7, subsection 3, upon the request of the employer, subject to rules adopted by the commissioner of insurance, and are not subject to disclosure or examination under chapter 22.
 - Sec. 2. Section 432.1, subsection 3, Code 2007, is amended to read as follows:
- 3. The applicable percent, as provided in subsection 4, of the gross amount of premiums written, and 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, and assessments, and fees received in connection with ocean marine insurance authorized in section 515.48.
- Sec. 3. Section 502.602, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

If a person does not appear or refuses to testify, file a statement, produce records, or otherwise does not obey a subpoena as required by the administrator under this chapter, the administrator may apply to the Polk county district court or the district court for the county in which the person resides or is located or a court of another state to enforce compliance. The court may do any of the following:

- Sec. 4. Section 502.603, subsection 1, Code 2007, is amended to read as follows:
- 1. CIVIL ACTION INSTITUTED BY ADMINISTRATOR. If the administrator believes that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter or that a person has, is, or is about to engage in an act, practice, or course of business that materially aids a violation of this chapter or a rule adopted or order issued under this chapter, the administrator may maintain an action in the district court county in which the person against whom the action is being brought resides, has a principal place of business, or is doing business, or in the county where the transaction or any substantial portion of the transaction which is the subject of the action occurred, or in the county in which one or more of the victims of the transaction which is the subject of the action resides, to enjoin the act, practice, or course of business and to enforce compliance with this chapter or a rule adopted or order issued under this chapter.

- Sec. 5. Section 502.604, subsections 2 and 7, Code 2007, are amended to read as follows: 2. SUMMARY PROCESS. An order under subsection 1 is effective on the date of issuance. Upon issuance of the order, the administrator shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement of any civil penalty or costs of investigation the administrator will seek, a statement of the reasons for the order, and notice that, within fifteen thirty days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the administrator within thirty days after the date of service of the order, the order, including the imposition of a civil penalty or requirement for payment of costs of investigation sought in the order, becomes final as to that person by operation of law. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.
- 7. ENFORCEMENT BY COURT FURTHER CIVIL PENALTY. If a person does not comply with an order under this section, the administrator may petition a the Polk county district court of competent jurisdiction or the district court for the county in which the person resides or is located to enforce the order. The court shall not require the administrator to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against the person for contempt in an amount not less than three thousand dollars but not greater than ten thousand dollars for each violation and may grant any other relief the court determines is just and proper in the circumstances.
 - Sec. 6. Section 505.8, Code 2007, is amended by adding the following new subsections: NEW SUBSECTION. 8. The commissioner may do any of the following:
- a. Conduct public or private investigations within or outside of this state which the commissioner deems necessary or appropriate to determine whether a person has violated, is violating, or is about to violate a provision of any chapter of this subtitle or a rule adopted or order issued under any chapter of this subtitle, or to aid in the enforcement of any chapter of this subtitle or in the adoption of rules and forms under any chapter of this subtitle.
- b. Require or permit a person to testify, file a statement, or produce a record under oath or otherwise as the commissioner determines, concerning facts and circumstances relating to a matter being investigated or about which an action or proceeding will be instituted.
- c. Notwithstanding subsection 6, publish a record concerning an action, proceeding, or investigation under, or a violation of, any chapter of this subtitle or a rule adopted or order issued under any chapter of this subtitle, if the commissioner determines that such publication is in the public interest and is necessary and appropriate for the protection of the public.

<u>NEW SUBSECTION</u>. 9. For the purpose of an investigation made under any chapter of this subtitle, the commissioner or the commissioner's designee may administer oaths and affirmations, subpoena witnesses, seek compulsory attendance, take evidence, require the filing of statements, and require the production of any records that the commissioner considers relevant or material to the investigation, pursuant to rules adopted under chapter 17A.

<u>NEW SUBSECTION</u>. 10. If a person does not appear or refuses to testify, or does not file a statement or produce records, or otherwise does not obey a subpoena or order issued by the commissioner under any chapter of this subtitle, the commissioner may, in addition to assessing the penalties contained in sections 505.7A, 507B.6A, 507B.7, 522B.11, and 522B.17, make application to a district court of this state or another state to enforce compliance with the subpoena or order. A court to whom application is made to enforce compliance with a subpoena or order pursuant to this subtitle may do any of the following:

- a. Hold the person in contempt.
- b. Order the person to appear before the commissioner.
- c. Order the person to testify about the matter under investigation.
- d. Order the production of records.

- e. Grant injunctive relief, including restricting or prohibiting the offer or sale of insurance or insurance advice.
 - f. Impose a civil penalty as set forth in section 505.7A.
 - g. Grant any other necessary or appropriate relief.

<u>NEW SUBSECTION</u>. 11. This section shall not be construed to prohibit a person from applying to a district court of this state or another state for relief from a subpoena or order issued by the commissioner under any chapter of this subtitle.

<u>NEW SUBSECTION.</u> 12. An individual shall not be relieved of an order to appear, testify, file a statement, produce a record or other evidence, or obey a subpoena or other order of the commissioner made under any chapter of this subtitle on the grounds that fulfillment of the requirement may, directly or indirectly, tend to incriminate the individual or subject the individual to a criminal fine, penalty, or forfeiture. If an individual refuses to obey a subpoena or order by asserting that individual's privilege against self-incrimination, the commissioner may apply to the district court to compel the individual to obey the subpoena or order of the commissioner. Testimony, records, or other evidence that is compelled by a court enforcing an order of the commissioner shall not be used, directly or indirectly, against that individual in a criminal case, except in a prosecution for perjury or contempt or for otherwise failing to comply with the order.

NEW SUBSECTION. 13. Upon request of the insurance regulator of another state or foreign jurisdiction, the commissioner may provide assistance in conducting an investigation to determine whether a person has violated, is violating, or is about to violate an insurance law or rule of the other state or foreign jurisdiction administered or enforced by that insurance regulator. The commissioner may provide such assistance pursuant to the powers conferred under this section as the commissioner determines is necessary or appropriate under the circumstances. Such assistance may be provided regardless of whether the conduct being investigated would constitute a violation of this subtitle or any other law of this state if the conduct occurred in this state. In determining whether to provide such assistance the commissioner may consider whether the insurance regulator requesting the assistance is permitted to and has agreed to reciprocate in providing assistance to the commissioner upon request, whether compliance with the request would violate or prejudice the public policy of this state, and the availability of division commissioner resources and employees to provide such assistance.

Sec. 7. <u>NEW SECTION</u>. 505.27A SALE OF LIFE INSURANCE TO MILITARY PERSONNEL.

Notwithstanding any other provision of this title, the commissioner of insurance shall have the authority to adopt such rules related to the sale of life insurance, other than the service-members' group life insurance program under 38 U.S.C. pt. II, ch. 19, subc. III, as may be necessary to protect military personnel located either on a United States military installation or elsewhere in this state and to carry out the provisions of this title.

Sec. 8. NEW SECTION. 506.13 NEW OFFICERS OR DIRECTORS — BIOGRAPHICAL AFFIDAVIT REQUIRED.

Within thirty days after a quarterly or annual statement of an insurance company domiciled in this state first names an individual as an officer or director of the company on the jurat page of the quarterly or annual statement, the new officer or director shall file a biographical affidavit with the commissioner. The affidavit shall be prepared on the current template for biographical affidavits prescribed by the national association of insurance commissioners.

Sec. 9. Section 508.10, Code 2007, is amended to read as follows: 508.10 FOREIGN COMPANIES — CAPITAL OR SURPLUS — INVESTMENTS.

1. No A company incorporated by or organized under the laws of any other state or government shall <u>not</u> transact business in this state unless it is possessed of the actual amount of capi-

tal and surplus required of any company organized by the laws of this state, or, if it be a mutual company, of surplus equal in amount thereto, and the same is invested in bonds of the United States or of this state, or in interest-paying bonds, when they are at or above par, of the state in which the company is located, or of some other state, or in notes or bonds secured by mortgages on unencumbered real estate within this or the state where such company is located, worth one and one-third times the amount loaned thereon, which securities shall, at the time, be on deposit with the commissioner of insurance, auditor, director of revenue, or chief financial officer of the state by whose laws the company is incorporated, or of some other state, and the commissioner of insurance is furnished with a certificate of such officer, under the officer's official seal, that the person as such officer holds in trust and on deposit for the benefit of all the policyholders of such company, the securities above mentioned. This certificate shall embrace the items of security so held, and show that such officer is satisfied that such securities are worth the amount stated in the certificate. Nothing herein contained shall invalidate the agency of any company incorporated in another state by reason of its having exchanged the bonds or securities so deposited with such officer for other bonds or securities authorized by this chapter, or by reason of its having drawn its interest and dividends on the same.

- <u>2.</u> An alien insurer, with the approval of the commissioner, may be treated as a domestic insurer of this state in whole or in part, and if so approved is deemed to be organized under the laws of this state and is an Iowa domestic insurer as provided by rules adopted by the commissioner. The approval of the commissioner may be based upon such factors as:
- $\frac{1}{2}$. A Maintenance of an appropriate trust account, surplus account, or other financial mechanism in this state.
 - 2. b. Maintenance of all books and records of United States operations in this state.
 - 3. c. Maintenance of a separate financial reporting system for its United States operations.
 - 4. d. Any other provisions deemed necessary by the commissioner.
- <u>3.</u> A foreign company authorized to do business in this state shall not assumptively reinsure a block of business which includes policyholders residing in this state to a company not authorized to do business in this state without the prior written approval of the commissioner.
- Sec. 10. Section 514.4, unnumbered paragraph 2, Code 2007, is amended to read as follows:

A subscriber director is a director of the board of a corporation who is a subscriber and who is not a provider of health care pursuant to section 514B.1, subsection 7, a person who has material financial or fiduciary interest in the delivery of health care services or a related industry, an employee of an institution which provides health care services, or a spouse or a member of the immediate family of such a person. However, a subscriber director of a dental service corporation may be an employee, officer, director, or trustee of a hospital that does not contract with the dental service corporation. A subscriber director of a hospital or medical service corporation shall be a subscriber of the services of that corporation.

- Sec. 11. Section 514J.2, subsection 3, Code 2007, is amended to read as follows:
- 3. "Coverage decision" means a final adverse decision based on medical necessity. This definition does not include a denial of coverage for a service or treatment specifically listed in plan or evidence of coverage documents as excluded from coverage, or a denial of coverage for a service or treatment that has already been received and for which the enrollee has no financial liability.
- Sec. 12. Section 515.35, subsection 2, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. aa. "Capital and surplus", for purposes of computing percentage limitations on particular types of investments, means the capital and surplus that is authorized to be shown as capital and surplus on the national association of insurance commissioners' annual statement blank as of the December 31 immediately preceding the date the company acquires the investment.

Sec. 13. NEW SECTION. 515H.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Property and Casualty Actuarial Opinions Act".

Sec. 14. <u>NEW SECTION</u>. 515H.2 ACTUARIAL OPINION OF RESERVES — SUPPORTING DOCUMENTATION.

- 1. STATEMENT OF ACTUARIAL OPINION. Every property and casualty insurance company doing business in this state, unless otherwise exempted from this requirement by the commissioner, shall annually submit the opinion of an appointed actuary entitled "statement of actuarial opinion" with the company's annual statement in accordance with the provisions of section 515.63 and with the requirements of the national association of insurance commissioners' property and casualty annual statement instructions.
 - 2. ACTUARIAL OPINION SUMMARY.
- a. Every property and casualty insurance company domiciled in this state that is required to submit a statement of actuarial opinion shall annually submit an actuarial opinion summary, prepared and signed by the company's appointed actuary. The actuarial opinion summary shall be filed in accordance with the requirements of the national association of insurance commissioners' property and casualty company annual statement instructions and shall be considered a document in support of the statement of actuarial opinion required under subsection 1.
- b. A property and casualty insurance company that is licensed but not domiciled in this state shall provide an actuarial opinion summary upon request of the commissioner.
 - 3. ACTUARIAL REPORT AND WORK PAPERS.
- a. An actuarial report and supporting work papers shall be prepared to support each statement of actuarial opinion in accordance with the requirements of the national association of insurance commissioners' property and casualty company annual statement instructions.
- b. If an insurance company fails to provide a supporting actuarial report and work papers as requested by the commissioner or the commissioner determines that the actuarial report or work papers provided are unacceptable, the commissioner may engage a qualified actuary at the company's expense to review the statement of actuarial opinion and the basis for the opinion and to prepare a supporting actuarial report or work papers.
- 4. An appointed actuary shall not be liable for damages to any person, except the company and the insurance commissioner, for any act, error, omission, decision, or misconduct of the appointed actuary in conducting the actuary's duties pursuant to this section except in cases of fraud or willful misconduct on the part of the appointed actuary.

Sec. 15. NEW SECTION. 515H.3 CONFIDENTIALITY.

- 1. A statement of actuarial opinion filed pursuant to section 515H.2, subsection 1, is a public record subject to examination and copying.
- 2. Documents in the possession or control of the insurance division that are provided to the division in support of a statement of actuarial opinion, that are considered an actuarial report, work papers, an actuarial opinion summary, or any other material provided by the company in connection with the actuarial report, work papers, or actuarial opinion summary are confidential records under section 507.14 and shall not be subject to subpoena or discovery or be admissible in evidence in any private civil action.
- 3. Disclosure of any documents, materials, or information to the division in compliance with the requirements of this chapter shall not be considered a waiver of any applicable privilege or claim of confidentiality.
- Sec. 16. Section 516E.3, subsection 2, paragraph a, Code 2007, is amended by striking the paragraph.
- Sec. 17. Section 518.14, subsection 2, Code 2007, is amended by adding the following new paragraph:
 - NEW PARAGRAPH. h. "Surplus", for purposes of computing percentage limitations on

particular types of investments, means the surplus that is authorized to be shown on the commissioner's annual statement blank as surplus as of the December 31 immediately preceding the date the association acquires the investment.

- Sec. 18. Section 518A.1, subsection 1, paragraph d, Code 2007, is amended to read as follows:
- d. Any <u>automobile vehicle</u>, excluding <u>automobile</u> or aircraft or <u>other vehicle</u>, including loss, <u>and</u> expense, <u>or liability</u> resulting from the ownership, maintenance, or use thereof, but shall not include insurance against bodily injury to the person.
- Sec. 19. Section 518A.12, subsection 2, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. h. "Surplus", for purposes of computing percentage limitations on particular types of investments, means the surplus that is authorized to be shown on the commissioner's annual statement blank as surplus as of the December 31 immediately preceding the date the association acquires the investment.

- Sec. 20. Section 520.9, subsection 1, Code 2007, is amended to read as follows:
- 1. There shall at all times be maintained as assets a sum in cash, or in securities of the kind designated by the laws of the state where the principal office is located for the investment of funds of insurance companies, equal to one hundred percent of the net unearned premiums or deposits collected and credited to the account of subscribers, or assets equal to fifty percent of the net annual deposits collected and credited to the account of subscribers on policies having one year or less to run and pro rata on those for longer periods; in addition to which there shall be maintained in cash, or in such securities, assets sufficient to discharge all liabilities on all outstanding losses arising under policies issued, the same to be calculated in accordance with the laws of the state relating to similar reserves for companies insuring similar risks; provided that where the assets on hand available for the payment of losses other than determined losses, do not equal two five million dollars, all liability for each determined loss or claim deferred for more than one year, shall be provided for by a special deposit in a trust company or bank having fiduciary powers of the state in which the principal office is located, to be used in payment of compensation benefits for disability; such deposit to be a trust fund and applicable only to the purposes stated, or such liability may be reinsured in authorized companies with a surplus of at least two five million dollars. For the purpose of such reserves, net deposits shall be construed to mean the advance payments of subscribers after deducting the amount specifically provided in the subscribers' agreements for expenses. If at any time the assets so held in cash or such securities shall be less than required above, or less than two five million dollars, the subscribers or their attorney for them shall make up the deficiency within thirty days after notice from the commissioner of insurance to do so. In computing the assets required by this section, the amount specified in section 520.4, subsection 7, shall be included.
 - Sec. 21. Section 521.2, subsection 4, Code 2007, is amended to read as follows:
- 4. A domestic mutual insurance company shall not 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 risk.
 - Sec. 22. Section 521G.6, subsection 6, Code 2007, is amended to read as follows:
- 6. A protected cell company shall only attribute to a protected cell account the insurance obligations relating to the protected cell company's general account. A protected cell company shall not issue an insurance or reinsurance contract directly to a policyholder or reinsured, and shall not have an obligation to a policyholder or reinsured of the protected cell company's general account.

Sec. 23. Section 522B.6, subsection 3, Code 2007, is amended to read as follows:

3. An insurance producer license remains in effect unless revoked or suspended as long as all required fees are paid and continuing education requirements for resident individual insurance producers are met by any applicable due date. Resident individual insurance producers are required to complete continuing education requirements in order to be eligible for license renewal unless exempted from such requirements under this chapter or by rule.

Sec. 24. NEW SECTION. 522C.1 PURPOSE.

The purpose of this chapter is to govern the qualifications and procedures for licensing public adjusters in this state, and to specify the duties of and restrictions on public adjusters, including limitation of such licensure to assisting insureds only with first-party claims.

Sec. 25. NEW SECTION. 522C.2 DEFINITIONS.

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

- 1. "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or any other legal entity.
 - 2. "Commissioner" means the commissioner of insurance.
- 3. "Fingerprints" means an impression of the lines on a human finger taken for the purposes of identification. The impression may be electronic or in ink converted to an electronic format.
- 4. "First-party claim" means a claim filed by a person insured under the insurance policy against which the claim is made.
 - 5. "Individual" means a natural person.
 - 6. "Person" means an individual or a business entity.
- 7. "Public adjuster" means any person who for compensation or any other thing of value acts on behalf of an insured by doing any of the following:
- a. Acting for or aiding an insured in negotiating for or effecting the settlement of a first-party claim for loss or damage to real or personal property of the insured.
- b. Advertising for employment as a public adjuster of first-party insurance claims or otherwise soliciting business or representing to the public that the person is a public adjuster of first-party insurance claims for loss or damage to real or personal property of an insured.
- c. Directly or indirectly soliciting business investigating or adjusting losses, or advising an insured about first-party claims for loss or damage to real or personal property of the insured.
- 8. "Uniform business entity application" means the current version of the national association of insurance commissioners' uniform business entity application for resident and nonresident business entities.
- 9. "Uniform individual application" means the current version of the national association of insurance commissioners' uniform individual application for resident and nonresident individuals.

Sec. 26. NEW SECTION. 522C.3 AUTHORITY OF THE COMMISSIONER.

- 1. The commissioner shall adopt rules pursuant to chapter 17A as necessary to administer and enforce this chapter.
 - 2. The commissioner shall adopt rules including but not limited to all of the following:
 - a. Advertising standards.
 - b. Continuing education requirements for licensees.
 - c. Contracts between public adjusters and insureds.
 - d. Required disclosures by licensees.
 - e. Examinations for licensure.
 - f. Exemptions.
 - g. License bonds and errors and omissions insurance requirements.
 - h. License requirements and exclusions.
 - i. Prohibited practices.
 - j. Record retention requirements.

- k. Reporting requirements.
- 1. Requirements and limitations on fees charged by public adjusters.
- m. Standards for reasonableness of payment.
- n. Standards of conduct.
- o. Penalties.

Sec. 27. NEW SECTION. 522C.4 LICENSE REQUIRED.

A person shall not operate as or represent that the person is a public adjuster in this state unless the person is licensed by the commissioner in accordance with this chapter.

Sec. 28. NEW SECTION. 522C.5 APPLICATION FOR LICENSE.

- 1. A person applying for a public adjuster license shall make application on a uniform individual application or uniform business entity application as prescribed by the commissioner pursuant to rules adopted under chapter 17A.
- 2. In determining eligibility for licensure under this chapter, the commissioner shall require each individual applying for a public adjuster license to submit a full set of fingerprints with the application. The commissioner shall also require each business entity applying for licensure under this chapter to submit a full set of fingerprints for each individual who will be acting as a public adjuster on behalf of the business entity. The commissioner shall conduct a state and national criminal history record check on each applicant. The commissioner is authorized to submit fingerprints and any required fees to the state department of public safety, the state attorney general, and the federal bureau of investigation for the performance of such criminal record checks.
- a. The commissioner may contract for the collection, transmission, and resubmission of fingerprints required under this section and may contract for a reasonable fingerprinting fee to be charged by the contractor for these services. Any fees for the collection, transmission, and retention of fingerprints submitted pursuant to this subsection shall be paid directly to the contractor by the applicant.
- b. The commissioner may waive submission of fingerprints by any person who has previously furnished fingerprints if those fingerprints are on file with the central repository of the national association of insurance commissioners, its affiliates, or subsidiaries.
- c. The commissioner may receive criminal history record information concerning an applicant that was requested by the state department of justice directly from the federal bureau of investigation.
- d. The commissioner may submit electronic fingerprint records and necessary identifying information to the national association of insurance commissioners, its affiliates, or subsidiaries for permanent retention in a centralized repository whose purpose is to provide state insurance commissioners with access to fingerprint records in order to perform criminal history record checks.

Sec. 29. NEW SECTION. 522C.6 PENALTIES.

- 1. The commissioner may place on probation, suspend, revoke, or refuse to issue or renew a public adjuster's license or may levy a civil penalty as provided in section 505.7A if a licensed public adjuster is found after hearing to be in violation of the requirements of this chapter or rules adopted or orders issued pursuant to this chapter.
- 2. A person acting as a public adjuster without proper licensure or a public adjuster who willfully violates any provision of this chapter or any rule adopted or order issued under this chapter is guilty of a serious misdemeanor.
 - Sec. 30. Sections 505.26, 523.5, and 523.6, Code 2007, are repealed.

CHAPTER 138

ELECTION BOARD MEMBERSHIP H.F. 546

AN ACT relating to membership on election boards.

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

Section 1. Section 49.13, subsection 2, Code 2007, is amended to read as follows:

2. Each election board member To the extent necessary, election boards shall be a member include members of one of the two political parties whose candidates for president of the United States or for governor, as the case may be, received the largest and next largest number of votes in the precinct county at the last general election, except that persons not members of either of these parties may be appointed to serve for any election in which no candidates appear on the ballot under the heading of either of these political parties. Election boards may also include persons not members of either of these parties. However, persons who are not members of either of these political parties shall not comprise more than one-third of the membership of an election board.

Sec. 2. Section 49.15, Code 2007, is amended to read as follows: 49.15 COMMISSIONER TO DRAW UP ELECTION BOARD PANEL.

Not less than twenty days before each primary election, the commissioner shall draw up for each precinct an election board panel from which members of the precinct election board shall be appointed for each election held in the precinct during the ensuing two years. Each panel shall include members of each of the political parties referred to in section 49.13, whose names may be designated by the county chairpersons of each of these political parties not less than thirty days prior to each primary election. The commissioner may place on the election board panel names of persons known by the commissioner to be members of these political parties, if the respective county chairpersons fail to designate a sufficient number of names, and may also add names of persons, whether or not they are members of either of these political parties, who have advised the commissioner they are willing to serve on the election board for elections in which no candidates appear on the ballot under the heading of either of these political parties, or. The commissioner may also place on the election board panel names of persons whom either the city council of a city of three thousand five hundred or less population or a school board has advised the commissioner at least thirty days before each primary election are willing to serve without pay at elections conducted for that school district or city, as the case may be, during the tenure of the election board panel on which these names are included.

Sec. 3. Section 51.2, Code 2007, is amended to read as follows: 51.2 APPOINTMENT.

The members of the election counting board shall be appointed by the commissioner from the election board panel drawn up as provided by section 49.15. The requirements of section 49.13, relative to political party affiliation of members of the election board appointed to serve for partisan elections shall apply to the membership of the election counting board.

Approved May 9, 2007

CHAPTER 139

TOWNSHIP TRUSTEE BOARD MEETINGS — NOTICE H.F.~608

AN ACT relating to notice of meetings of the board of township trustees.

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

Section 1. Section 359.17, Code 2007, is amended to read as follows: 359.17 TRUSTEES — DUTIES — MEETINGS.

- 1. The board of township trustees in each township shall consist of three registered voters of the township. However, in townships with a taxable valuation for property tax purposes of two hundred fifty million dollars or more, the board of township trustees shall consist of five registered voters of the township. The trustees shall act as fence viewers and shall perform other duties assigned them by law. The board of trustees shall meet not less than two times a year. At least one of the meetings shall be scheduled to meet the requirements of section 359.49.
- 2. A board of township trustees shall give prior notice of a meeting to discuss, deliberate, or act upon a matter relating to the budget or a tax levy of the township or relating to the trustees' duty to provide fire protection service and, if provided, emergency medical service, pursuant to section 359.42. The trustees shall give notice of such meeting at least forty-eight hours preceding the commencement of the meeting. However, a notice is not required pursuant to this subsection when the trustees gather for minor or ministerial matters relating to the trustees' duty for providing such fire protection service or emergency medical service. The notice shall state the time, date, and place of the meeting and the proposed agenda. The notice shall be provided to the county auditor who shall post the notice in an area of the courthouse where notices to the public are commonly posted.
 - Sec. 2. Section 359.49, subsection 4, Code 2007, is amended to read as follows:
- 4. The board of trustees shall transmit a copy of the proposed budget <u>and a notice of the meeting set as required by subsection 5</u> to the county auditor for posting. <u>The county auditor shall post the notice and the proposed budget in an area of the courthouse where notices to the public are commonly posted.</u>

Approved May 9, 2007

CHAPTER 140

BUSINESS CORPORATIONS — MISCELLANEOUS CHANGES

H.F. 651

AN ACT relating to business corporations, by providing for information required to be filed with the secretary of state and providing for shares and instruments associated with such corporations.

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

Section 1. Section 490.120, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Whenever a provision of this chapter permits any of the terms of

a plan or a filed document to be dependent on facts objectively ascertainable outside of the plan or filed document, all of the following provisions apply:

- a. The manner in which the facts will operate upon the terms of the plan or filed document shall be set forth in the plan or filed document.
 - b. The facts may include, but are not limited to any of the following:
- (1) Any of the following that is available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data.
- (2) A determination or action by any person or body, including the corporation or any other party to a plan or filed document.
- (3) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.
 - c. As used in this subsection:
- (1) "Filed document" means a document filed with the secretary of state under any provision of this chapter except division XV or section 490.1622.
 - (2) "Plan" means a plan of merger or share exchange.
- d. The following provisions of a plan or filed document may not be made dependent on facts outside the plan or filed document:
 - (1) The name and address of any person required in a filed document.
 - (2) The registered office of any entity required in a filed document.
 - (3) The registered agent of any entity required in a filed document.
 - (4) The number of authorized shares and designation of each class or series of shares.
 - (5) The effective date of a filed document.
- (6) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.
- e. If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document, and that fact is not ascertainable by reference to a source described in paragraph "b", subparagraph (1), or a document that is a matter of public record, or the affected shareholders have not received notice of the fact from the corporation, then the corporation shall file with the secretary of state articles of amendment setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this paragraph are deemed to be authorized by the authorization of the original filed document to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.
- Sec. 2. Section 490.140, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 11A. The phrase "facts objectively ascertainable" outside of a filed document or plan is defined in section 490.120, subsection 12.
- Sec. 3. Section 490.202, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 4. Provisions of the articles of incorporation may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with section 490.120.
 - Sec. 4. Section 490.601, Code 2007, is amended to read as follows: 490.601 AUTHORIZED SHARES.
- 1. The articles of incorporation must prescribe the set forth any classes of shares and series of shares within a class, and the number of shares of each class and series, that the corporation is authorized to issue. If more than one class or series of shares is authorized, the articles of incorporation must prescribe a distinguishing designation for each class, or series and must describe, prior to the issuance of shares of a class or series, the terms, including the preferences, rights, and limitations, and relative rights of that class must be described in the articles of incorporation of that class or series. All Except to the extent varied as permitted by this sec-

tion, all shares of a class <u>or series</u> must have <u>terms</u>, <u>including</u> preferences, <u>rights</u>, <u>and</u> limitations, <u>and relative rights</u> <u>that are</u> identical with those of other shares of the same class except to the extent otherwise permitted by section 490.602 <u>or series</u>.

- 2. The articles of incorporation must authorize both all of the following:
- a. One or more classes or series of shares that together have unlimited voting rights.
- b. One or more classes <u>or series</u> of shares, which may be the same class or classes as those with voting rights, that together are entitled to receive the net assets of the corporation upon dissolution.
- 3. The articles of incorporation may authorize one or more classes <u>or series</u> of shares that have any of the following qualities:
- a. Have special, conditional, or limited voting rights, or no right to vote, except to the extent prohibited otherwise provided by this chapter.
- b. Are redeemable or convertible as specified in the articles of incorporation in any of the following ways:
- (1) At the option of the corporation, the <u>shareholders</u> <u>shareholder</u>, or another person or upon the occurrence of a <u>designated specified</u> event.
 - (2) For cash, indebtedness, securities, or other property.
- (3) In a designated amount or in an amount At prices and in amounts specified, or determined in accordance with a designated formula or by reference to extrinsic data or events.
- c. Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative.
- d. Have preference over any other class <u>or series</u> of shares with respect to distributions, including <u>dividends and</u> distributions upon the dissolution of the corporation.
- 4. The terms of shares may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with section 490.120, subsection 12.
- 5. The terms of shares may vary among holders of the same class or series so long as such variations are expressly set forth in the articles of incorporation.
- <u>6.</u> The description of the designations, preferences, <u>rights</u>, and limitations, and <u>relative</u> <u>rights</u> of <u>share</u> classes <u>or series of shares</u> in subsection 3 is not exhaustive.
- Sec. 5. Section 490.602, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

490.602 TERMS OF CLASS OR SERIES DETERMINED BY BOARD OF DIRECTORS.

- 1. If the articles of incorporation so provide, the board of directors is authorized, without shareholder approval, to do any of the following:
 - a. Classify any unissued shares into one or more series within a class.
- b. Reclassify any unissued shares of any class into one or more classes or into one or more series within one or more classes.
- c. Reclassify any unissued shares of any series of any class into one or more classes or into one or more series within a class.
- 2. If the board of directors acts pursuant to subsection 1, it must determine the terms, including the preferences, rights, and limitations, to the same extent permitted under section 490.601, of any of the following:
 - a. Any class of shares before the issuance of any shares of that class.
 - b. Any series within a class before the issuance of any shares of that series.
- 3. Before issuing any shares of a class or series created under this section, the corporation must deliver to the secretary of state for filing articles of amendment setting forth the terms determined under subsection 1.
 - Sec. 6. Section 490.624, Code 2007, is amended to read as follows: 490.624 SHARE OPTIONS.
- 1. A corporation may issue rights, options, or warrants for the purchase of shares <u>or other securities</u> of the corporation. The board of directors shall determine (i) the terms upon which the rights, options, or warrants are issued, their form and content, and the consideration for

which the shares are to be issued, and (ii) the terms, including the consideration for which the shares or other securities are to be issued. The authorization by the board of directors for the corporation to issue such rights, options, or warrants constitutes authorization of the issuance of the shares or other securities for which the rights, options, or warrants are exercisable.

- 2. The terms and conditions of such rights, options, or warrants, including those outstanding on the effective date of this section, may include, without limitation, restrictions, or conditions that do any of the following:
- a. Preclude or limit the exercise, transfer, or receipt of such rights, options, or warrants by any person or persons owning or offering to acquire a specified number or percentage of the outstanding shares or other securities of the corporation or by any transferee or transferees of any such person or persons.
- b. Invalidate or void such rights, options, or warrants held by any such person or persons or any such transferee or transferees.
 - Sec. 7. Section 490.1005, subsection 8, Code 2007, is amended to read as follows:
- 8. To make any change expressly permitted by section 490.602, subsection 4 <u>1 or 2</u>, to be made without shareholder approval.
 - Sec. 8. Section 490.1006, Code 2007, is amended to read as follows: 490.1006 ARTICLES OF AMENDMENT.

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, the corporation shall deliver to the secretary of state, for filing, articles of amendment, which shall set forth <u>all of</u> the following:

- 1. The name of the corporation.
- 2. The text of each amendment adopted, or the information required by section 490.120, subsection 12, paragraph "e".
- 3. If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment, if not contained in the amendment itself, which may be made dependent upon facts objectively ascertainable outside the articles of amendment in accordance with section 490.120, subsection 12.
 - 4. The date of each amendment's adoption.
- 5. If an amendment was adopted by the incorporators or board of directors without shareholder approval, a statement that the amendment was duly approved by the incorporators or by the board of directors, as the case may be, and that shareholder approval was not required.:
- 6. <u>a.</u> If an amendment required <u>Required</u> approval by the shareholders, a statement that the amendment was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation.
 - b. Is being filed pursuant to section 490.120, subsection 12, a statement to that effect.
 - Sec. 9. Section 490.1102, subsection 4, Code 2007, is amended to read as follows:
- 4. The terms described in subsection 3, paragraphs "b" and "c", of a plan of merger may be made dependent on facts <u>objectively</u> ascertainable outside the plan of merger, provided that those facts are objectively ascertainable in accordance with section 490.120, subsection 12. The term "facts" includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.
 - Sec. 10. Section 490.1103, subsection 4, Code 2007, is amended to read as follows:
- 4. The terms described in subsection 3, paragraphs "b" and "c", of a share exchange may be made dependent on facts objectively ascertainable outside the plan of share exchange, provided that those facts are objectively ascertainable in accordance with section 490.120, subsection 12. The term "facts" includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

Sec. 11. Section 490.1601, subsection 5, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A corporation shall keep a copy of the following records at its principal office:

- Sec. 12. Section 490.1601, subsection 5, paragraph a, Code 2007, is amended to read as follows:
- a. Its articles or restated articles of incorporation, and all amendments to them currently in effect, and any notices to shareholders referred to in section 490.120, subsection 12, paragraph "e", regarding facts on which a filed document is dependent.

Approved May 9, 2007

CHAPTER 141

SNOWMOBILE AND ALL-TERRAIN VEHICLE REGULATION $H.F.\ 742$

AN ACT relating to the regulation of snowmobiles and all-terrain vehicles, and providing fees and penalties.

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

- Section 1. Section 321.234A, subsection 3, Code 2007, is amended to read as follows:
- 3. An all-terrain vehicle that is owned by the owner of land adjacent to a highway, other than an interstate road, may be operated by the owner of the all-terrain vehicle, or by a member of the owner's family, on the portion of the highway right-of-way that is between the shoulder of the roadway, or at least five feet from the edge of the roadway, and the owner's property line. A person operating an all-terrain vehicle within the highway right-of-way under this subsection shall comply with the registration, safety, and age requirements under chapter 321I.
 - Sec. 2. Section 321G.1, Code 2007, is amended by adding the following new subsections: NEW SUBSECTION. 5A. "Director" means the director of the department. NEW SUBSECTION. 5B. "Distributor" means a person, resident or nonresident, who sells
- <u>NEW SUBSECTION</u>. 5B. "Distributor" means a person, resident or nonresident, who sells or distributes snowmobiles to snowmobile dealers in this state or who maintains distributor representatives.
- Sec. 3. Section 321G.2, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 8. Issuance of annual user permits for nonresidents and establishment of administrative fees for issuance of the permits.
 - Sec. 4. Section 321G.3, Code 2007, is amended to read as follows:
 - 321G.3 REGISTRATION AND NUMBERING REQUIRED PENALTIES.
- 1. Each snowmobile used on public land or ice of this state shall be currently registered and numbered. A person shall not operate, maintain, or give permission for the operation or maintenance of a snowmobile on public land or ice unless the snowmobile is numbered registered in accordance with this chapter or applicable federal laws, or the snowmobile displays a current annual user permit decal issued for the snowmobile as provided in section 321G.4A. If the snowmobile is required to be registered in this state, the identifying number set forth in the registration shall be displayed as prescribed by rules of the commission.

- 2. A registration number certificate and registration decal shall be assigned, without payment of fee, to snowmobiles owned by the state of Iowa or its political subdivisions upon application for the number, and the assigned registration number. The registration decal shall be displayed on the snowmobile as required under section 321G.5. A registration number and certificate shall be assigned, without payment of a registration fee, to for a snowmobile which is exempt from registration but is being titled, upon payment of a writing fee as provided in section 321G.27 and an administrative fee. A registration decal displaying an audit number shall not be issued and the registration shall not expire while the snowmobile is exempt. The application for registration and the registration certificate shall indicate the reason for exemption from the registration fee. The registration certificate shall indicate the reason for exemption.
- 3. A violation of subsection 1 or 2 is punishable as a scheduled violation under section 805.8B, subsection 2, paragraph "a". When the scheduled fine is paid, the violator shall submit proof to the department that a valid registration or user permit has been obtained by providing a copy of the registration or user permit to the department within thirty days of the date the fine is paid. A person who violates this subsection is guilty of a simple misdemeanor.

Sec. 5. Section 321G.4, Code 2007, is amended to read as follows: 321G.4 REGISTRATION — FEE.

- 1. The owner of each snowmobile required to be <u>numbered registered</u> shall register it annually with the department through the \underline{a} county recorder of the county in which the owner resides or, if the owner is a nonresident, the owner shall register it in the county in which the snowmobile is principally used. The department shall develop and maintain an electronic system for the registration of snowmobiles pursuant to this chapter. The department shall establish forms and procedures as necessary for the registration of snowmobiles.
- 2. The owner of the snowmobile shall file an application for registration with the department through the appropriate a county recorder in the manner established by the commission. The application shall be completed and signed by the owner and shall be accompanied by a fee of fifteen dollars and a writing fee as provided in section 321G.27. A snowmobile shall not be registered by the county recorder until the county recorder is presented with receipts, bills of sale, or other satisfactory evidence that the sales or use tax has been paid for the purchase of the snowmobile or that the owner is exempt from paying the tax. A snowmobile that has an expired registration certificate from another state may be registered in this state upon proper application, payment of all applicable registration and writing fees, and payment of a penalty of five dollars.
- 3. Upon receipt of the application in approved form accompanied by the required fees, the county recorder shall register the snowmobile with the department and issue to the applicant a registration certificate and registration decal. The registration certificate shall bear the number awarded to the snowmobile and the name and address of the owner. The registration decal shall be displayed on the snowmobile as provided in section 321G.5. The registration certificate shall be carried either in the snowmobile or on the person of the operator of the snowmobile when in use. The operator of a snowmobile shall exhibit the registration certificate to a peace officer upon request, to a person injured in an accident involving a snowmobile, to the owner or operator of another snowmobile or the owner of personal or real property when the snowmobile is involved in a collision or accident of any nature with another snowmobile or the property of another person, or to the property owner or tenant when the snowmobile is being operated on private property without permission from the property owner or tenant.
- 4. If a snowmobile is placed in storage, the owner shall return the current registration certificate to the county recorder with an affidavit stating that the snowmobile is placed in storage and the effective date of storage. The county recorder shall notify the department of each snowmobile placed in storage. When the owner of a stored snowmobile desires to renew the registration, the owner shall make application through the county recorder and pay the registration and writing fees without penalty. A refund of the registration fee shall not be allowed for a stored snowmobile.

- 5. 4. Notwithstanding subsections 1 and 2, a snowmobile that is more than thirty years old may be registered for a one-time fee of twenty-five dollars, which shall exempt the owner from annual registration and fee requirements for that snowmobile. However, if ownership of such a snowmobile is transferred, the new owner shall register the snowmobile and pay the one-time fee as required under this subsection.
 - Sec. 6. Section 321G.4A, Code 2007, is amended to read as follows: 321G.4A NONRESIDENT USER PERMITS.
- 1. A nonresident wishing to operate a snowmobile, other than a snowmobile registered pursuant to this chapter, on public land or ice of this state shall first obtain a user permit from the department. A user permit shall be issued for the snowmobile specified at the time of application and is not transferable. A user permit shall be valid for the calendar year or time period specified in the permit.
- 2. User permits may be issued by a Δ county recorder or a license agent pursuant to rules adopted by the commission designated by the director pursuant to section 483A.11 may issue user permits. The fee for a user permit shall be fifteen dollars plus an administrative fee established by the commission. A county recorder or a license agent shall retain a writing fee of one dollar from the sale of each user permit issued by the county recorder's office as provided in section 321G.27. The writing fees retained by the county recorder shall be deposited in the general fund of the county. A license agent designated by the director pursuant to section 483A.11 shall retain a writing fee of one dollar from the sale of each permit issued by the agent.
 - Sec. 7. Section 321G.5, Code 2007, is amended to read as follows:
- 321G.5 DISPLAY OF IDENTIFICATION NUMBERS REGISTRATION AND USER PERMIT DECALS.

The owner shall display the identification number registration decal or nonresident user permit decal on a snowmobile in the manner prescribed by the rules of the commission.

- Sec. 8. Section 321G.6, Code 2007, is amended to read as follows: 321G.6 REGISTRATION RENEWAL TRANSFER.
- 1. Every snowmobile registration certificate and number registration decal issued expires at midnight December 31 unless sooner terminated or discontinued in accordance with this chapter or rules of the commission. After the first day of September each year, an unregistered snowmobile may be registered and a registration may be renewed in one transaction. The fee is five dollars for the remainder of the current year, in addition to the registration fee of fifteen dollars for the subsequent year beginning January 1, and a writing fee as provided in section 321G.27.
- 2. An expired registration may be renewed for the same fee as if the owner is securing the original registration plus a penalty of five dollars and a writing fee <u>as provided in section 321G.27</u>.
- 3. When a person, after registering a snowmobile, moves from the address shown on the registration certificate, the person shall, within thirty days, notify the county recorder in writing of the move and the person's new address.
- 4. Upon the transfer of ownership of a snowmobile, the owner shall complete the form on the back of the title, if any, and registration, if any, and deliver both to the purchaser or transferee when the snowmobile is delivered. If the snowmobile is not titled, the owner shall complete the form on the back of the current registration certificate and shall deliver the certificate to the purchaser or transferee at the time of delivering the snowmobile. If the snowmobile has not been titled and has not been registered, the owner shall deliver an affidavit for an unregistered and untitled snowmobile to the purchaser or transferee. The purchaser or transferee shall, within thirty days of transfer, file a new application form with the county recorder with a fee of one dollar and the writing fee, and a transfer of number shall be awarded in the same manner as provided in an original registration. If the purchaser or transferee does not file a new application form within thirty days of transfer, the transfer of number shall be awarded upon payment of all applicable fees plus a penalty of five dollars.

All registrations must be valid for the current registration period prior to the transfer of any registration, including assignment to a dealer.

- 5. 3. Duplicate registrations may be issued upon application to the county recorder and the payment of the same fees collected for the transfer of registrations a five dollar fee plus a writing fee as provided in section 321G.27.
- 6. 4. The department shall develop and maintain an electronic system for residents to renew snowmobile registrations pursuant to this section. A county recorder or a license agent designated by the director pursuant to section 483A.11 may issue snowmobile registration renewals electronically pursuant to rules adopted by the commission. The fee for a registration renewal issued using an electronic system is fifteen dollars plus an administrative fee established by the commission and a writing fee as provided in section 321G.27. A county recorder shall retain a writing fee of one dollar and twenty-five cents for each registration renewal issued by the county recorder's office. The writing fees retained by the county recorder shall be deposited in the general fund of the county. A license agent designated by the director pursuant to section 483A.11 shall retain a writing fee of one dollar for each registration renewal issued.
- Sec. 9. Section 321G.7, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Within ten days after the end of each month, a \underline{A} county recorder shall remit to the commission the snowmobile fees collected by the recorder during the previous month in the manner and time prescribed by the department. Before January 10 of each year, a recorder shall remit to the commission unused license forms from the previous year.

- Sec. 10. Section 321G.8, subsections 2 and 3, Code 2007, are amended by striking the subsections.
 - Sec. 11. Section 321G.15, Code 2007, is amended to read as follows:
 - 321G.15 OPERATION PENDING REGISTRATION.

The commission shall furnish snowmobile dealers with pasteboard cards bearing the words "registration applied for" and space for the date of purchase. An unregistered snowmobile sold by a dealer shall bear one of these cards which entitles the purchaser to operate it for ten forty-five days immediately following the purchase. The purchaser of a registered snowmobile may operate it for ten forty-five days immediately following the purchase, without having completed a transfer of registration. A snowmobile dealer shall make application and pay all registration and title fees if applicable on behalf of the purchaser of a snowmobile.

- Sec. 12. Section 321G.19, subsection 1, Code 2007, is amended to read as follows:
- 1. The owner of a rented snowmobile shall keep a record of the name and address of each person renting the snowmobile, its registration number certificate, the departure date and time, and the expected time of return. The records shall be preserved for six months.
 - Sec. 13. Section 321G.21, subsection 2, Code 2007, is amended to read as follows:
- 2. Any Every manufacturer, distributor, or dealer may, upon payment of a fee of fifteen dollars, make shall register with the department by making application to the commission, upon forms prescribed by the commission, for a special registration certificate containing a general identification number and for one or more duplicate special registration certificates. The applicant shall pay a registration fee of fifteen dollars and submit reasonable proof of the applicant's status as a bona fide manufacturer, distributor, or dealer as may be required by the commission.
- Sec. 14. Section 321G.21, subsections 6 and 8, Code 2007, are amended by striking the subsections.
 - Sec. 15. Section 321G.21, subsection 9, Code 2007, is amended to read as follows:
 - 9. If the purchaser or transferee of a snowmobile is a dealer who holds the same for resale

and operates the snowmobile only for purposes incidental to a resale and displays the special dealer's certificate, or does not operate the snowmobile or permit it to be operated, the transferee is not required to obtain a new registration certificate but upon transferring title or interest to another person shall sign the reverse side of the title, if any, and the registration certificate of the snowmobile indicating the name and address of the new purchaser. A dealer shall make application and pay all registration and title fees if applicable on behalf of the purchaser of a snowmobile. The recorder shall award a transfer of the registration number. If the registration has expired while in the dealer's possession, the purchaser may renew the registration for the same fee and writing fee as if the purchaser is securing the original registration.

- Sec. 16. Section 321G.21, subsection 10, Code 2007, is amended by striking the subsection.
- Sec. 17. Section 321G.21, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 12. The department may adopt rules consistent with this chapter establishing minimum requirements for dealers. In adopting such rules, the department shall consider the need to protect persons, property, and the environment and to promote uniformity of practices relating to the sale and use of snowmobiles.
 - Sec. 18. Section 321G.23, subsection 1, Code 2007, is amended to read as follows:
- 1. The commission shall provide, by rules adopted pursuant to section 321G.2, for the establishment of certified courses of instruction to be conducted throughout the state for the safe use and operation of snowmobiles. The curriculum shall include instruction in the lawful and safe use, operation, and equipping of snowmobiles consistent with this chapter and rules adopted by the commission and the director of transportation and other matters the commission deems pertinent for a qualified snowmobile operator. The commission may establish a fee for the course which shall not exceed the actual cost of instruction minus moneys received by the department from safety certificate fees under section 321G.24.
 - Sec. 19. Section 321G.24, subsection 2, Code 2007, is amended to read as follows:
- 2. Upon application and payment of a fee of five dollars, a qualified applicant shall be issued a safety certificate which is valid until the certificate is suspended or revoked by the director for a violation of a provision of this chapter or a rule of the commission or the director of transportation adopted pursuant to this chapter. The application shall be made on forms issued by the commission and shall contain information as the commission may reasonably require.
 - Sec. 20. Section 321G.27, Code 2007, is amended to read as follows: 321G.27 WRITING FEES.
- <u>1. a.</u> The county recorder shall collect a writing fee of one dollar and twenty-five cents for a snowmobile registration <u>or for renewal of a registration by the county recorder's office</u>.
- b. The county recorder shall retain a writing fee of one dollar and twenty-five cents from the sale of each user permit issued by the county recorder's office.
- c. Writing fees collected or retained by the county recorder under this chapter shall be deposited in the general fund of the county.
- 2. a. A license agent shall collect a writing fee of one dollar for a snowmobile registration or for renewal of a registration by the license agent.
- b. A license agent shall retain a writing fee of one dollar from the sale of each user permit issued by the license agent.
- Sec. 21. Section 321G.29, subsections 1, 4, and 7, Code 2007, are amended to read as follows:
- 1. The owner of a snowmobile acquired on or after January 1, 1998, other than a snowmobile used exclusively as a farm implement or a snowmobile more than thirty years old registered as provided in section 321G.4, subsection 5, shall apply to the county recorder of the county in which the owner resides for a certificate of title for the snowmobile. The owner of a snowmobile used exclusively as a farm implement may obtain a certificate of title. A person who owns

a snowmobile that is not required to have a certificate of title may apply for and receive a certificate of title for the snowmobile and, subsequently, the snowmobile shall be subject to the requirements of this chapter as if the snowmobile were required to be titled. All snowmobiles that are titled shall be registered.

- 4. If a dealer buys or acquires a snowmobile for resale, the dealer shall report the acquisition to the county recorder on forms provided by the department and may apply for and obtain a certificate of title as provided in this chapter. If a dealer buys or acquires a used snowmobile, the dealer may apply for a certificate of title in the dealer's name within thirty days. If a dealer buys or acquires a new snowmobile for resale, the dealer may apply for a certificate of title in the dealer's name.
- 7. The county recorder shall maintain a record of any certificate of title which the county recorder issues and shall keep each certificate of title on record until the certificate of title has been inactive for five years. When issuing a title for a new snowmobile, the county recorder shall obtain and keep on file a copy of the certificate of origin. When issuing a title and registration for a used snowmobile for which there is no title or registration, the county recorder shall obtain and keep on file the affidavit for the unregistered and untitled snowmobile.
 - Sec. 22. Section 321G.29, subsection 10, Code 2007, is amended by striking the subsection.
- Sec. 23. Section 321G.30, subsections 2 and 4, Code 2007, are amended to read as follows: 2. If a certificate of title is lost, stolen, mutilated, destroyed, or becomes illegible, the first lienholder or, if there is none, the owner named in the certificate, as shown by the county recorder's records, shall within thirty days obtain a duplicate by applying to the county recorder. The applicant shall furnish information the department requires concerning the original certificate and the circumstances of its loss, mutilation, or destruction. Mutilated or illegible certificates shall be returned to the department with the application for a duplicate.
- 4. If a lost or stolen original certificate of title for which a duplicate has been issued is recovered, the original shall be surrendered promptly to the department county recorder for cancellation.
- Sec. 24. Section 321G.32, subsection 3, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
- 3. When a security interest is discharged, the secured party shall note the cancellation of the security interest on the face of the certificate of title and send the title by first class mail to the office of the county recorder where the title was issued. If the title has been lost or destroyed, the secured party may discharge the security interest by sending a signed, notarized statement to the office of the county recorder where the title was issued. The county recorder shall note the release of the security interest in the county records and attach the statement to the certificate of title as evidence of the release of the security interest.
- Sec. 25. NEW SECTION. 321G.34 REPEAT OFFENDER RECORDS, ENFORCEMENT, AND PENALTIES.
- 1. The commission shall establish by rule a recordkeeping system and other administrative procedures necessary to administer this section.
- 2. A person who pleads guilty to or is convicted of a violation of any provision of this chapter while the person's registration privilege is suspended or revoked under administrative procedures is guilty of a simple misdemeanor if the person had no other violations within the previous three years which occurred while the person's registration privilege was suspended or revoked.
- 3. A person who pleads guilty to or is convicted of a violation of any provision of this chapter while the person's registration privilege is suspended or revoked under administrative procedures is guilty of a serious misdemeanor if the person had one other violation within the previous three years which occurred while the person's registration privilege was suspended or revoked.

- 4. A person who pleads guilty to or is convicted of a violation of any provision of this chapter while the person's registration privilege is suspended or revoked under administrative procedures is guilty of an aggravated misdemeanor if the person had two or more convictions within the previous three years which occurred while the person's registration privilege was suspended or revoked.
- 5. a. Upon the conviction of a person of any violation of this chapter or a rule adopted under this chapter, the court, as a part of the judgment, may suspend or revoke one or more snowmobile registration or user permit privileges of the person for any definite period.
- b. The court shall revoke all of the person's snowmobile registrations or user permits and suspend the privilege of procuring a registration or user permit for a period of one year for any person who has been convicted twice within one year of trespassing while operating a snowmobile. A person shall not be issued a registration or user permit during the period of suspension or revocation.
 - Sec. 26. Section 321I.1, subsection 1, Code 2007, is amended to read as follows:
- 1. <u>a.</u> "All-terrain vehicle" means a motorized flotation-tire vehicle with not less than three low-pressure tires, but <u>and</u> not more than six low-pressure tires, or a two-wheeled off-road motorcycle, that is limited in engine displacement to less than <u>eight hundred one thousand</u> cubic centimeters and in total dry weight to less than <u>eight hundred fifty one thousand</u> pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.
- <u>b.</u> Two-wheeled off-road Motorcycles shall be considered all-terrain vehicles for the purpose of registration. Two-wheeled off-road Motorcycles shall also be considered all-terrain vehicles for the purpose of titling if a title has not previously been issued pursuant to chapter 321. An operator of a two-wheeled an off-road motorcycle is subject to provisions governing the operation of all-terrain vehicles in this chapter, but is exempt from the safety instruction and certification program requirements of sections 321I.25 and 321I.26.
- c. Off-road utility vehicles shall be considered all-terrain vehicles for the purpose of registration, but are exempt from the dealer registration requirements and the titling requirements of this chapter. An operator of an off-road utility vehicle is subject to provisions governing the operation of all-terrain vehicles in section 321.234A and this chapter, but is exempt from the safety instruction and certification program requirements of sections 321I.25 and 321I.26. A motorized vehicle that was previously titled or is currently titled under chapter 321 shall not be registered or operated as an off-road utility vehicle.
- Sec. 27. Section 321I.1, Code 2007, is amended by adding the following new subsections: <u>NEW SUBSECTION</u>. 5A. "Designated riding area" means an all-terrain vehicle riding area on any public land or ice under the jurisdiction of the department that has been designated by the department for all-terrain vehicle use.

<u>NEW SUBSECTION</u>. 5B. "Designated riding trail" means an all-terrain vehicle riding trail on any public land or ice under the jurisdiction of the department that has been designated by the department for all-terrain vehicle use.

NEW SUBSECTION. 5C. "Director" means the director of the department.

<u>NEW SUBSECTION</u>. 5D. "Direct supervision" means to provide supervision of another person while maintaining visual and verbal contact at all times.

<u>NEW SUBSECTION</u>. 5E. "Distributor" means a person, resident or nonresident, who sells or distributes all-terrain vehicles to all-terrain vehicle dealers in this state or who maintains distributor representatives.

<u>NEW SUBSECTION</u>. 9A. "Off-road motorcycle" means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. "Off-road motorcycle" includes a motorcycle that was originally issued a certificate of title and registered for highway use under chapter 321, but which contains design features that enable operation over natural terrain.

<u>NEW SUBSECTION</u>. 9B. "Off-road utility vehicle" means a motorized flotation-tire vehicle with not less than four and not more than six low-pressure tires that is limited in engine displacement to less than one thousand five hundred cubic centimeters and in total dry weight to not more than one thousand eight hundred pounds and that has a seat that is of bench design, not intended to be straddled by the operator, and a steering wheel for control.

Sec. 28. Section 321I.3, Code 2007, is amended to read as follows: 321I.3 REGISTRATION AND NUMBERING REQUIRED — PENALTIES.

- 1. Each all-terrain vehicle used on public land or ice of this state shall be currently registered and numbered. A person shall not operate, maintain, or give permission for the operation or maintenance of an all-terrain vehicle on public land or ice unless the all-terrain vehicle is numbered registered in accordance with this chapter or applicable federal laws, or unless the all-terrain vehicle displays a current annual user permit decal issued for the all-terrain vehicle as provided in section 321I.5. If the all-terrain vehicle is required to be registered in this state, the identifying number set forth in the registration shall be displayed as prescribed by rules of the commission.
- 2. A registration number certificate and registration decal shall be assigned, without payment of fee, to all-terrain vehicles owned by the state of Iowa or its political subdivisions upon application for the number, and the assigned registration number. The registration decal shall be displayed on the all-terrain vehicle as required under section 321I.6. A registration number and certificate shall be assigned, without payment of a registration fee, to for an all-terrain vehicle which is exempt from registration but is being titled, upon payment of a writing fee as provided in section 321I.29 and an administrative fee. A registration decal displaying an audit number shall not be issued and the registration shall not expire while the all-terrain vehicle is exempt. The application for registration and the registration certificate shall indicate the reason for exemption.
- 3. A violation of subsection 1 or 2 is punishable as a scheduled violation under section 805.8B, subsection 2A, paragraph "a". When the scheduled fine is paid, the violator shall submit proof to the department that a valid registration or user permit has been obtained by providing a copy of the registration or user permit to the department within thirty days of the date the fine is paid. A person who violates this subsection is guilty of a simple misdemeanor.

Sec. 29. Section 321I.4, Code 2007, is amended to read as follows: 321I.4 REGISTRATION WITH COUNTY RECORDER — FEE.

- 1. The owner of each all-terrain vehicle required to be <u>numbered</u> registered shall register it annually with the <u>department through a</u> county recorder of the county in which the owner resides or, if the owner is a nonresident, the owner shall register it in the county in which the all-terrain vehicle is principally used. The department shall develop and maintain an electronic system for the registration of all-terrain vehicles pursuant to this chapter. The commission has supervisory responsibility over department shall establish forms and procedures as necessary for the registration of all-terrain vehicles and shall provide each county recorder with registration forms and certificates and shall allocate registration numbers to each county.
- 2. The owner of the all-terrain vehicle shall file an application for registration with the appropriate department through a county recorder on forms provided in the manner established by the commission. The application shall be completed and signed by the owner of the all-terrain vehicle and shall be accompanied by a fee of fifteen dollars and a writing fee as provided in section 3211.29. An all-terrain vehicle shall not be registered by the county recorder until the county recorder is presented with receipts, bills of sale, or other satisfactory evidence that the sales or use tax has been paid for the purchase of the all-terrain vehicle or that the owner is exempt from paying the tax. An all-terrain vehicle that has an expired registration certificate from another state may be registered in this state upon proper application, payment of all applicable registration and writing fees, and payment of a penalty of five dollars.
 - 3. Upon receipt of the application in approved form accompanied by the required fees, the

county recorder shall enter it upon the records and shall issue to the applicant a registration certificate and registration decal. The certificate shall be executed in triplicate, one copy to be delivered to the owner, one copy to the commission, and one copy to be retained on file by the county recorder. The registration certificate shall bear the number awarded to the all-terrain vehicle and the name and address of the owner. The registration decal shall be displayed on the all-terrain vehicle as provided in section 3211.6. The registration certificate shall be carried either in the all-terrain vehicle or on the person of the operator of the all-terrain vehicle when in use. The operator of an all-terrain vehicle shall exhibit the registration certificate to a peace officer upon request, to a person injured in an accident involving an all-terrain vehicle, to the owner or operator of another all-terrain vehicle or the owner of personal or real property when the all-terrain vehicle is involved in a collision or accident of any nature with another all-terrain vehicle or the property of another person, or to the property owner or tenant when the all-terrain vehicle is being operated on private property without permission from the property owner or tenant.

4. If an all-terrain vehicle is placed in storage, the owner shall return the current registration certificate to the county recorder with an affidavit stating that the all-terrain vehicle is placed in storage and the effective date of storage. The county recorder shall notify the commission of each all-terrain vehicle placed in storage. When the owner of a stored all-terrain vehicle desires to renew the registration, the owner shall make application to the county recorder and pay the registration and writing fees without penalty. A refund of the registration fee shall not be allowed for a stored all-terrain vehicle.

Sec. 30. Section 321I.5, Code 2007, is amended to read as follows:

321I.5 NONRESIDENT USER PERMITS.

- 1. A nonresident wishing to operate an all-terrain vehicle, other than an all-terrain vehicle owned by a resident and registered pursuant to this chapter, on public land or ice of this state shall first obtain a user permit from the department. A user permit shall be issued for the all-terrain vehicle specified at the time of application and is not transferable. A user permit shall be valid for the calendar year or time period specified in the permit.
- 2. User permits may be issued by a \(\) county recorder or a license depositary pursuant to rules adopted by the commission agent designated by the director pursuant to section 483A.11 may issue user permits. The fee for a user permit shall be fifteen dollars plus an administrative fee established by the commission. A county recorder or a license agent shall retain a writing fee of one dollar from the sale of each user permit issued by the county recorder's office as provided in section 3211.29. The writing fees retained by the county recorder shall be deposited in the general fund of the county. A license depositary designated by the director pursuant to section 483A.11 shall retain a writing fee of one dollar from the sale of each permit issued by the agent.
 - Sec. 31. Section 321I.6, Code 2007, is amended to read as follows:
- 3211.6 DISPLAY OF IDENTIFICATION NUMBERS REGISTRATION AND USER PERMIT DECALS.

The owner shall display the identification number registration decal or nonresident user permit decal on an all-terrain vehicle in the manner prescribed by rules of the commission.

- Sec. 32. Section 321I.7, Code 2007, is amended to read as follows:
- 3211.7 REGISTRATION RENEWAL TRANSFER.
- 1. a. Every all-terrain vehicle registration certificate and number registration decal issued expires at midnight December 31 unless sooner terminated or discontinued in accordance with this chapter or rules of the commission. After the first day of September each year, an unregistered all-terrain vehicle may be registered or a registration may be renewed for the subsequent year beginning January 1.
- b. After the first day of September an unregistered all-terrain vehicle may be registered for the remainder of the current registration year and for the subsequent registration year in one transaction. The fee shall be five dollars for the remainder of the current year, in addition to

the registration fee of fifteen dollars for the subsequent year beginning January 1, and a writing fee <u>as provided in section 3211.29</u>. Registration certificates and numbers may be renewed upon application of the owner in the same manner as provided in securing the original registration. The all-terrain vehicle registration fee is in lieu of personal property tax for each year of the registration.

- 2. An expired all-terrain vehicle registration may be renewed for the same fee as if the owner is securing the original registration plus a penalty of five dollars and a writing fee <u>as provided</u> in section 321I.29.
- 3. When a person, after registering an all-terrain vehicle, moves from the address shown on the registration certificate, the person shall, within thirty days, notify the county recorder in writing of the move and the person's new address.
- 4. Upon the transfer of ownership of an all-terrain vehicle, the owner shall complete the form on the back of the title, if any, and registration, if any, and deliver both to the purchaser or transferee when the all-terrain vehicle is delivered. If the all-terrain vehicle is not titled, the owner shall complete the form on the back of the current registration certificate and shall deliver the certificate to the purchaser or transferee at the time of delivering the all-terrain vehicle. If the all-terrain vehicle has not been titled and has not been registered, the owner shall deliver an affidavit for an unregistered and untitled all-terrain vehicle to the purchaser or transferee. The purchaser or transferee shall, within thirty days of transfer, file a new application form with the county recorder with a fee of one dollar and the writing fee, and a transfer of number shall be awarded in the same manner as provided in an original registration. If the purchaser or transferee does not file a new application form within thirty days of transfer, the transfer of number shall be awarded upon payment of all applicable fees plus a penalty of five dollars.

All registrations must be valid for the current registration period prior to the transfer of any registration, including assignment to a dealer.

- 5. 3. Duplicate registrations may be issued upon application to the county recorder and the payment of the same fees collected for the transfer of registrations a five dollar fee plus a writing fee as provided in section 3211.29.
- 6. 4. A motorcycle, as defined in section 321.1, subsection 40, paragraph "a", may be registered as an all-terrain vehicle as provided in this section. A motorcycle registered as an all-terrain vehicle may participate in all programs established for all-terrain vehicles under this chapter except for the safety instruction and certification program.
- 5. A county recorder or a license agent designated by the director pursuant to section 483A.11 may issue all-terrain vehicle registration renewals electronically pursuant to rules adopted by the commission. The fee for a registration renewal issued using an electronic system is fifteen dollars plus an administrative fee established by the commission and a writing fee as provided in section 321I.29.
- Sec. 33. Section 321I.8, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Within ten days after the end of each month, a \underline{A} county recorder shall remit to the commission the all-terrain vehicle fees collected by the recorder during the previous month in the manner and time prescribed by the department. Before January 10 of each year, a recorder shall remit to the commission unused license forms from the previous year.

- Sec. 34. Section 321I.9, subsections 2, 3, and 4, Code 2007, are amended by striking the subsections.
 - Sec. 35. Section 321I.12, subsection 1, Code 2007, is amended to read as follows:
- 1. An all-terrain vehicle shall not be operated without suitable and effective muffling devices which limit engine noise to not more than eighty-six decibels as measured on the "A" scale at a distance of fifty feet. An all-terrain vehicle shall comply with the sound level standards and testing procedures established by the society of automotive engineers under SAE J1287.

Sec. 36. Section 321I.14, subsection 1, paragraph g, Code 2007, is amended by striking the paragraph and inserting in lieu thereof the following:

g. In any park, wildlife area, preserve, refuge, game management area, or any portion of a meandered stream, or any portion of the bed of a nonmeandered stream which has been identified as a navigable stream or river by rule adopted by the department and which is covered by water, except on designated riding areas and designated riding trails. This paragraph does not prohibit the use of ford crossings of public roads or any other ford crossing when used for agricultural purposes; the operation of construction vehicles engaged in lawful construction, repair, or maintenance in a streambed; or the operation of all-terrain vehicles on ice.

Sec. 37. Section 321I.14, Code 2007, is amended by adding the following new subsections: <u>NEW SUBSECTION</u>. 4. A person shall not operate an off-road utility vehicle on a designated riding area or designated riding trail unless the riding area or trail is signed by the department as open to off-road utility vehicle operation.

NEW SUBSECTION. 5. A person shall not operate a vehicle other than an all-terrain vehicle on a designated riding area or designated riding trail unless the riding area or trail is signed by the department as open to such other use.

Sec. 38. Section 321I.16, Code 2007, is amended to read as follows:

321I.16 OPERATION PENDING REGISTRATION.

The commission shall furnish all-terrain vehicle dealers with pasteboard cards bearing the words "registration applied for" and space for the date of purchase. An unregistered all-terrain vehicle sold by a dealer shall bear one of these cards which entitles the purchaser to operate it for ten forty-five days immediately following the purchase. The purchaser of a registered all-terrain vehicle may operate it for ten forty-five days immediately following the purchase, without having completed a transfer of registration. An all-terrain vehicle dealer shall make application and pay all registration and title fees if applicable on behalf of the purchaser of an all-terrain vehicle.

- Sec. 39. Section 321I.20, subsection 1, Code 2007, is amended to read as follows:
- 1. The owner of a rented all-terrain vehicle shall keep a record of the name and address of each person renting the all-terrain vehicle, its registration number certificate, the departure date and time, and the expected time of return. The records shall be preserved for six months.
 - Sec. 40. Section 321I.21, Code 2007, is amended to read as follows:
 - 3211.21 MINORS UNDER TWELVE SUPERVISION.

A person under twelve years of age shall not operate an all-terrain vehicle on public lands, including an off-road motorcycle, on a designated riding area or designated riding trail or on ice unless the one of the following applies:

- 1. The person is taking a prescribed safety training course and the operation is under the direct supervision of a certified all-terrain vehicle safety instructor, and a
- 2. The operation is under the direct supervision of a responsible parent or guardian of at least eighteen years of age who is experienced in all-terrain vehicle operation or off-road motorcycle operation and who possesses a valid driver's license as defined in section 321.1.
 - Sec. 41. Section 321I.22, subsection 2, Code 2007, is amended to read as follows:
- 2. Any Every manufacturer, distributor, or dealer may, upon payment of a fee of fifteen dollars, make shall register with the department by making application to the commission, upon forms prescribed by the commission, for a special registration certificate containing a general identification number and for one or more duplicate special registration certificates. The applicant shall pay a registration fee of fifteen dollars and submit reasonable proof of the applicant's status as a bona fide manufacturer, distributor, or dealer as may be required by the commission.

- Sec. 42. Section 321I.22, subsections 6 and 8, Code 2007, are amended by striking the subsections.
 - Sec. 43. Section 321I.22, subsection 9, Code 2007, is amended to read as follows:
- 9. If the purchaser or transferee of an all-terrain vehicle is a dealer who holds the same for resale and operates the all-terrain vehicle only for purposes incidental to a resale and displays the special dealer's certificate, or does not operate the all-terrain vehicle or permit it to be operated, the transferee is not required to obtain a new registration certificate but upon transferring title or interest to another person shall sign the reverse side of the title, if any, and the registration certificate of the all-terrain vehicle indicating the name and address of the new purchaser. A dealer shall make application and pay all registration and title fees if applicable on behalf of the purchaser of an all-terrain vehicle. The recorder shall award a transfer of the registration number. If the registration has expired while in the dealer's possession, the purchaser may renew the registration for the same fee and writing fee as if the purchaser is securing the original registration.
 - Sec. 44. Section 321I.22, subsection 10, Code 2007, is amended by striking the subsection.
- Sec. 45. Section 321I.22, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 12. The department may adopt rules consistent with this chapter establishing minimum requirements for dealers. In adopting such rules, the department shall consider the need to protect persons, property, and the environment and to promote uniformity of practices relating to the sale and use of all-terrain vehicles.
 - Sec. 46. Section 321I.25, subsection 1, Code 2007, is amended to read as follows:
- 1. The commission shall provide, by rules adopted pursuant to section 321I.2, for the establishment of certified courses of instruction to be conducted throughout the state for the safe use and operation of all-terrain vehicles. The curriculum shall include instruction in the lawful and safe use, operation, and equipping of all-terrain vehicles consistent with this chapter and rules adopted by the commission and the director of transportation and other matters the commission deems pertinent for a qualified all-terrain vehicle operator. The commission may establish a fee for the course which shall not exceed the actual cost of instruction minus moneys received by the department from safety certificate fees under section 321I.26.
- Sec. 47. Section 321I.26, subsections 1 and 2, Code 2007, are amended to read as follows:

 1. A person under twelve years of age or older but less than eighteen years of age shall not operate an all-terrain vehicle on public land or ice or land purchased with all-terrain vehicle registration funds in this state without obtaining a valid safety certificate issued by the department and having the certificate in the person's possession.
- 2. Upon application and payment of a fee of five dollars, a qualified applicant shall be issued a safety certificate which is valid until the certificate is suspended or revoked by the director for a violation of a provision of this chapter or a rule of the commission or the director of transportation adopted pursuant to this chapter. The application shall be made on forms issued by the commission and shall contain information as the commission may reasonably require.
 - Sec. 48. Section 321I.29, Code 2007, is amended to read as follows: 321I.29 WRITING FEES.
- <u>1. a.</u> The county recorder shall collect a writing fee of one dollar and twenty-five cents for an all-terrain vehicle registration <u>or for renewal of a registration by the county recorder's office</u>.
- b. The county recorder shall retain a writing fee of one dollar and twenty-five cents from the sale of each user permit issued by the county recorder's office.
- c. Writing fees collected or retained by the county recorder under this chapter shall be deposited in the general fund of the county.

- 2. a. A license agent shall collect a writing fee of one dollar for an all-terrain vehicle registration or for renewal of a registration issued by the license agent.
- b. A license agent shall retain a writing fee of one dollar from the sale of each user permit issued by the license agent.
- Sec. 49. Section 321I.31, subsections 4 and 7, Code 2007, are amended to read as follows:
- 4. If a dealer buys or acquires an all-terrain vehicle for resale, the dealer shall report the acquisition to the county recorder on forms provided by the department and may apply for and obtain a certificate of title as provided in this chapter. If a dealer buys or acquires a used all-terrain vehicle, the dealer may apply for a certificate of title in the dealer's name within thirty days. If a dealer buys or acquires a new all-terrain vehicle for resale, the dealer may apply for a certificate of title in the dealer's name.
- 7. The county recorder shall maintain a record of any certificate of title which the county recorder issues and shall keep each certificate of title on record until the certificate of title has been inactive for five years. When issuing a title for a new all-terrain vehicle, the county recorder shall obtain and keep on file a copy of the certificate of origin. When issuing a title and registration for a used all-terrain vehicle for which there is no title or registration, the county recorder shall obtain and keep on file the affidavit for the unregistered and untitled all-terrain vehicle.
 - Sec. 50. Section 321I.31, subsection 10, Code 2007, is amended by striking the subsection.
- Sec. 51. Section 321I.32, subsections 2 and 4, Code 2007, are amended to read as follows: 2. If a certificate of title is lost, stolen, mutilated, destroyed, or becomes illegible, the first lienholder or, if there is none, the owner named in the certificate, as shown by the county recorder's records, shall within thirty days obtain a duplicate by applying to the county recorder. The applicant shall furnish information the department requires concerning the original certificate and the circumstances of its loss, mutilation, or destruction. Mutilated or illegible certificates shall be returned to the department with the application for a duplicate.
- 4. If a lost or stolen original certificate of title for which a duplicate has been issued is recovered, the original shall be surrendered promptly to the department county recorder for cancellation.
- Sec. 52. Section 321I.34, subsection 3, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
- 3. When a security interest is discharged, the secured party shall note the cancellation of the security interest on the face of the certificate of title and send the title by first class mail to the office of the county recorder where the title was issued. If the title has been lost or destroyed, the secured party may discharge the security interest by sending a signed, notarized statement to the office of the county recorder where the title was issued. The county recorder shall note the release of the security interest in the county records and attach the statement to the certificate of title as evidence of the release of the security interest.
- Sec. 53. <u>NEW SECTION</u>. 321I.36 REPEAT OFFENDER RECORDS, ENFORCEMENT, AND PENALTIES.
- 1. The commission shall establish by rule a recordkeeping system and other administrative procedures necessary to administer this section.
- 2. A person who pleads guilty to or is convicted of a violation of any provision of this chapter while the person's registration privilege is suspended or revoked under administrative procedures is guilty of a simple misdemeanor if the person had no other violations within the previous three years which occurred while the person's registration privilege was suspended or revoked.
- 3. A person who pleads guilty to or is convicted of a violation of any provision of this chapter while the person's registration privilege is suspended or revoked under administrative proce-

dures is guilty of a serious misdemeanor if the person had one other violation within the previous three years which occurred while the person's registration privilege was suspended or revoked.

- 4. A person who pleads guilty to or is convicted of a violation of any provision of this chapter while the person's registration privilege is suspended or revoked under administrative procedures is guilty of an aggravated misdemeanor if the person had two or more convictions within the previous three years which occurred while the person's registration privilege was suspended or revoked.
- 5. a. Upon the conviction of a person of any violation of this chapter or a rule adopted under this chapter, the court, as a part of the judgment, may suspend or revoke one or more all-terrain vehicle registration or user permit privileges of the person for any definite period.
- b. The court shall revoke all of the person's all-terrain vehicle registrations or user permits and suspend the privilege of procuring a registration or user permit for a period of one year for any person who has been convicted twice within one year of trespassing while operating an all-terrain vehicle. A person shall not be issued a registration or user permit during the period of suspension or revocation.
 - Sec. 54. Section 805.8B, subsection 2, Code 2007, is amended to read as follows:
 - 2. SNOWMOBILE AND ALL-TERRAIN VEHICLE VIOLATIONS.
- a. For registration or user permit violations under sections section 321G.3 and 321L3, subsections 1 and 2, the scheduled fine is twenty fifty dollars. When the scheduled fine is paid, the violator shall submit sufficient proof that a valid registration or user permit has been obtained.
- b. <u>(1)</u> For operating violations under section 321G.9, subsections 1, 2, 3, 4, 5, and 7, sections the scheduled fine is fifty dollars.
- (2) For operating violations under sections $321G.11_7$ and 321G.13, subsection 1, paragraph "d", sections 321I.10, 321I.12, and 321I.14, subsection 1, paragraph "d", the scheduled fine is twenty dollars.
- (3) For operating violations under section 321G.13, subsection 1, paragraphs "a", "b", "e", "f", "g", and "h", and subsections 2 and 3, the scheduled fine is one hundred dollars.
- c. For improper or defective equipment under sections section 321G.12 and 321I.13, the scheduled fine is twenty dollars.
- d. For violations of sections section 321G.19 and 321I.20, the scheduled fine is twenty dollars.
- e. For identification violations under $\frac{1}{100}$ sections $\frac{1}{100}$ 321G.5 $\frac{1}{100}$ and $\frac{1}{100}$ 321H.6, the scheduled fine is twenty dollars.
- f. For stop signal violations under section 321G.17, the scheduled fine is one hundred dollars.
- g. For violations of section 321G.20 and for safety certificate violations under section 321G.24, subsection 1, the scheduled fine is fifty dollars.
 - h. For violations of section 321G.21, the scheduled fine is one hundred dollars.
 - Sec. 55. Section 805.8B, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 2A. ALL-TERRAIN VEHICLE VIOLATIONS.
- a. For registration or user permit violations under section 321I.3, subsections 1 and 2, the scheduled fine is fifty dollars.
- b. (1) For operating violations under sections 321I.12 and 321I.14, subsection 1, paragraph "d", the scheduled fine is twenty dollars.
- (2) For operating violations under section 321I.10, subsections 1 and 4, the scheduled fine is fifty dollars.
- (3) For operating violations under section 321I.14, subsection 1, paragraphs "a", "e", "f", "g", and "h", and subsections 2, 3, 4, and 5, the scheduled fine is one hundred dollars.
- c. For improper or defective equipment under section 321I.13, the scheduled fine is twenty dollars

- d. For violations of section 321I.20, the scheduled fine is twenty dollars.
- e. For identification violations under section 321I.6, the scheduled fine is twenty dollars.
- f. For stop signal violations under section 321I.18, the scheduled fine is one hundred dollars.
- g. For violations of section 321I.21 and for safety certificate violations under section 321I.26, subsection 1, the scheduled fine is fifty dollars.
 - h. For violations of section 321I.22, the scheduled fine is one hundred dollars.

Approved May 9, 2007

CHAPTER 142

INJURED VETERANS GRANT PROGRAM ELIGIBILITY

H.F. 767

AN ACT relating to eligible veterans for purposes of the injured veterans grant program.

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

Section 1. Section 35A.14, subsection 1, Code 2007, is amended to read as follows:

- 1. For the purposes of this section, "veteran" means a any of the following:
- <u>a. A</u> 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.
- b. A nonresident of this state who is or was a member of a national guard unit located in this state prior to alert for mobilization who has served on active duty at any time after September 11,2001, was injured while serving in the national guard unit located in this state, is not eligible to receive a similar grant from another state for that injury, and, if discharged, was discharged under honorable conditions.
- Sec. 2. Section 35A.14, subsection 5, paragraph a, Code 2007, is amended to read as follows:
- 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.

Approved May 9, 2007

CHAPTER 143

TRANSPORTATION REGULATION AND LAND SURVEYING STANDARDS

H.F. 793

AN ACT relating to administration of regional transportation by regional transit districts and of highways and regulation of motor vehicles by the state department of transportation, including provisions relating to the placement of advertising devices along primary highways, qualifications of property appraisers, state standards for land surveying, destruction of suspended or revoked driver's licenses, requirements for a temporary restricted driver's license, registration and titling of vehicles, legion of merit special registration plates, antique motor vehicle registration plates and fees, licensing of motor vehicle dealers, motor carrier registration and fuel tax liability, the maximum length limitation for single trucks, requirements for operation of certain self-propelled implements of husbandry on secondary roads, and disposition of regional transit district tax revenues collected by a county treasurer, and providing effective dates.

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

DIVISION I HIGHWAYS

- Section 1. Section 306C.11, subsection 2, Code 2007, is amended to read as follows:
- 2. Advertising devices concerning activities conducted on the property on which they are located, nor shall the property upon which they are located be construed to mean located upon any contiguous area having inconsistent use, size, shape, or ownership. However, businesses located within the limits of a commercial or industrial development may be advertised on a sign located anywhere within the development regardless of land ownership.
- Sec. 2. Section 543D.3, unnumbered paragraph 2, Code 2007, is amended to read as follows:

A person who is not a certified real estate appraiser under this chapter may appraise real estate for compensation if certification is not required by this chapter or by federal or state law, rule, or policy. However, an employee of the state department of transportation whose duties include appraisals of property pursuant to chapter 6B must be a certified real estate appraiser under this chapter or an associate real estate appraiser registered by the board and acting under the direct supervision of a certified real estate appraiser.

Sec. 3. The section of this division of this Act that amends section 543D.3 is void if 2007 Iowa Acts, Senate File 137, section 1, amending section 543D.3, is enacted.

DIVISION II LAND SURVEYING STANDARDS

- Sec. 4. Section 355.5, subsection 4, Code 2007, is amended to read as follows:
- 4. Distances shall be shown in decimal feet in accordance with the definition of the international <u>U.S. survey</u> foot. Distance measurements shall refer to the horizontal plane.
 - Sec. 5. Section 355.7, subsection 10, Code 2007, is amended to read as follows:
- 10. Distance shall be shown in decimal feet in accordance with the definition of the international <u>U.S. survey</u> foot. Distance measurements shall refer to the horizontal plane.
 - Sec. 6. Section 355.8, subsection 13, Code 2007, is amended to read as follows:
 - 13. Distances shall be shown in feet to at least the nearest one-tenth of a foot in accordance

¹ Chapter 72 herein

with the definition of the international <u>U.S. survey</u> foot. Distance measurements shall refer to the horizontal plane.

DIVISION III MOTOR VEHICLES

Sec. 7. Section 321.16, Code 2007, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. If a peace officer serves notice of immediate suspension or revocation of a driver's license as provided in this chapter or any other chapter, the peace officer may destroy the license or send the license to the department.

Sec. 8. Section 321.24, subsection 11, Code 2007, is amended to read as follows:

11. If the county treasurer or department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, or a junking certificate has been issued for the vehicle but a certificate of title will not be reissued under section 321.52, subsection 3, and the vehicle qualifies as an antique vehicle under section 321.115, subsection 1, the county treasurer or department may register the vehicle but shall, as a condition of issuing a certificate of title and registration receipt, require the applicant to file with the department a bond in the form prescribed by the department and executed by the applicant, and either accompanied by the deposit of cash with the department or also executed by a person authorized to conduct a surety business in this state. The owner of a vehicle subject to the bond requirements of this subsection shall apply for a certificate of title and registration for the vehicle at the county treasurer's office within thirty days of issuance of written authorization from the department. The bond shall be in an amount equal to one and one-half times the current value of the vehicle as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss, or damage, including reasonable attorney fees, by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title, and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it, shall be returned at the end of three years or prior thereto earlier if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond. The department may authorize issuance of a certificate of title as provided in this subsection for a vehicle with an unreleased security interest upon presentation of satisfactory evidence that the security interest has been extinguished and or that the holder of the security interest cannot be located to release the security interest as provided in section 321.50.

Sec. 9. Section 321.34, subsection 15, unnumbered paragraph 1, Code 2007, is amended to read as follows:

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

Sec. 10. Section 321.52, subsection 4, paragraph a, Code 2007, 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 an Iowa salvage certificate of title or a salvage certificate of title from another state to any person, and the provisions of section 321.24, subsection 5, requiring issuance of an Iowa salvage certificate of title shall not apply. 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.

Sec. 11. Section 321.112, Code 2007, is amended to read as follows:

321.112 MINIMUM MOTOR VEHICLE FEE.

No motor vehicle, except as provided in sections 321.115 and section 321.117, shall be registered for a registration year for less than ten dollars.

Sec. 12. Section 321.115, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

321.115 ANTIQUE VEHICLES — MODEL YEAR PLATES PERMITTED.

- 1. A motor vehicle twenty-five years old or older may be registered as an antique vehicle upon payment of the fee provided for in section 321.113, 321.122, or 321.124. The owner of a motor vehicle registered under this subsection may display authentic Iowa registration plates from the model year of the motor vehicle, furnished by the person and approved by the department, in lieu of the current and valid Iowa registration plates issued for the vehicle, provided that the current and valid Iowa registration plates and the registration card issued for the vehicle are simultaneously carried within the vehicle and are available for inspection to any peace officer upon the officer's request.
- 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 without a license as required under chapter 322.
- 3. Truck tractors and semitrailers used in combination for exhibition and educational purposes may be registered and driven according to the provisions of subsection 1. Truck tractors and semitrailers registered under this section shall not be used to haul loads.
- 4. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 2, paragraph "b".

Sec. 13. Section 321.134, subsection 2, Code 2007, is amended to read as follows:

2. The annual registration fee for trucks, truck tractors, and road tractors, as provided in sections 321.121 and 321.122, may be payable in two equal semiannual installments if the an-

nual registration fee exceeds the registration fee for a vehicle with a gross weight exceeding five tons. The penalties provided in subsection 1 shall be computed on the amount of the first installment only and on the first day of the seventh month of the registration period the same rate of penalty shall apply to the second installment, until the fee is paid. Semiannual installments do not apply to commercial vehicles, as defined under section 326.2, subject to proportional registration, with a base state other than the state of Iowa, as defined in section 326.2, subsection 1. The penalty on vehicles registered under chapter 326 accrues August 1 of each year except as provided in section 326.6. The department shall not allow the registration fee for a commercial vehicle registered under chapter 326 to be paid in two equal semiannual installments for five years after the registrant has paid the registration fee late for two consecutive years.

Sec. 14. Section 321.206, Code 2007, is amended to read as follows: 321.206 SURRENDER OF LICENSE — DUTY OF COURT.

If a person is convicted in court of an offense for which this chapter requires mandatory revocation of the person's driver's license or, if the person's license is a commercial driver's license and the conviction disqualifies the person from operating a commercial motor vehicle, the court shall require the person to surrender the driver's license held by the person and the court shall destroy the license or forward the license together with a record of the conviction to the department as provided in section 321.491.

Sec. 15. Section 321.285, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 7. Notwithstanding any other speed restrictions, a self-propelled implement of husbandry equipped with flotation tires that is designed to be loaded and operated in the field and used exclusively for the application of organic or inorganic plant food materials, agricultural limestone, or agricultural chemicals shall not be operated on a highway at a speed in excess of thirty-five miles per hour.

Sec. 16. Section 321.457, subsection 2, paragraph a, unnumbered paragraphs 1 and 2, Code 2007, are amended to read as follows:

A single truck, unladen or with load, shall not have an overall length, inclusive of front and rear bumpers, in excess of <u>forty forty-one</u> feet. When determining the overall length of a single truck, the following shall be excluded:

When determining the overall length of a single truck, the following shall be excluded:

Sec. 17. Section 321.463, subsection 4, paragraph a, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Self-propelled implements of husbandry used exclusively for the application of organic or inorganic plant food materials, agricultural limestone, or agricultural chemicals, unless traveling under a permit issued pursuant to section 321E.8A, shall be operated in compliance with this section.

Sec. 18. Section 321E.2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Annual, multi-trip, and single-trip permits shall be issued by the authority responsible for the maintenance of the system of highways or streets. However, the department may issue permits on primary road extensions in cities in conjunction with movements on the rural primary road system. The department may issue an all-system permit under section 321E.8 which is valid for movements on all highways or streets under the jurisdiction of either the state or those local authorities which have indicated in writing to the department those streets or highways for which an all-system permit is not valid. The department may issue annual permits pursuant to section 321E.8A valid only for operation on noninterstate highways in counties stipulated in the permit.

Sec. 19. Section 321E.7, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 4. Notwithstanding subsections 1 and 2, a self-propelled implement of husbandry traveling under a permit issued pursuant to section 321E.8A may exceed the maximum axle loads prescribed under section 321.463 only when operated on a noninterstate highway in a county covered under the permit, provided the weight on any one axle does not exceed twenty-five thousand pounds, and provided the current and valid permit is carried in the vehicle. For purposes of this subsection, "noninterstate highway" does not include a bridge.

Sec. 20. <u>NEW SECTION</u>. 321E.8A SELF-PROPELLED IMPLEMENT OF HUSBANDRY—ANNUAL PERMIT.

- 1. A self-propelled implement of husbandry equipped with flotation tires that is designed to be loaded and operated in the field and used exclusively for the application of organic or inorganic plant food materials, agricultural limestone, or agricultural chemicals, and that, as newly manufactured, exceeds the axle weight limits under section 321.463 when unloaded, may be operated on noninterstate highways, excluding bridges, in a county pursuant to a permit issued by the department for travel within the county. Prior to issuing a permit, the department shall collect a fee of six hundred dollars for each county in which the vehicle will be operated during the period of the permit beginning July 1 and ending June 30, provided that a permit shall not be issued for a vehicle for operation in more than ten counties and the total amount of fees collected for a vehicle for the period of the permit shall not exceed three thousand five hundred dollars. Moneys collected by the department on behalf of the counties in which the vehicle will be operated shall be allotted equally to those counties and deposited in the secondary road funds of those counties. A vehicle for which a permit is issued under this section shall be assigned a permit number that shall be displayed on the door of the vehicle in numbers that contrast sharply in color with the background on which the number is placed, be readily legible during daylight hours from a distance of fifty feet when the vehicle is stationary, and be maintained in a manner that retains the legibility. Only vehicles originally purchased or ordered prior to February 1, 2007, are eligible for a permit. New permits shall not be issued on or after July 1, 2007; however, a permit issued for a vehicle under this section prior to July 1, 2007, may be renewed for that vehicle annually upon payment of the appropriate county fees.
- 2. A vehicle described in subsection 1 shall not be operated on a highway without a permit issued under this section. The owner of a vehicle that is operated in violation of section 321E.7, subsection 4, or this section is subject to a civil penalty of ten thousand dollars, in addition to any other penalties that may apply.
- Sec. 21. Section 321J.4, subsection 9, paragraph d, Code 2007, is amended to read as follows:
- d. The court shall determine if the temporary restricted license is necessary for the person to maintain the person's present employment. However, a temporary restricted license shall not be ordered or issued for a violation of section 321J.2A or to a person under the age of twenty-one whose license is revoked under this section or section 321J.9 or 321J.12. If the court determines that the temporary restricted license is necessary for the person to maintain the person's present employment, and that the minimum period of ineligibility for receipt of a temporary license has expired, the court shall order the department to issue to the person a temporary restricted license conditioned upon the person's certification to the court of the installation of approved ignition interlock devices in all motor vehicles that it is necessary for the person to operate to maintain the person's present employment. A person whose driver's license or nonresident operating privilege has been revoked under section 321J.21 may apply to the department for a temporary restricted license without the requirement of an ignition interlock device if at least twelve years have elapsed since the end of the underlying revocation period for a violation of section 321J.2.

Sec. 22. Section 322.4, Code 2007, is amended to read as follows: 322.4 APPLICATION FOR LICENSE.

- 1. Each person before engaging in this state in the business of selling at retail motor vehicles or representing or advertising that the person is engaged or intends to engage in such business in this state shall file in the office of the department an application for license as a motor vehicle dealer in the state in such form as the department may prescribe, duly verified by oath, which application shall include the following:
- 1. a. The name of the applicant and the applicant's principal place of business wherever situated, and the following, as appropriate:
- a_{-} (1) If the applicant is an individual the individual, the name or style under which the individual intends to engage in such business.
- b. (2) If the applicant is a copartnership—the copartnership, the name or style under which such the copartnership intends to engage in such business and the name and post-office bona fide address of each partner two partners.
- e. (3) If the applicant is a corporation—the corporation, the state of incorporation and the name and post-office bona fide address of each officer and director thereof two officers of the corporation.
- 2. b. The make or makes of new motor vehicles, if any, which the applicant will offer for sale to at retail in this state.
- 3- c. The location of each place of business within this state to be used by the applicant for the conduct of the applicant's business.
- 4. <u>d.</u> If the applicant is a party to any contract or agreement or understanding with any manufacturer or distributor of motor vehicles or is about to become a party to such a contract, agreement, or understanding, the applicant shall state the name of each such manufacturer and <u>or</u> distributor and the make or makes of new motor vehicles, if any, which are the subject matter of each such contract.
- 5. <u>e.</u> A statement of the previous history, record, and association of the applicant and if the applicant is a copartnership, of each partner thereof, and if the applicant is a corporation, of each officer and director thereof, which statement shall be sufficient to establish to the department the reputation in business of the applicant.
- $6. \ \underline{f}$. A description of the general plan and method of doing business in this state, which the applicant will follow if the license applied for in such application is granted.
- 7. g. Before the issuance of a motor vehicle dealer's license to a dealer engaged in the sale of vehicles for which a certificate of title is required under chapter 321, the applicant shall furnish 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 of Iowa, be in the amount of fifty thousand dollars and be conditioned upon the faithful compliance by the applicant as a dealer with all of the statutes of this state regulating or applicable to the business of a dealer in motor vehicles, and indemnifying any person who buys a motor vehicle from the dealer from any loss or damage occasioned by the failure of the dealer to comply with any of the provisions of chapter 321 and this chapter, including, but not limited to, the furnishing of a proper and valid certificate of title to the motor vehicle involved in a transaction. The bond shall also indemnify any motor vehicle purchaser from any loss or damage caused by the failure of the dealer to comply with the odometer requirements in section 321.71, regardless of whether the motor vehicle was purchased directly from the dealer. The bond shall be filed with the department prior to the issuance of a license. The aggregate liability of the surety, however, shall not exceed the amount of the bond.
- 8. h. Proof that the applicant has financial liability coverage as defined in section 321.1, except that such coverage shall be in limits of not less than one hundred thousand dollars because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, three hundred thousand dollars because of bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars because of injury to or destruction of property of others in any one accident.
- 9- \underline{i} . Such other information touching the business of the applicant as the department may require.

- <u>2.</u> For the purpose of investigating the matters contained in such application, the department may withhold the granting of a license for a period not exceeding thirty days.
- 3. For purposes of this section, "bona fide address" means the same as defined in section 321.1.
 - Sec. 23. Section 322.7, subsection 1, Code 2007, is amended to read as follows:
- 1. If the department grants the application of any person for a license as a motor vehicle dealer, it shall evidence the granting thereof by a final order and shall issue to the person a license in such form as may be prescribed by the department, which license shall include the following:
 - a. The name of the person licensed.
- b. <u>a.</u> If the applicant is an individual or a copartnership the copartnership, the name or style under which the licensee will engage in such business and if a copartnership, the name and address of each partner.
- e. b. The principal place of business of the licensee and location therein of each place wherein the licensee is licensed to carry on such business.
 - d. c. The make or makes of new motor vehicles which the licensee is licensed to sell.
 - Sec. 24. Section 326.10A, Code 2007, is amended to read as follows:

326.10A PAYMENT BY CHECK.

The department shall accept payment of fees under this chapter by personal or corporate check. The fee shall be deemed to have been paid upon receipt of the check. If the check is not honored, all fees and penalties shall accumulate as if the fee was not paid. After appropriate warning from the department, the registration account shall be suspended, collection pursued, and the delinquent registration fees shall become a debt due the state of Iowa. After a dishonored check has been received from an applicant, payments submitted by the applicant during the following year must be made with guaranteed funds. However, the department may instead accept payment in the form of a corporate check made on behalf of the applicant from an approved company with a satisfactory payment history.

Sec. 25. Section 326.16, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 3. Failure to receive a renewal notice or an invoice by mail, facsimile transmission, or any other means of delivery does not relieve the registrant of the financial responsibility for the renewal fees, invoiced amount, or accrued penalties.

Sec. 26. NEW SECTION. 326.24 REGISTRATION DENIED OR SUSPENDED.

If the international fuel tax agreement license issued to an applicant or registrant under chapter 452A is suspended or revoked or if the director refuses to issue an international fuel tax agreement license because of unpaid debt, the director may deny or suspend the applicant's or registrant's registration under this chapter.

Sec. 27. Section 327B.1, Code 2007, is amended to read as follows:

327B.1 AUTHORITY SECURED AND REGISTERED.

- 1. <u>a.</u> It is unlawful for a carrier to perform an interstate transportation service for compensation upon the highways of this state without first registering the authority obtained from the United States department of transportation or evidence that such authority is not required with the state department of transportation.
- 2. <u>b.</u> The department shall participate in the single state insurance registration program for regulated motor carriers as provided in 49 U.S.C. § 14504 and United States department of transportation regulations.
- 3. c. Registration for carriers transporting commodities exempt from United States department of transportation regulation shall be granted without hearing upon application and payment of a twenty-five-dollar filing fee and an annual one-dollar fee per vehicle.
 - 4. d. The state department of transportation may execute reciprocity agreements with au-

thorized representatives of any state exempting nonresidents from payment of fees as set forth in this chapter. The state department of transportation shall adopt rules pursuant to chapter 17A for the identification of vehicles operated under reciprocity agreements.

- 5. e. Fees may be subject to reduction or proration pursuant to sections 326.5 and 326.32.
- 2. a. On and after the date on which the secretary of the United States department of transportation establishes the unified carrier registration system in accordance with Title 49, United States Code, as amended by Pub. L. No. 109-59, a foreign or domestic motor carrier, motor private carrier, leasing company, broker, or freight forwarder shall not operate any motor vehicle on the highways of this state without first registering the motor vehicle under the unified carrier registration system and paying all required fees.
- b. The state department of transportation shall continue to require each interstate for-hire motor carrier to make an annual payment of one dollar per owned and operated vehicle for filings made with the state department of transportation under the single state registration system until the occurrence of the transition termination date in accordance with 49 U.S.C. § 13902(f), as amended by Pub. L. No. 109-59.
- c. The state department of transportation may participate in the unified carrier registration plan and agreement established in accordance with 49 U.S.C. § 14504a, as amended by Pub. L. No. 109-59, and to file on behalf of the state the plan required by the provisions of 49 U.S.C. § 14504a(e).
- 6. 3. A motor carrier shall keep proper evidence of interstate authority in the motor vehicle being operated by the motor carrier and the motor carrier owner or driver shall make such evidence available to a peace officer upon request.
- 7. 4. 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. 28. Section 327B.6, Code 2007, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. This section is repealed on the transition termination date referred to in section 327B.1, subsection 2, paragraph "b".

Sec. 29. Section 452A.54, unnumbered paragraph 4, Code 2007, is amended to read as follows:

To determine the amount of fuel taxes due under this division and to prevent the evasion thereof, the state department of transportation shall require a quarterly report on forms prescribed by the state department of transportation. It shall be filed not later than the last day of the month following the quarter reported, and each quarter thereafter. These reports shall be required of all persons who have been issued a permit or license under this division and shall cover actual operation and fuel consumption in Iowa on the basis of the permit or license holder's average consumption of fuel in Iowa, determined by the total miles traveled and the total fuel purchased and consumed for highway use by the permittee's or licensee's commercial motor vehicles in the permittee's or licensee's entire operation in all states to establish an overall miles per gallon ratio, which ratio shall be used to compute the gallons used for the miles traveled in Iowa. Failure to receive a quarterly report or fuel credentials by mail, facsimile transmission, or any other means of delivery does not relieve a person from the person's fuel tax liability or from the requirement to display current fuel credentials.

Sec. 30. Section 452A.68, unnumbered paragraph 2, Code 2007, is amended to read as follows:

If a licensee abuses the privileges for which the license was issued, fails to produce records

reasonably requested, or fails to extend reasonable co-operation cooperation to the appropriate state agency, or has been suspended for nonpayment of fees under chapter 326 and still owes fees to the department, the licensee shall be advised in writing of a hearing scheduled to determine if the license shall be canceled. The appropriate state agency upon the presentation of a preponderance of evidence may cancel a license for cause.

- Sec. 31. SINGLE STATE REGISTRATION SYSTEM TERMINATION DATE NOTICE TO CODE EDITOR. The state department of transportation shall notify the Code editor of the date determined by the secretary of the United States department of transportation to be the transition termination date which is established as the effective date of the repeal of section 327B.6, as amended in this Act.
- Sec. 32. IMPLEMENTATION OF PERMITTING PROCESS FOR CERTAIN SELF-PRO-PELLED IMPLEMENTS OF HUSBANDRY. The department of transportation shall begin accepting applications for permits required under section 321E.8A, as enacted in this Act, on or before June 1, 2007, and shall provide for the issuance of those permits prior to July 1, 2007, to be effective July 1, 2007.
 - Sec. 33. 2006 Iowa Acts, chapter 1070, section 5, is repealed.
 - Sec. 34. Sections 327B.4 and 327B.7, Code 2007, are repealed.

Sec. 35. EFFECTIVE DATES.

- 1. The section of this Act amending section 321.457, being deemed of immediate importance, takes effect upon enactment.
- 2. The sections of this Act amending sections 327B.1 and 327B.6, and repealing sections 327B.4 and 327B.7, being deemed of immediate importance, take effect upon enactment.
- 3. The section of this Act repealing 2006 Iowa Acts, chapter 1070, section 5, being deemed of immediate importance, takes effect upon enactment.
 - 4. The sections of this Act amending sections 321.112 and 321.115 take effect July 1, 2008.
- 5. The section of this Act requiring the department of transportation to implement the permitting process for certain self-propelled implements of husbandry, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV REGIONAL TRANSIT DISTRICTS

- Sec. 36. Section 28M.4, subsection 6, Code 2007, is amended to read as follows:
- 6. All moneys received by the commission Tax revenues collected from a regional transit district levy shall be held by the county treasurer in a separate fund. If more than one county is participating in the regional transit district, the moneys shall be paid to the county treasurer of the participating county with the largest population. Moneys may be paid out of the fund only at the direction of the commission. Before the fifteenth day of each month, the county treasurer shall send the amount collected for each fund through the last day of the preceding month for direct deposit into the depository and account designated by the commission. The county treasurer shall send a notice to the secretary of the commission or the secretary's designee stating the amount deposited, the date, the amount to be credited to each fund according to the budget, and the source of the revenue.

CHAPTER 144

PUBLIC IMPROVEMENT BIDS AND CONTRACTS H.F. 830

AN ACT relating to the construction bidding procedures act by modifying procedures and requirements for letting public improvement contracts, and making corrections.

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

- Section 1. Section 26.2, subsection 1, Code 2007, is amended to read as follows:
- 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, landscape architectural, or engineering design services and inspection.
 - Sec. 2. Section 26.2, subsection 4, Code 2007, is amended to read as follows:
- 4. "Repair or maintenance work" means the preservation of a road, street, bridge, culvert building, storm sewer, sanitary sewer, or other public facility or structure so that it remains in sound or proper condition, including minor replacements and additions as necessary to restore the public facility or structure to its original condition with the same design.
 - Sec. 3. Section 26.3, subsections 1 and 2, Code 2007, are amended to read as follows:
- 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. The notice to bidders shall be published at least once, not less than four and not more than forty-five days before the date for filling bids, in a newspaper published at least once weekly and having general circulation in the geographic area served by the governmental entity. 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 filling bids.
- 2. A governmental entity shall have an engineer licensed under chapter 542B, a landscape architect licensed under chapter 544B, or an architect registered under chapter 544A prepare plans and specifications, and calculate the estimated total cost of a proposed public improvement.
 - Sec. 4. Section 26.4, Code 2007, is amended to read as follows:
 - 26.4 EXEMPTIONS FROM COMPETITIVE BIDS AND QUOTATIONS.

Architectural, landscape architectural, or engineering design services procured for a public improvement are not subject to sections 26.3 and 26.14.

- Sec. 5. Section 26.8, subsection 1, Code 2007, is amended to read as follows:
- 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 bidder's bond shall contain no conditions except as provided in this section.

Sec. 6. Section 26.10, unnumbered paragraph 1, Code 2007, is amended to read as follows: The date and time that each bid is received by the governmental entity, together with the name of the person receiving the bid, shall be recorded on the envelope containing the bid. All bids received after the deadlines for submission of bids as stated in the project specifications shall not be considered and shall be returned to the late bidder unopened. 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 26.9, 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 has been 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.

Sec. 7. Section 26.11, Code 2007, is amended to read as follows: 26.11 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 <u>regular</u> meeting of the governmental entity's governing body <u>or at a special meeting called for that purpose</u>.

- Sec. 8. Section 26.13, subsection 3, Code 2007, is amended to read as follows:
- 3. If <u>labor and materials are yet to be provided</u> at the time of the request for the release of the retained funds <u>labor or materials are yet to be provided is made</u>, 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.
 - Sec. 9. Section 26.14, Code 2007, is amended to read as follows:
 - 26.14 COMPETITIVE QUOTATIONS FOR PUBLIC IMPROVEMENT CONTRACTS.
- 1. Competitive quotations shall be required for a public improvement having an estimated total cost that exceeds the <u>applicable threshold</u> amount provided in this section, but is less than the competitive bid threshold established in section 26.3.
- 2. Unless the threshold amount is amounts are adjusted pursuant to section 314.1B, the competitive quotation following threshold amounts shall be as follows apply:
 - 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. Good faith effort shall include advising all contractors who have filed with the governmental entity a request for notice of projects. The governmental entity shall provide such notice in a timely manner so that a requesting contractor will have a reasonable opportunity to submit a competitive quotation. 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, landscape architect, or engineer, if required under chapter 542B, 544B, 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. If the governmental entity receives no quotations after making a good faith effort to obtain quotations from at least two contractors regularly engaged in such work, the governmental entity may negotiate a contract with a contractor regularly engaged in such work.
- 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 award the contract to the contractor submitting the lowest responsive, responsible quotation subject to section 26.9, or the governmental entity may reject all of the quotations. The unconditional acceptance and approval of the lowest responsive, responsible quotation shall constitute the award of a contract. The governmental entity shall record the approved quotation in its meeting minutes. Quotations The contractor awarded the contract shall not commence work until the contractor's performance and payment bond has been approved by the governmental entity. A governmental entity may delegate the authority to award a contract, to execute a contract, to authorize work to proceed under a contract, or to approve the contractor's performance and payment bond to an officer or employee of the governmental entity. A quotation approved outside a meeting of the governing body of a governmental entity shall be included in the minutes of the next regular or special meeting of the governing body. The governmental entity shall award the contract to the contractor submitting the lowest responsive, responsible quotation subject to section 26.9, 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 and the premium cost for the performance and payment bond which a contractor identifies in its quotation shall be deducted from the contractor's price for determining the lowest responsible bidder quotation. 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. 10. NEW SECTION. 26.14A ALTERNATIVE PROCEDURES.

- 1. When competitive quotations are required under section 26.14 for a public improvement, the governmental entity may proceed, in lieu of competitive quotations, as if the estimated total cost of the public improvement exceeds the competitive bid threshold under section 26.3.
- 2. If the total estimated cost of the public improvement does not warrant either competitive quotations under section 26.14 or competitive bidding under section 26.3, the governmental entity may nevertheless proceed with competitive quotations or competitive bidding for the public improvement.
- Sec. 11. Section 314.1B, subsection 2, paragraphs b and d, Code 2007, are amended to read as follows:
- b. The subcommittee appointed under this subsection shall review the competitive bid thresholds applicable to governmental entities under chapter 26. The subcommittee shall re-

view 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 adjustment. Upon completion of the review the subcommittee may make adjustments in the applicable bid thresholds for types of work based on the price adjustments.

- d. Beginning July 1, 2006, the subcommittee shall make adjustments to the competitive quotation threshold <u>amounts</u> in section 26.14 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 the methodology of paragraph "b".
- Sec. 12. Section 314.1B, subsection 2, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. e. After 2012, the subcommittee shall adjust the competitive quotation threshold amounts in section 26.14 at the same time and by the same percentage as adjustments are made to the competitive bid threshold.

- Sec. 13. Section 331.341, subsection 1, Code 2007, is 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 competitive bid threshold in section 26.3, or as established in section 314.1B, the board shall follow the competitive bid procedures for governmental entities in chapter 26 and the contract letting procedures in section 384.103. As used in this section, "public improvement" means the same as defined in section 26.2 as modified by this subsection.
- Sec. 14. Section 380.4, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Passage of an ordinance, amendment, or resolution requires a majority vote of all of the members of the council, except when the mayor may vote to break a tie vote in a city with an even number of council members, as provided in section 372.4. Passage of a motion requires a majority vote of a quorum of the council. A resolution must be passed to spend public funds in excess of twenty-five one hundred thousand dollars on any one a public improvement project, or to accept public improvements and facilities upon their completion. Each council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

Sec. 15. Section 384.20, unnumbered paragraph 3, Code 2007, is amended to read as follows:

"Continuing appropriation" means the unexpended portion of the cost of public improvements, as defined in section 26.3 26.2, which cost was adopted through a public hearing pursuant to section 26.12 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. 16. Section 384.23, Code 2007, is amended to read as follows:

384.23 CONSTRUCTION OF WORDS "AND" AND "OR."

As used in divisions III to \overline{VI} of this chapter, the use of the conjunctive "and" includes the disjunctive "or" and the use of the disjunctive "or" includes the conjunctive "and," unless the context clearly indicates otherwise.

- Sec. 17. Section 384.37, subsection 17, Code 2007, is amended to read as follows:
- 17. "Proposal" means a legal bid on work advertised for a public improvement under division VI of this chapter 26.

Sec. 18. Section 384.53, Code 2007, is amended to read as follows:

384.53 PROCEDURES TO LET CONTRACT.

Contract letting procedures shall be as provided in division VI of this chapter <u>26</u>. The council may award any number of contracts for construction of any public improvement.

- Sec. 19. Section 386.6, subsection 6, Code 2007, is amended to read as follows:
- 6. If the council orders the construction of the improvement, it shall proceed to let contracts therefor in accordance with chapter 384, division VI 26.
 - Sec. 20. Section 386.7, subsection 3, Code 2007, is amended to read as follows:
- 3. If the council orders the construction of the self-liquidating improvement, contracts for it shall be let in accordance with division VI of chapter 384 26.

Approved May 9, 2007

CHAPTER 145

DISASTER AID INDIVIDUAL ASSISTANCE GRANTS H.F. 896

AN ACT creating a disaster aid individual assistance grant fund.

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

Section 1. <u>NEW SECTION</u>. 29C.20A DISASTER AID INDIVIDUAL ASSISTANCE GRANT FUND.

- 1. A disaster aid individual assistance grant fund is created in the state treasury for the use of the executive council. Moneys in the fund may be expended following the governor's proclamation of a state of disaster emergency. The executive council may make financial grants to meet disaster-related expenses or serious needs of individuals or families adversely affected by a disaster which cannot otherwise be met by other means of financial assistance. The aggregate total of grants awarded shall not be more than one million dollars during a fiscal year. However, within the same fiscal year, additional funds may be specifically authorized by the executive council to meet additional needs.
- 2. The grant funds shall be administered by the department of human services. The department shall adopt rules to create the Iowa disaster aid individual assistance grant program. The rules shall specify the eligibility of applicants and eligible items for grant funding. The rules shall be adopted no later than January 1, 2008. The executive council shall use grant funds to reimburse the department of human services for its actual expenses associated with the administration of the grants.
- 3. To be eligible for a grant, an applicant shall have an annual household income that is less than one hundred thirty percent of the federal poverty level based on the number of people in the applicant's household as defined by the most recently revised poverty income guidelines published by the United States department of health and human services. The amount of a grant for a household shall not exceed twenty-five percent of one hundred thirty percent of the federal poverty level for a household of one. Expenses eligible for grant funding shall be limited to personal property, home repair, food assistance, and temporary housing assistance. An applicant for a grant shall sign an affidavit committing to refund any part of the grant that is

duplicated by any other assistance, such as but not limited to insurance or assistance from community development groups, charities, the small business administration, and the federal emergency management agency.

4. The homeland security and emergency management division shall submit an annual report, by January 1 of each year, to the legislative fiscal committee and the legislative government oversight committee concerning the activities of the grant program in the previous fiscal year.

Approved May 9, 2007

CHAPTER 146

DENTAL SCREENINGS OF CHILDREN H.F. 906

AN ACT requiring children enrolling in elementary or high school to have a dental screening and providing an effective date.

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

Section 1. NEW SECTION. 135.17 DENTAL SCREENING OF CHILDREN.

- 1. a. Except as provided in paragraphs "c" and "d", the parent or guardian of a child enrolled in elementary school shall provide evidence to the school district or accredited nonpublic elementary school in which the child is enrolled of the child having, no earlier than three years of age but prior to reaching six years of age, at a minimum, a dental screening performed by a licensed physician as defined in chapter 148 or 150, a nurse licensed under chapter 152, a licensed physician assistant as defined in section 148C.1, or a licensed dental hygienist or dentist as defined in chapter 153. Except as provided in paragraphs "c" and "d", the parent or guardian of a child enrolled in high school shall provide evidence to the school district or accredited nonpublic high school in which the child is enrolled of the child having, at a minimum, a dental screening performed within the prior year by a licensed dental hygienist or dentist as defined in chapter 153. A school district or accredited nonpublic school shall provide access to a process to complete the screenings described in this paragraph as appropriate.
- b. A person performing a dental screening required by this section shall record the fact of having conducted the screening, and such additional information required by the department, on uniform forms developed by the department in cooperation with the department of education. The form shall include a space for the person performing the screening to summarize any condition that may indicate a need for special services.
- c. The department shall specify the procedures that constitute a dental screening and authorize a waiver signed by a licensed physician, nurse, physician assistant, dental hygienist, or dentist for a person who is unduly burdened by the screening requirement.
- d. The dental screening requirement shall not apply to a person who submits an affidavit signed by the person or, if the person is a minor, the person's parent or legal guardian, stating that the dental screening conflicts with a genuine and sincere religious belief.
- 2. Each public and nonpublic school shall give notice of the dental screening requirement to parents of students enrolled or to be enrolled in the school at least ninety days before the start of the school year in the manner prescribed by the department.
- 3. A person may be provisionally enrolled in a public or nonpublic elementary or high school if the person is in the process of obtaining the required dental screening.

- 4. Each local board shall furnish the department, within sixty days after the start of the school year, evidence that each person enrolled in any public or nonpublic school within the local board's jurisdiction has met the dental screening requirement in this section.
 - 5. The department shall adopt rules to administer this section.

Sec. 2. EFFECTIVE DATE. This Act takes effect July 1, 2008.

Approved May 9, 2007

CHAPTER 147

POSTNATAL TISSUE AND FLUID BANKING STUDY

H.F. 910

AN ACT relating to the creation of a task force on postnatal tissue and fluid banking, related postnatal procedures, and providing an effective date.

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

Section 1. POSTNATAL TISSUE AND FLUID BANKING TASK FORCE.

- 1. The Iowa department of public health shall convene a task force on postnatal tissue and fluid banking and related postnatal procedures. The task force shall consist of the following members, selected by the institution or association specified or, if not specified, selected by the director of public health:
 - a. The director of public health, or the director's designee.
- b. A representative of each of the public and private colleges or universities in the state that have interest in postnatal tissue and fluid for the purposes of research or medical treatment.
 - c. A representative of the Iowa hospital association.
 - d. A representative of the Iowa osteopathic medical association.
 - e. A representative of the Iowa medical society.
 - f. A physician representing a birthing hospital.
 - g. A prenatal health care provider.
 - h. A representative of the Iowa midwives association.
 - i. A representative of the postnatal tissue and fluid research community.
 - i. A representative of recipients of postnatal tissue and fluid transplants.
 - k. A representative of a postnatal tissue and fluid transplant center.
 - l. A representative of a postnatal tissue and fluid bank.
- m. An attorney with expertise in public health or biotechnology law, selected by the Iowa state bar association.
- 2. Members of the task force shall receive actual expenses incurred while serving in their official capacity and may also be eligible to receive compensation as provided in section 7E.6.
- 3. The director of public health, or the director's designee, shall act as chairperson of the task force. A majority of the members of the task force shall constitute a quorum.
- 4. The task force shall investigate the optimum method by which to establish a network of postnatal tissue and fluid banks in partnership with public and private colleges or universities, public and private hospitals, or nonprofit organizations and private organizations in the state to collect and store postnatal tissue and fluid for the purposes of scientific research and medical treatment. The investigation shall address and make recommendations regarding all of the following:

- a. Regulatory requirements for public and private postnatal tissue and fluid banks in the state, including regulations or protocols to govern donations to the bank and the release and use of banked postnatal tissue or fluid.
- b. The development of a statewide network of postnatal tissue and fluid banks and birthing hospital collection sites in a manner that provides for geographic distribution throughout the state.
- c. The development of a statewide postnatal tissue and fluid registry to identify, acquire, and distribute donated postnatal tissue and fluid to suitably matched candidates including documentation of the collection, storage, distribution, and transplantation of the postnatal tissue and fluid and the clinical outcomes of all transplantations related to the network.
 - d. Any incentives for donation to public postnatal tissue and fluid banks.
- e. Public awareness and encouragement of donation or private storage of postnatal tissue and fluid by providing information including but not limited to all of the following:
 - (1) The current and potential future medical uses of postnatal tissue and fluid.
 - (2) The benefits and risks associated with postnatal tissue and fluid banking.
- (3) Medical or family history criteria that may impact a family's consideration of postnatal tissue and fluid banking.
 - (4) An explanation of the differences between private and public banking.
- (5) Medically accepted uses and benefits of postnatal tissue and fluid collection and transplantation.
- (6) The costs associated with donation and storage, and an explanation of the storage, maintenance, and viability for transplantation of postnatal tissue and fluid.
- f. Participation in the public cord blood bank network established pursuant to the federal Stem Cell Therapeutic and Research Act of 2005, Pub. L. No. 109-129, or other national or international networks.
- g. Any changes in law or rules necessary to implement a postnatal tissue and fluid banking network in the state to provide for scientific research and medical treatment.
- h. Consent and privacy protections related to donation or private banking of postnatal tissue and fluid.
- i. Any fee structure to be associated with participation in the postnatal tissue and fluid bank network.
- j. The costs associated with the operation and maintenance of a public postnatal tissue and fluid bank network, including the need for public funding.
- 5. In addition to postnatal tissue and fluid banking the task force shall review the issue of the retention, use, and disposition of neonatal metabolic screening specimens, including but not limited to the length of time the specimens are retained and specimen research use.
- 6. The task force shall report its findings and recommendations, along with any proposed legislation, to the general assembly by November 1, 2007.
- 7. For the purposes of this section, "postnatal tissue and fluid" means the placenta, umbilical cord, umbilical cord blood, and amniotic fluid expelled or extracted in connection with the birth of a child.
- Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 9, 2007

CHAPTER 148

STATEWIDE PRESCHOOL PROGRAMS FOR FOUR-YEAR-OLD CHILDREN — APPROPRIATIONS

H.F. 877

AN ACT creating a statewide voluntary preschool program for four-year-old children and making appropriations.

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

DIVISION I STATEWIDE PRESCHOOL PROGRAM FOR FOUR-YEAR-OLD CHILDREN

Section 1. NEW SECTION. 256C.1 DEFINITIONS.

As used in this chapter:

- 1. "Approved local program" means a school district's program for four-year-old children approved by the department of education to provide high quality preschool instruction.
 - 2. "Department" means the department of education.
 - 3. "Director" means the director of the department of education.
- 4. "Preschool program" means the statewide preschool program for four-year-old children created in accordance with this chapter.
- 5. "School district approved to participate in the preschool program" means a school district that meets the school district requirements under section 256C.3 and has been approved by the department to participate in the preschool program.
 - 6. "State board" means the state board of education.

Sec. 2. <u>NEW SECTION</u>. 256C.2 STATEWIDE PRESCHOOL PROGRAM FOR FOUR-YEAR-OLD CHILDREN — PURPOSE.

- 1. A statewide preschool program for four-year-old children is established. The purpose of the preschool program is to provide an opportunity for all young children in the state to enter school ready to learn by expanding voluntary access to quality preschool curricula for all children who are four years old.
- 2. The state board shall adopt rules in accordance with chapter 17A as necessary to implement the preschool program as provided in this chapter.

Sec. 3. NEW SECTION. 256C.3 PRESCHOOL PROGRAM REQUIREMENTS.

- 1. ELIGIBLE CHILDREN. A child who is a resident of Iowa and is four years of age by September 15 of a school year shall be eligible to enroll in the preschool program under this chapter. If space and funding are available, a school district approved to participate in the preschool program may enroll a younger or older child in the preschool program; however, the child shall not be counted for state funding purposes.
 - 2. TEACHER REQUIREMENTS.
- a. An individual serving as a teacher in the preschool program must meet all of the following qualifications:
- (1) The individual is either employed by or under contract with the school district implementing the program.
- (2) The individual is appropriately licensed under chapter 272 and meets requirements under chapter 284.
- (3) The individual possesses a bachelor's or graduate degree from an accredited college or university with a major in early childhood education or other appropriate major identified in rule by the department.
 - b. A teacher in the preschool program shall collaborate with other agencies, organizations,

and boards in the community to further the program's capacity to meet the diverse needs of the children taught by the teacher and the families of the children, such as needs for early care, health, and human services. In addition, a teacher in the preschool program shall work to maintain relationships with each child's family in order to enhance the child's development in all settings by collaborating with providers of parent education and family support opportunities.

- 3. PROGRAM REQUIREMENTS. The state board shall adopt rules to further define the following preschool program requirements which shall be used to determine whether or not a local program implemented by a school district approved to implement the preschool program qualifies as an approved local program:
 - a. Maximum and minimum teacher-to-child ratios and class sizes.
 - b. Applicable state and federal program standards.
 - c. Student learning standards.
- d. Provisions for the integration of children from other state and federally funded preschools.
- e. Collaboration with participating families, early care providers, and community partners including but not limited to community empowerment area boards, head start programs, shared visions and other programs provided under the auspices of the child development coordinating council, licensed child care centers, registered child development homes, area education agencies, child care resource and referral services provided under section 237A.26, early childhood special education programs, services funded by Title I of the federal Elementary and Secondary Education Act of 1965, and family support programs.
- f. A minimum of ten hours per week of instruction delivered on the skills and knowledge included in the student learning standards developed for the preschool program.
 - g. Parental involvement in the local program.
- h. Provision for ensuring that children receiving care from other child care arrangements can participate in the preschool program with minimal disruption due to transportation and movement from one site to another.
- 4. SCHOOL DISTRICT REQUIREMENTS. The state board shall adopt rules to further define the following requirements of school districts implementing the preschool program:
- a. Methods of demonstrating community readiness to implement high-quality instruction in a local program shall be identified. The potential provider shall submit a collaborative program proposal that demonstrates the involvement of multiple community stakeholders including but not limited to, and only as applicable, parents, the school district, accredited nonpublic schools and faith-based representatives, the area education agency, the community empowerment area board, representatives of business, head start programs, shared visions and other programs provided under the auspices of the child development coordinating council, centerbased and home-based providers of child care services, human services, public health, and economic development programs. The methods may include but are not limited to a school district providing evidence of a public hearing on the proposed programming and written documentation of collaboration agreements between the school district, existing community providers, and other community stakeholders addressing operational procedures and other critical measures.
- b. Subject to implementation of chapter 28E agreements between a school district and community-based providers of services to four-year-old children, a four-year-old child who is enrolled in a child care center or child development home licensed or registered under chapter 237A, or in an existing public or private preschool program, shall be eligible for services provided by the school district's local preschool program.
- c. A school district shall participate in data collection and performance measurement processes and reporting as defined by rule.
- d. Career development for school district preschool teachers shall be addressed in the school district's career development plan implemented in accordance with section 284.6.
 - 5. DEPARTMENT REQUIREMENTS.
 - a. The department shall implement an application and selection process for school district

participation in the preschool program that includes but is not limited to the enrollment requirements provided under section 256C.4.

- b. The department shall track the progress of students served by a school district preschool program and the students' performance in elementary and secondary education.
- c. The department shall implement procedures to monitor the quality of the programming provided under the preschool program.¹

Sec. 4. NEW SECTION. 256C.4 FUNDING PROVISIONS — ENROLLMENT.

- 1. GENERAL.
- a. State funding provided under the preschool program shall be based upon the enrollment of eligible students in the preschool programming provided by a school district approved to participate in the preschool program.
- b. A school district approved to participate in the preschool program may authorize expenditures for the district's preschool programming from any of the revenue sources available to the district from the sources listed in chapter 298A, provided the expenditures are within the uses permitted for the revenue source. In addition, the use of the revenue source for preschool or prekindergarten programming must have been approved prior to any expenditure from the revenue source for the district's approved local program.
- c. Funding provided under the preschool program is intended to supplement, not supplant, existing public funding for preschool programming.
- d. Preschool foundation aid funding shall not be commingled with the other state aid payments made under section 257.16 to a school district and shall be accounted for by the local school district separately from the other state aid payments. Preschool foundation aid payments made to school districts are miscellaneous income for purposes of chapter 257. A school district shall maintain a separate listing within its budget for preschool foundation aid payments received and expenditures made. A school district shall certify to the department of education that preschool foundation aid funding received by the school district was used to supplement, not supplant, moneys otherwise received and used by the school district for preschool programming.
- e. Preschool foundation aid funding shall not be used for the costs of constructing a facility in connection with an approved local program.
 - 2. ELIGIBLE STUDENT ENROLLMENT.
- a. To be included as an eligible student in the enrollment count of the preschool programming provided by a school district approved to participate in the preschool program, a child must be four years of age by September 15 in the base year and attending the school district's approved local program.
- b. The enrollment count of eligible students shall not include a child who is included in the enrollment count determined under section 257.6 or a child who is served by a program already receiving state or federal funds for the purpose of the provision of four-year-old preschool programming while the child is being served by the program. Such preschool programming includes but is not limited to child development assistance programs provided under chapter 256A, special education programs provided under section 256B.9, school ready children grant programs and other programs provided under chapter 28, and federal head start programs and the services funded by Title I of the federal Elementary and Secondary Education Act of 1965.

Sec. 5. NEW SECTION. 256C.5 FUNDING FORMULA.

- 1. DEFINITIONS. For the purposes of this section and section 256C.4:
- a. "Base year", "budget year", "regular program state cost per pupil", and "school district" mean the same as defined or described in chapter 257.
 - b. "Eligible student" means a child who meets eligibility requirements under section 256C.4.
- c. "Preschool budget enrollment" means the figure that is equal to sixty percent of the actual enrollment of eligible students in the preschool programming provided by a school district approved to participate in the preschool program on October 1 of the base year, or the first Monday in October 1 falls on a Saturday or Sunday.

¹ See chapter 215, §100 herein

- d. "Preschool foundation aid" means the product of the regular program state cost per pupil for the budget year multiplied by the school district's preschool budget enrollment.
 - 2. PRESCHOOL FOUNDATION AID DISTRICT AMOUNT.
- a. For the initial school year for which a school district approved to participate in the preschool program receives that approval and implements the preschool program, the funding for the preschool foundation aid payable to that school district shall be paid from the appropriation made for that school year in section 256C.6 or in another appropriation made for purposes of this chapter. For that school year, the preschool foundation aid payable to the school district is the product of the regular program state cost per pupil for the school year multiplied by sixty percent of the school district's eligible student enrollment on the date in the school year determined by rule.
- b. For budget years subsequent to the initial school year for which a school district approved to participate in the preschool program receives that approval and implements the preschool program, the funding for the preschool foundation aid payable to that school district shall be paid from the appropriation made in section 257.16.
- 3. AID PAYMENTS. Preschool foundation aid shall be paid as part of the state aid payments made to school districts in accordance with section 257.16.
- 4. ADMINISTRATION AND OVERSIGHT. Except as otherwise provided by law for a fiscal year, of the amount appropriated for that fiscal year for payment of preschool foundation aid statewide, the department may use an amount sufficient to fund up to three full-time equivalent positions which shall be in addition to the number of positions authorized for the fiscal year, as necessary to provide administration and oversight of the preschool program.

Sec. 6. NEW SECTION. 256C.6 PHASE-IN — APPROPRIATIONS.

- 1. PHASE-IN. For the initial fiscal year in which a school district participates in the preschool program pursuant to an appropriation provided in subsection 2, the department shall apply a modified set of the requirements of the provisions of this chapter relating to preschool program implementation, preschool enrollment reporting, and distribution of funding as necessary to begin the distribution in that fiscal year and additional program implementation in the next fiscal year. For each month after September 1, in the initial fiscal year that a school district approved to participate in the preschool program begins programming, the department shall reduce the preschool foundation aid payable to the school district by one-tenth of the amount that would otherwise have been payable to the school district for the full school year.
- 2. APPROPRIATIONS FOR INITIAL YEARS. There is appropriated from the general fund of the state to the department of education for the designated fiscal years the following amounts, or so much thereof as is necessary, to be used for the initial year preschool foundation aid payments to school districts approved to participate in the preschool program and administrative costs:
- a. For the fiscal year beginning July 1, 2008, and ending June 30, 2009, fifteen million dollars
- b. For the fiscal year beginning July 1, 2009, and ending June 30, 2010, fifteen million dollars.
- c. For the fiscal year beginning July 1, 2010, and ending June 30, 2011, sixteen million one hundred sixty-two thousand five hundred dollars.
- 3. INSUFFICIENT FUNDING. For the fiscal years in the period beginning July 1, 2007, and ending June 30, 2011, if the number of requests from school districts for initial participation in the preschool program exceeds the funding made available for the preschool program, the department shall utilize all of the following selection criteria in selecting the school districts that will be approved to participate in the preschool program:
- a. Priority shall be given to school districts that do not have existing preschool programming within the school district boundaries.
- b. Priority shall be given to school districts that have a high percentage of children in poverty and such children shall receive first priority for the programs.

- c. Consideration shall be given to the size of school districts in large, medium, and small categories in order for there to be equitable statewide distribution of preschool program services.
- d. Consideration shall be given to school districts with established, high-quality, community partnerships for the delivery of preschool programming that are seeking to expand access.
 - 4. REPEAL. This section is repealed July 1, 2011.

DIVISION II CONFORMING AMENDMENTS

Sec. 7. Section 256.11, subsection 1, Code 2007, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. For the purposes of this subsection, "prekindergarten program" includes but is not limited to a school district's implementation of the preschool program established pursuant to chapter 256C.

- Sec. 8. Section 257.16, subsection 1, Code 2007, 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 <u>under this chapter</u>, the <u>preschool foundation aid under chapter 256C</u>, supplementary aid under section 257.4, subsection 2, and adjusted additional property tax levy aid under section 257.15, subsection 4.
- Sec. 9. Section 285.1, subsection 1, paragraph c, Code 2007, is amended to read as follows: c. Children attending prekindergarten programs offered or sponsored by the district or non-public school and approved by the department of education or department of human services or children participating in preschool in an approved local program under chapter 256C may be provided transportation services. However, transportation services provided nonpublic school children are not eligible for reimbursement under this chapter.
- Sec. 10. EMERGENCY RULES. The state board of education may adopt emergency 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 be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Approved May 10, 2007

CHAPTER 149

LOCAL EMERGENCY MANAGEMENT COMMISSION COMMUNICATIONS

S.F. 90

AN ACT concerning local emergency management commission communications.

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

Section 1. Section 29C.9, subsection 6, Code 2007, is amended to read as follows:

6. The commission shall determine the mission of its agency and program and provide direction for the delivery of the emergency management services of planning, administration, coordination, training, and support for local governments and their departments. The com-

mission shall coordinate its services in the event of a disaster. <u>The commission may also provide joint emergency response communications services through an agreement entered into under chapter 28E.</u>

Approved May 11, 2007

CHAPTER 150

UTILITY REPLACEMENT TAXES

S.F. 278

AN ACT relating to changes in the utility replacement tax law by redefining a new electric power generating plant, extending the life of the utility replacement tax task force, and requiring notification by the taxpayer to the department of revenue and local taxing district upon transfer of utility property.

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

Section 1. Section 437A.3, subsection 11, unnumbered paragraph 2, Code 2007, is amended to read as follows:

"New electric power generating plant" means an any of the following:

- <u>a. An</u> electric power generating plant that is owned by or leased to an electric company, electric cooperative, or municipal utility, and that initially generates electricity subject to replacement generation tax under section 437A.6 on or after January 1, 2003.
- b. An electric power generating plant that is owned by or leased to an electric company, electric cooperative, or municipal utility, that initially generated electricity subject to replacement generation tax under section 437A.6 before January 1, 2003, and that is sold, leased, or transferred, in full or in part, on or after January 1, 2003. If any portion of an electric power generating plant is sold, the entire plant shall be treated as if it were a new electric power generating plant.
- Sec. 2. Section 437A.15, subsection 7, unnumbered paragraph 2, Code 2007, is amended to read as follows:

The task force shall study the effects of the replacement tax on local taxing authorities, local taxing districts, consumers, and taxpayers through January 1, 2007 2010. If the task force recommends modifications to the replacement tax that will further the purposes of tax neutrality for local taxing authorities, local taxing districts, taxpayers, and consumers, consistent with the stated purposes of this chapter, the department of management shall transmit those recommendations to the general assembly.

- Sec. 3. Section 437A.19, subsection 1, paragraph a, Code 2007, is amended to read as follows:
- a. A taxpayer whose property is subject to the statewide property tax shall report to the director by July 1, 1999, and by May 1 of each subsequent tax year, on forms prescribed by the director, the book value, as of the beginning and end of the preceding calendar year, of all of the following:
 - (1) The local amount of any major addition by local taxing district.
 - (2) The statewide amount of any major addition without notation of location.
 - (3) Any building in Iowa at acquisition cost of more than ten million dollars which that was

originally placed in service by the taxpayer prior to January 1, 1998, and which that was transferred or disposed of in the preceding calendar year, without notation of location by local taxing district.

- (4) Any electric power generating plant in Iowa at acquisition cost of more than ten million dollars which that was originally placed in service by the taxpayer prior to January 1, 1998, and which that was transferred or disposed of in the preceding calendar year, without notation of location by local taxing district.
 - (5) All other taxpayer property without notation of location.
- (6) The local amount of any major addition eligible for the urban revitalization exemption provided for in chapter 404, by situs.
- (7) All other transferred taxpayer property, in addition to any transferred property reported under subparagraphs (3) and (4), by local taxing district.
- Sec. 4. Section 437A.19, subsection 2, paragraphs b and c, Code 2007, are amended to read as follows:
- b. (1) Adjust the assessed value of taxpayer property in each local taxing district by allocating the change in book value during the preceding calendar year of the statewide amount and all other taxpayer property described in subsection 1, paragraph "a", subparagraph (5), to the assessed value of all taxpayer property in the state pro rata according to its preadjustment value. Any value for a taxpayer owning, or owning an interest in, a new electric power generating plant in excess of a local amount, where such taxpayer owns no other taxpayer property in this state, shall not be allocated to any local taxing districts.
- (2) If, during the preceding calendar year, a taxpayer transferred an electric power generating plant or an interest in an electric power generating plant to a taxpayer who owned no other taxpayer property in this state as of the end of such preceding calendar year, in lieu of the adjustment provided in subparagraph (1), the director shall allocate the transferee taxpayer's change in book value of the statewide amount during such preceding calendar year, if any, among local taxing districts in proportion to the allocation of the transferor's assessed value among local taxing districts as of the end of such preceding calendar year.
- c. In the case of taxpayer property described in subsection 1, paragraph "a", subparagraphs (3), and (4), and (7), decrease the assessed value of taxpayer property in each local taxing district by the taxable <u>assessed</u> value of such property within each such local taxing district on January 1, 1998 reported within such local taxing district.

Approved May 11, 2007

CHAPTER 151

SOLID WASTE DISPOSAL — REGULATION AND ENFORCEMENT S.F.~344

AN ACT relating to enforcement of certain solid waste disposal requirements and providing civil penalties.

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

Section 1. Section 455D.10A, subsection 5, Code 2007, is amended by striking the subsection.

- Sec. 2. Section 455D.11, subsection 9, Code 2007, is amended by striking the subsection.
- Sec. 3. Section 455D.11I, subsection 7, Code 2007, is amended to read as follows:
- 7. The department shall adopt rules including imposition of civil penalties necessary for the implementation and administration of this section.
 - Sec. 4. Section 455D.11I, subsection 8, Code 2007, is amended by striking the subsection.
- Sec. 5. Section 455D.19, subsection 2, paragraph a, Code 2007, is amended to read as follows:
- a. "Distributor" means a person who takes title to one or more packages or packaging components purchased for promotional purposes or resale. A person involved solely in delivering or storing packages or packaging components on behalf of third parties is not a distributor.
 - Sec. 6. Section 455D.19, subsection 3, Code 2007, is amended to read as follows:
- 3. A manufacturer or distributor shall not offer for sale or sell, or offer for promotional purposes a package or packaging component, in this state, which includes, in the package itself, or in any packaging component, inks, dyes, pigments, adhesives, stabilizers, or any other additives, any lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution as opposed to the incidental presence of any of these elements and which exceed the concentration level established by the department. A distributor shall only be subject to the assessment of a civil penalty pursuant to section 455D.25, subsection 2, for the knowing violation of this section. Knowledge by the distributor of the violation shall be presumed beginning sixty days from the receipt of notification from the department by certified mail.
 - Sec. 7. Section 455D.19, subsection 8, Code 2007, is amended by striking the subsection.

Sec. 8. NEW SECTION. 455D.22 CIVIL PENALTY.

A person who violates section 455D.6, subsection 6, section 455D.11, 455D.11A, 455D.11B, 455D.11I, or 455D.19, or any rule, permit, or order issued pursuant thereto shall be subject to a civil penalty which shall be established, assessed, and collected in the same manner as provided in section 455B.109. Any civil penalty collected shall be deposited in the general fund of the state.

Sec. 9. NEW SECTION. 455D.23 VIOLATIONS.

The director may issue any order necessary to secure compliance with or prevent a violation of the provisions of this chapter or any rule adopted or permit or order issued pursuant to this chapter. The person to whom such compliance order is issued may cause to be commenced a contested case within the meaning of chapter 17A, by filing within thirty days a notice of appeal to the commission. On appeal, the commission may affirm, modify, or vacate the order of the director.

Sec. 10. <u>NEW SECTION</u>. 455D.24 JUDICIAL REVIEW.

Judicial review of any order or other action of the commission or director may be sought in accordance with the terms of chapter 17A. Notwithstanding the terms of chapter 17A, petitions for judicial review may be filed in the district court of the county in which the alleged offense was committed.

Sec. 11. <u>NEW SECTION</u>. 455D.25 CIVIL ACTIONS FOR COMPLIANCE — PENALTIES.

1. The attorney general, on request of the department, shall institute any legal proceedings necessary to obtain compliance with an order of the commission or the director, including proceedings for a temporary injunction, or prosecuting any person for a violation of an order of the commission or the director or the provisions of this chapter or any rules adopted or permit or order issued pursuant to this chapter.

2. Any person who violates section 455D.10A, 455D.11, 455D.11A, 455D.11B, 455D.11I, or 455D.19, or any order or permit issued or rule adopted pursuant to section 455D.6, subsection 6, section 455D.10A, 455D.11, 455D.11A, 455D.11B, 455D.11I, or 455D.19, shall be subject to a civil penalty, not to exceed ten thousand dollars for each day of such violation.

Approved May 11, 2007

CHAPTER 152

INSURANCE REGULATION

S.F. 518

AN ACT reorganizing Code chapter provisions relating to the authority to engage in the business of insurance other than life insurance by transferring provisions, eliminating outdated provisions, and amending corresponding provisions, as necessary.

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

DIVISION I TRANSFERS

- Section 1. Section 515.6, Code 2007, is transferred to section 515.100.
- Sec. 2. Section 515.25, Code 2007, is transferred to section 515.10.
- Sec. 3. Section 515.65, Code 2007, is transferred to section 515.146.
- Sec. 4. Section 515.73, Code 2007, is transferred to section 515.76.
- Sec. 5. Section 515.74, Code 2007, is transferred to section 515.77.
- Sec. 6. Section 515.75, Code 2007, is transferred to section 515.73.
- Sec. 7. Section 515.76, Code 2007, is transferred to section 515.74.
- Sec. 8. Section 515.77, Code 2007, is transferred to section 515.75.
- Sec. 9. Section 515.80, Code 2007, is transferred to section 515.125.
- Sec. 10. Section 515.81, Code 2007, is transferred to section 515.126.
- Sec. 11. Section 515.81A, Code 2007, is transferred to section 515.127.
- Sec. 12. Section 515.81B, Code 2007, is transferred to section 515.128.
- Sec. 13. Section 515.81C, Code 2007, is transferred to section 515.129.
- Sec. 14. Section 515.82, Code 2007, is transferred to section 515.130.
- Sec. 15. Section 515.83, Code 2007, is transferred to section 515.131.

- Sec. 16. Section 515.84, Code 2007, is transferred to section 515.132.
- Sec. 17. Section 515.88, Code 2007, is transferred to section 515.142.
- Sec. 18. Section 515.89, Code 2007, is transferred to section 515.143.
- Sec. 19. Section 515.90, Code 2007, is transferred to section 515.144.
- Sec. 20. Section 515.94, Code 2007, is transferred to section 515.133.
- Sec. 21. Section 515.95, Code 2007, is transferred to section 515.134.
- Sec. 22. Section 515.96, Code 2007, is transferred to section 515.135.
- Sec. 23. Section 515.97, Code 2007, is transferred to section 515.136.
- Sec. 24. Section 515.98, Code 2007, is transferred to section 515.137.
- Sec. 25. Section 515.99, Code 2007, is transferred to section 515.78.
- Sec. 26. Section 515.100, Code 2007, is transferred to section 515.138.
- Sec. 27. Section 515.108, Code 2007, is transferred to section 515.110.
- Sec. 28. Section 515.109A, Code 2007, is transferred to section 515.103.
- Sec. 29. Section 515.111, Code 2007, is transferred to section 515.104.
- Sec. 30. Section 515.119, Code 2007, is transferred to section 515.149.
- Sec. 31. Section 515.120, Code 2007, is transferred to section 515.150.
- Sec. 32. Section 515.121, Code 2007, is transferred to section 515.151.
- Sec. 33. Section 515.125, Code 2007, is transferred to section 515.105.
- Sec. 34. Section 515.125A, Code 2007, is transferred to section 515.106.
- Sec. 35. Section 515.127, Code 2007, is transferred to section 515.107.
- Sec. 36. Section 515.128, Code 2007, is transferred to section 515.147.
- Sec. 37. Section 515.129, Code 2007, is transferred to section 515.148.
- Sec. 38. Section 515.131, Code 2007, is transferred to section 515.140.
- Sec. 39. Section 515.133, Code 2007, is transferred to section 515.141.
- Sec. 40. Section 515.134, Code 2007, is transferred to section 515.145.
- Sec. 41. Section 515.135, Code 2007, is transferred to section 515.152.
- Sec. 42. Section 515.136, Code 2007, is transferred to section 515.153.
- Sec. 43. Section 515.137, Code 2007, is transferred to section 515.108.
- Sec. 44. Section 515.138, Code 2007, is transferred to section 515.109.
- Sec. 45. Section 515.139, Code 2007, is transferred to section 515.111.

- Sec. 46. Section 515.140, Code 2007, is transferred to section 515.112.
- Sec. 47. Section 515.141, Code 2007, is transferred to section 515.113.
- Sec. 48. Section 515.147, Code 2007, is transferred to section 515.120.
- Sec. 49. Section 515.147A, Code 2007, is transferred to section 515.121.
- Sec. 50. Section 515.150, Code 2007, is transferred to section 515.139.

DIVISION II AMENDMENTS

- Sec. 51. Section 331.756, subsection 70, Code 2007, is amended to read as follows:
- 70. Institute legal proceedings against violations of insurance laws as provided in sections section 511.7 and 515.93.
 - Sec. 52. Section 507A.4, subsection 1, Code 2007, is amended to read as follows:
- 1. The lawful transaction of surplus lines insurance as permitted by sections 515.147 to 515.149 515.120 through 515.122.
 - Sec. 53. Section 507B.4, subsection 2, Code 2007, is amended to read as follows:
 - 2. FALSE INFORMATION AND ADVERTISING GENERALLY.
- a. GENERALLY. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.
- b. FALSE STATEMENT OF ASSETS. In the case of a company transacting the business of fire insurance within the state, stating or representing by advertisement in any newspaper, magazine, or periodical, or by any sign, circular, card, policy of insurance, or renewal certificate thereof or otherwise, that any funds or assets are in its possession and held available for the protection of holders of its policies unless so held, except the policy of insurance or certificate of renewal thereof may state, as a single item, the amount of capital set forth in the charter, or articles of incorporation, or association, or deed of settlement under which it is authorized to transact business.
- c. STATEMENT OF CAPITAL AND SURPLUS. In the case of a foreign company transacting the business of casualty insurance in the state, or an officer, producer, or representative of such a company, issuing or publishing an advertisement, public announcement, sign, circular, or card that purports to disclose the company's financial standing and fails to exhibit: the capital actually paid in cash, and the amount of net surplus of assets over all the company's liabilities actually held and available for the payment of losses by fire and for the protection of holders of fire policies; and the amount of net surplus of assets over all liabilities in the United States actually available for the payment of losses by fire and held in the United States for the protection of holders of fire policies in the United States, including in such liabilities the fund reserved for reinsurance of outstanding risks. The amounts stated for capital and net surplus shall correspond with the latest verified statement made by the company or association to the commissioner of insurance. Such a company shall not write, place, or cause to be written or placed, a policy or contract for insurance on property situated or located in this state except through a licensed producer authorized to do business in this state.
- Sec. 54. Section 507B.4, subsection 8, Code 2007, is amended by adding the following new paragraph:
 - NEW PARAGRAPH. c. Paying, allowing, or giving, or offering to pay, allow, or give, direct-

ly or indirectly, as an inducement to purchase or acquire insurance other than life insurance, life annuity, or accident and health insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue on the policy, or any valuable consideration or inducement, not specified in the policy, except to the extent provided for in an applicable filing. An insured named in a policy, or an employee of the insured, shall not knowingly receive or accept, directly or indirectly, any rebate, discount, abatement, credit, or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.

This paragraph "c" shall not be construed to prohibit the payment of commissions or other compensation to duly licensed producers, or to prohibit any insurer from allowing or returning to its participating policyholders, members, or subscribers, dividends, savings, or unabsorbed premium deposits. As used in this paragraph "c", "insurance" includes suretyship and "policy" includes bond.

Sec. 55. Section 509B.5, subsection 1, Code 2007, is amended to read as follows:

1. Employers or group policyholders shall notify all employees or members of their continuation 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 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 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 515.80 515.125 as that section relates to accident and health insurance.

Sec. 56. Section 510.21, unnumbered paragraph 2, Code 2007, is amended to read as follows:

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 515.134 515.145 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. 57. Section 511.4, Code 2007, is amended to read as follows:

511.4 ADVERTISEMENTS — WHO DEEMED AGENT.

The provisions of section $515.125 \, 515.105$ shall apply to life insurance companies and associations.

Sec. 58. Section 515.80, subsection 1, Code 2007, is amended to read as follows:

1. A policy or contract of insurance, unless otherwise provided in section 515.81A or 515.81B 515.127 or 515.128, provided for in this chapter shall not be forfeited, suspended, or canceled except by notice to the insured as provided in this chapter. A notice of cancellation is not effective unless mailed or delivered by the insurer to the named insured at least thirty days before the effective date of cancellation, or, where cancellation is for nonpayment of a premium, assessment, or installment provided for in the policy, or in a note or contract for the payment thereof, at least ten days prior to the date of cancellation. The notice may be made in person, or by sending by mail a letter addressed to the insured at the insured's address as given in or upon the policy, anything in the policy, application, or a separate agreement to the contrary notwithstanding.

Sec. 59. Section 515.81, Code 2007, is amended to read as follows: 515.81 CANCELLATION OF POLICY — NOTICE TO INSURED OR MORTGAGEE. Unless otherwise provided in section 515.81A or 515.81B 515.127 or 515.128, at any time af-

ter the maturity of a premium, assessment, or installment provided for in the policy, or a note or contract for the payment thereof, or after the suspension, forfeiture, or cancellation of a policy or contract of insurance, the insured may pay to the company the customary short rates and costs of action, if one has been commenced or judgment rendered thereon, and may, if the insured so elects, have the policy and all contracts or obligations connected with the policy, whether in judgment or otherwise, canceled, and all such policy and contracts shall be void; and in case of suspension, forfeiture, or cancellation of a policy or contract of insurance, the insured is not liable for a greater amount than the short rates earned at the date of the suspension, forfeiture, or cancellation and the costs of action provided for in this section. If the policy is canceled by the insurance company, the insurer may retain only the pro rata premium, and if the initial cash premium, or any part of the premium, has not been paid, the policy may be canceled by the insurance company by giving notice to the insured as provided in section 515.80 515.125 and ten days' notice to the mortgagee, or other person to whom the policy is made payable, if any, without tendering any part of the premium, anything to the contrary in the policy notwithstanding.

- Sec. 60. Section 515.81C, subsections 3 and 7, Code 2007, are amended to read as follows:
- 3. An umbrella or excess insurance policy which has been renewed or which has been in effect for sixty or more days shall not be canceled by the insurer, except as provided in section 515.81A 515.127, subsections 2 and 3, except by notice to the insured as required by this section or unless at least one of the following conditions occurs:
- a. A material change in the limits, scope of coverage, or exclusions in one or more of the underlying policies.
- b. Cancellation or nonrenewal of one or more of the underlying policies where the policies are not replaced without lapse.
- c. A reduction in the financial rating or grade of one or more of the insurers insuring one or more of the underlying policies based on an evaluation by a recognized financial rating organization.
- 7. Section 515.81A and 515.81B Sections 515.127 and 515.128 are not applicable to umbrella or excess insurance policies except as provided in subsection 3.

Sec. 61. Section 515.82, Code 2007, is amended to read as follows: 515.82 SHORT RATES.

The commissioner of insurance shall prepare and promulgate tables of the short rates provided for in sections 515.80 and 515.81 514.125¹ and 515.126, for the various kinds and classes of insurance governed by the provisions of this chapter, which, when promulgated, shall be for the guidance of all companies covered in this chapter and shall be the rate to be given in any notice therein required. No company shall discriminate unfairly between like assureds in the rate or rates so provided.

Sec. 62. Section 515.95, Code 2007, is amended to read as follows: 515.95 FAILURE TO ATTACH — EFFECT.

The omission so to do shall not render the policy invalid, but if any company or association neglects to comply with the requirements of section 515.94 515.133 it shall forever be precluded from pleading, alleging, or proving any such application or representations, or any part thereof, or falsity thereof, or any parts thereof, in any action upon such policy, and the plaintiff in any such action shall not be required, in order to recover against such company or association, either to plead or prove such application or representation, but may do so at the plaintiff's option.

Sec. 63. Section 515.98, Code 2007, is amended to read as follows: 515.98 PRIMA FACIE RIGHT OF RECOVERY.

In an action on such policy it shall only be necessary for the assured insured to prove the loss of the building insured, and that the assured insured has given the company or association no-

¹ See chapter 215, §256 herein

tice in writing of such loss, accompanied by an affidavit stating the facts as to how the loss occurred, so far as they are within the assured's insured's knowledge, and the extent of the loss.

- Sec. 64. Section 515.101, Code 2007, is amended to read as follows:
- 515.101 INVALIDATING STIPULATIONS AVOIDANCE CONDITIONS AND STIPULATIONS INVALIDATING POLICY AVOIDANCE PLEADINGS APPLICABILITY.
- 1. Any condition or stipulation in an application, policy, or contract of insurance, making the policy void before the loss occurs, shall not prevent recovery thereon on the policy by the insured, if it shall be shown by the plaintiff shows that the failure to observe such provision or the violation thereof did not contribute to the loss.
- 2. Any such condition or stipulation in an application, policy, or contract of insurance that refers to any of the following shall not be changed or affected by the provisions of subsection 1:
 - a. Any other insurance, valid or invalid.
 - b. Vacancy of the insured premises.
 - c. The title or ownership of the property insured.
- d. Liens or encumbrances on the property insured created by the voluntary act of the insured and within the insured's control.
- e. Suspension or forfeiture of the policy during default or failure to pay any written obligation given to the insurance company for the premium.
- f. The assignment or transfer of such policy of insurance before the loss occurs without the consent of the insurance company.
 - g. The removal of the property insured.
- h. A change in the occupancy or use of the property insured, if such change or use makes the risk more hazardous.
 - i. The fraud of the insured in the procurement of the contract of insurance.
- 3. Subsections 1 and 2 shall not be construed to change limitations or restrictions related to the pleading or proving of any defense by any insurance company to which the company is subject by law.
- 4. The provisions of subsections 1, 2, and 3 apply to all contracts of insurance on real and personal property.
- Sec. 65. <u>NEW SECTION</u>. 515.101A FORMS OF POLICIES AND ENDORSEMENTS APPROVAL.
- 1. The form of all policies, and of applications, and of agreements or endorsements modifying the provisions of policies, and of all permits and riders used generally throughout the state, that are issued or proposed to be issued by any insurance company doing business in this state under the provisions of this chapter, shall first be examined and approved by the commissioner of insurance.
- 2. The commissioner, upon a determination that the examination required under subsection 1 is unnecessary to achieve the purpose of this section, may exempt either of the following:
 - a. Any specified person by order, or any class of persons by rule.
- b. Any specified risk by order, or any line or kind of insurance, or subdivision of insurance, or any class of risk or combination of classes of risks by rule.
- 3. Forms of policies issued or proposed to be issued shall provide for the cancellation of the policy at the request of the insured upon equitable terms, and the return to the insured of any premium paid in excess of the customary short rates for the insurance up to the time of cancellation, or the release of the insured from any liability beyond such short rates, or for losses after the cancellation of the policy if the insurance is issued or proposed to be issued by a mutual company.

Sec. 66. Section 515.108, Code 2007, is amended to read as follows: 515.108 MORE FAVORABLE CONDITIONS.

Nothing contained in section 515.138 515.109 shall be so construed as to prohibit any insur-

ance company not required by the statutes of Iowa to issue a standard form of policy, from embodying, with the approval of the commissioner of insurance, in any insurance contract issued by it, provisions or conditions which are more favorable to the insured than those authorized in said statutes.

Sec. 67. <u>NEW SECTION</u>. 515.114 POLICY — FORMAL EXECUTION.

- 1. Every fire insurance company and association authorized to transact business in this state shall conduct its business in the name under which it is incorporated, and the policies issued by it shall be headed or entitled only by such name. There shall not appear on the face of the policy or on its filing back, anything that would indicate that it is the obligation of any other than the company responsible for the payment of losses under the policy, though it is permissible to stamp or print on the bottom of the filing back, the name or names of the department or general agency issuing the same, and the group of companies with which the company is financially affiliated.
- 2. Nothing contained in subsection 1 shall be construed to prevent any representative of an insurance company from advertising the representative's own individual business without specific mention of the name of the company or companies which the person may represent.

Sec. 68. <u>NEW SECTION</u>. 515.122 BANNED COMPANIES — INFORMATION REQUIRED.

- 1. An insurance producer shall not knowingly place insurance, either directly or through an intermediary broker, in insurers who are insolvent or unsound financially; and shall not place or renew insurance with nonadmitted insurers found by the commissioner of insurance to have failed or refused to furnish, in the manner provided in subsection 2, information reasonably showing the ability or willingness of the insurers to satisfy obligations undertaken with respect to insurance issued by them.
- 2. The information required of nonadmitted insurers under subsection 1 may consist of a copy of such insurer's current annual statement, duly verified, or evidence of any trust funds or deposits maintained by such insurers for the protection of their policyholders, or both, or other material of such general description and relevancy, as the commissioner may require. Such information shall be furnished at the sole cost and expense of the unauthorized insurers either to the commissioner directly, or furnished to the national association of insurance commissioners for the use of its members and their staffs, including the commissioner of insurance of this state and the commissioner's staff, or for dissemination to the commissioner by the central nonadmitted insurers information bureau of the national association of insurance commissioners or by any other agency or instrumentality of that association designed to receive and disseminate such information. The provisions of this section and section 515.120 shall not apply to insurance of vessels, craft or hulls, cargoes, marine builder's risk, marine protection and indemnity, or other risk including strikes and war risks commonly insured under ocean or wet marine forms of policy.

Sec. 69. Section 515.133, Code 2007, is amended to read as follows:

515.133 EXAMINATION OF OFFICERS AND EMPLOYEES.

- 1. The commissioner of insurance is authorized to issue a subpoena for examination under oath, any officer, agent, or employee of any company suspected of violating any of the provisions of section 515.131 515.140.
- 2. Upon the filing of a written, verified complaint with the commissioner by two or more residents of this state alleging that a company has violated section 515.131 515.140, the commissioner shall issue a subpoena for examination under oath to any officer, agent, or employee of the company.

Sec. 70. Section 515.134, Code 2007, is amended to read as follows: 515.134 REVOCATION OF AUTHORITY.

If upon examination, and that of any other witness produced and examined, the commis-

sioner determines that a company has violated section 515.131 515.140, or if any officer, agent, or employee fails to appear or submit to examination after receiving a subpoena, the commissioner shall promptly issue an order revoking the authority of the company to transact business within this state, and the company shall not be permitted to do the business of insurance in this state for one year.

Sec. 71. Section 515.135, Code 2007, is amended to read as follows:

515.135 JUDICIAL REVIEW.

Judicial review of the actions of the commissioner of insurance may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, upon filing with the clerk of court a good and sufficient bond for the payment of all costs adjudged against the petitioner. Notwithstanding the terms of said Act chapter 17A, petitions for judicial review may be filed in the district court of the county where the decision of the commissioner, pursuant to section 515.134 515.145, was made.

Sec. 72. Section 515.136, Code 2007, is amended to read as follows: 515.136 INCRIMINATION.

The statements and declarations made or testimony given by any such officer, agent, or employee in the investigation before the commissioner of insurance, or upon the hearing on the petition for judicial review, as provided in sections 515.133 to 515.135 515.141, 515.145, and 515.152, shall not be used against the person making the same in any criminal prosecution against the person.

Sec. 73. Section 515.138, subsection 5, Code 2007, is amended to read as follows:

5. Appropriate forms of other contracts or endorsements, insuring against one or more of the perils incident to the ownership, use or occupancy of said property, other than fire and lightning, which the insurer is empowered to assume, may be used in connection with the standard policy. Such forms of other contracts or endorsements attached or printed thereon may contain provisions and stipulations inconsistent with the standard policy if applicable only to such other perils. The pages of the standard policy may be renumbered and rearranged to provide space for the listing of rates and premiums for coverages insured thereunder or under endorsements attached or printed thereon, and such other data as may be included for duplication on daily reports for office records. An insurer may issue a policy, either on an unspecified basis as to coverage or for an indivisible premium, which contains coverage against the peril of fire and substantial coverage against other perils, if such policy includes provisions with respect to the peril of fire which are the substantial equivalent of the minimum provisions of such standard policy, provided further the policy is complete as to all its terms of coverage without reference to any other document and is approved in accordance with section 515.109 515.101A, subsections 1 and 2.

Sec. 74. Section 515.139, Code 2007, is amended to read as follows:

515.139 NUCLEAR LOSS OR DAMAGE EXCLUDED.

Insurers issuing the standard policy pursuant to section 515.138 515.109 are authorized to affix thereto or include therein a written statement that the policy does not cover loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under said policy; provided, however, that nothing herein contained shall be construed to prohibit the attachment to any such policy of an endorsement or endorsements specifically assuming coverage for loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination.

Sec. 75. Section 515.140, Code 2007, is amended to read as follows: 515.140 VIOLATIONS — STATUS OF POLICY.

It shall be unlawful for any insurance company, its officers or agents, or either of them, to violate any of the provisions of section 515.138 515.109, by issuing, delivering, or offering to issue or deliver any policy of fire insurance on property in this state other than the standard

form as provided in statute, but any policy so issued or delivered shall, nevertheless, be binding upon the company issuing or delivering the policy. The company shall, until the payment of a penalty assessed by order after hearing, be disqualified from doing any insurance business in this state.

Sec. 76. Section 515.141, Code 2007, is amended to read as follows:

515.141 EXISTING STATUTES — WAIVER.

Nothing contained in sections 515.138 and 515.140 515.109 and 515.112, nor any provisions or conditions in the standard form of policy provided for in section 515.138 515.109, shall be deemed to repeal or in any way modify any existing statutes or to prevent any insurance company issuing such policy, from waiving any of the provisions or conditions contained therein, if the waiver of such provisions or conditions shall be in the interest of the insured.

Sec. 77. Section 515.147A, Code 2007, is amended to read as follows: 515.147A ADMINISTRATIVE PENALTY.

- 1. An excess and surplus lines insurance agent that fails to timely file the report required in section $515.147\,515.120$ 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 $515.147 \, \underline{515.120}$ 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 515.147 515.120 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. 78. Section 515A.19, Code 2007, is amended to read as follows: 515A.19 LAWS AFFECTED.

Compliance with this chapter shall not be deemed to be a violation of section 515.131515.140.

Sec. 79. Section 515D.5, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Notwithstanding the provisions of sections 515.80 through 515.81A 515.125 through 515.127, a notice of cancellation of a policy shall not be effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the effective date of cancellation, or, where the cancellation is for nonpayment of premium notwithstanding the provisions of sections 515.80 and 515.81A 515.125 and 515.127 at least ten days prior to the date of cancellation. A post office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of cancellation, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than fifteen days prior to the date of cancellation, the insurer will state the reason for cancellation, together with notification of the right to a hearing before the commissioner within fifteen days as provided in this chapter.

Sec. 80. Section 515D.7, subsection 1, Code 2007, is amended to read as follows:

1. Notwithstanding the provisions of sections 515.80 through 515.81B 515.125 through 515.128, an insurer shall not fail to renew a policy except by notice to the insured as provided in this chapter. A notice of intention not to renew shall not be effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. A post office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of intent not to renew, the notice shall state that, upon written request of the named

insured, mailed or delivered to the insurer not less than thirty days prior to the expiration date of the policy, the insurer will state the reason for nonrenewal.

Sec. 81. Section 515E.9, Code 2007, is amended to read as follows:

515E.9 PURCHASING GROUP RESTRICTIONS.

A purchasing group shall not purchase insurance from an insurer not admitted in this state unless the purchase is effected through a duly licensed agent or broker acting pursuant to sections 515.147 through 515.149 515.120 through 515.122.

- Sec. 82. Section 522B.6, subsection 2, paragraph g, Code 2007, is amended to read as follows:
- g. Excess and surplus lines insurance provided by certain nonadmitted insurers pursuant to section $515.147 \ 515.120$.
 - Sec. 83. Section 522B.12, subsection 4, Code 2007, is amended to read as follows:
- 4. An insurer or insurance producer may pay or assign a commission, service fee, brokerage, or other valuable consideration to an insurance agency or to a person who does not sell, solicit, or negotiate insurance in this state, unless the payment would violate chapter 507B or section 515.130.

DIVISION III REPEALS

Sec. 84. Sections 515.50, 515.67, 515.79, 515.91, 515.92, 515.93, 515.102, 515.105, 515.106, 515.109, 515.110, 515.130, 515.142, 515.146, 515.148, and 515.149, Code 2007, are repealed.

DIVISION IV CODE EDITOR DIRECTIVE

Sec. 85. CODE EDITOR DIRECTIVE.

- 1. The Code editor is directed to correct internal references in the Code or in Acts pending codification as necessary due to the enactment of this Act.
 - 2. The Code editor may add the following subheadings within chapter 515:
- a. A subheading between Code sections $\bar{5}15.99$ and $\bar{5}15.100$ that states: "POLICY PROVISIONS AND RATES".
- b. A subheading between Code sections 515.119 and 515.120 that states: "SURPLUS LINES INSURANCE".
- c. A subheading between Code sections 515.124 and 515.125 that states: "DUTIES OF INSURERS".
- d. A subheading between Code sections 515.139 and 515.140 that states: "VIOLATIONS, INVESTIGATIONS, FEES, AND PENALTIES".

Approved May 11, 2007

CHAPTER 153

REAL ESTATE BROKERS OR SALESPERSONS — PROHIBITED PRACTICES

S.F. 530

AN ACT relating to prohibited business practices by a real estate broker or salesperson.

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

Section 1. Section 543B.60A, Code 2007, is amended by adding the following new subsection:

<u>NEW SUBSECTION</u>. 8. An Iowa licensee is prohibited from participating in any marketing plan or arrangement prohibited by this section with a person who is licensed or otherwise authorized to engage in the real estate business in another state or foreign country. This subsection shall not be interpreted to impact or alter a referral fee structure which otherwise complies with the requirements of this section.

Sec. 2. Section 543B.60A, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 9. A licensee or person licensed in another state or foreign country who conducts business in this state or refers business to a licensee in this state shall disclose in writing to the consumer and to the licensee to whom they are referring business, the name of the consumer being referred, the name of the referring company, and the amount of compensation they are receiving for the referral. This subsection shall not affect or restrict business practices relating to payment methods between listing and selling brokerages, and shall be applicable strictly to properties containing at least one but not more than four dwelling units.

Approved May 11, 2007

CHAPTER 154

HOSPITAL LIENS

S.F. 546

AN ACT relating to a hospital lien.

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

Section 1. <u>NEW SECTION</u>. 582.0A DEFINITIONS.

- 1. "Health plan" means an individual or group plan that provides, or pays the costs of, medical care as that term is defined in the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 and regulations promulgated thereunder.
 - 2. "Hospital" means a public or private institution licensed pursuant to chapter 135B.
- 3. "Provider agreement" means a contract, understanding, or arrangement made by an association, corporation, county, municipal corporation, or other institution maintaining a hospital in the state, with any health plan or other entity for the provision or payment of health care services.

Sec. 2. Section 582.1, Code 2007, is amended to read as follows: 582.1 NATURE OF LIEN.

- 1. Every association, corporation, county, <u>municipal corporation</u>, or other institution, including a municipal corporation, maintaining a hospital in the state, which shall furnish medical or other service to any patient injured by reason of an accident not covered by the workers' compensation Act, shall, if such injured party shall assert or maintain a claim against another for damages on account of such injuries, have a lien upon that part going or belonging to such patient of any recovery or sum had or collected or to be collected by such patient, or by the patient's heirs or personal representatives in the case of the patient's death, whether by judgment or by settlement or compromise to the amount of the reasonable and necessary charges of such hospital for the treatment, care, and maintenance of such patient in such hospital up to the date of payment of such damages; provided, however, that this to the amount of the reasonable and customary charges of such hospital for the treatment, care, and maintenance of such patient in such hospital up to the date of payment of such damages, except as provided in subsection 2.
- 2. If a patient provides proof of insurance coverage under a health plan within thirty days of the patient's discharge from a hospital, the hospital shall submit all charges to the patient's health plan prior to filing the notice of the lien pursuant to section 582.2. The patient's health plan shall not deny payment for hospital services received on the basis that a third party or other insurance carrier is responsible for the patient's injuries. If the health plan denies payment for any other reason, the health plan shall nonetheless provide the hospital and the patient with a statement detailing the amount the health plan would have paid for the hospital services provided and the amount the patient would have been responsible for had the claim not been denied. In such a case, the amount of the lien shall be limited to the amount the hospital would have received if such charges were covered by the patient's health plan. A health plan's failure to provide a statement shall not affect the limitations on a hospital lien pursuant to this section. This subsection shall not prohibit a hospital from filing notice of a lien pursuant to section 582.2 for the amount owed to the hospital due to patient responsibility including but not limited to deductibles, co-payments, and coinsurance.
- 3. If at any time subsequent to the filing of the notice of the lien a hospital receives health plan information regarding a patient, the hospital shall not be required to withdraw notice of the lien but shall submit the hospital's charges to the health plan. In such a case, the amount of the hospital's lien shall be limited pursuant to subsection 2.
- 4. The lien shall not in any way prejudice or interfere with any lien or contract which may be made by such patient or the patient's heirs or personal representatives with any attorney or attorneys for handling the claim on behalf of such patient, the patient's heirs, or personal representatives; provided, further, that the lien herein set forth shall not be applied or considered valid against anyone coming under a patient covered under the workers' compensation Act in this state pursuant to chapters 85, 85A, and 85B.
- 5. A hospital that recovers from a judgment, verdict, or settlement pursuant to this chapter shall be responsible for the pro rata share of the legal and administrative expenses incurred in obtaining the judgment, verdict, or settlement.

Sec. 3. Section 582.2, Code 2007, is amended to read as follows: 582.2 WRITTEN NOTICE OF LIEN.

No such lien shall be effective, however, unless a written notice containing the name and address of the injured person, the date of the accident, the name and location of the hospital, and the name of the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries received, shall be filed in the office of the clerk of the district court of the county in which such hospital is located, prior to the payment of any moneys to such injured person, the person's attorneys or legal representative, as compensation for such injuries; nor unless the hospital shall also mail, postage prepaid, a copy of such notice with a statement of the date of filing thereof to the person or persons, firm or firms, corporation or corporations alleged to be liable to the injuried party for the injuries sustained prior

LAWS OF THE EIGHTY-SECOND G.A., 2007 SESSION

to the payment of any moneys to such injured person, the person's attorneys or legal representative, as compensation for such injuries. Such hospital shall mail a copy of such notice to any insurance carrier which has insured such person, firm or corporation against such liability, if the name and address shall be known. Such hospital shall also mail a copy of such notice to the injured person or to the injured person's attorney or legal representative, if known.

Sec. 4. Section 582.3, Code 2007, is amended to read as follows: 582.3 DURATION AND ENFORCEMENT OF LIEN.

- 1. Any person or persons, firm or firms, or corporation or corporations, including an insurance carrier, making any payment to such patient or to the patient's attorneys or heirs or legal representatives as compensation for the injury sustained, after the filing and mailing of such notice without paying to such hospital the amount of its lien recoverable pursuant to section 582.1 from such person, firm, or corporation or so much thereof as can be satisfied out of the moneys due under any final judgment or compromise or settlement agreement, after paying the amount of any prior liens, shall, for a period of one year from the date of payment to such patient or the patient's heirs, attorneys, or legal representatives, as aforesaid, be and remain liable to such hospital for the amount which such hospital was entitled to receive as aforesaid; any such association, corporation, or other institution maintaining such hospital may, within such period, enforce its lien by a suit at law against such person or persons, firm, or firms, corporation or corporations making any such payment.
- 2. Prior to payment by a person, firm, or corporation, including an insurance carrier, to a patient's attorney, the patient's attorney may notify the person, firm, or corporation that will be making the payment that the attorney agrees to assume responsibility for the satisfaction of some or all liens of which the person, firm, or attorney has received notice pursuant to section 582.2. Upon receipt of such notification by the patient's attorney, such person, firm, or corporation shall provide the patient's attorney with copies of any lien notice relating to a hospital lien for which the attorney has agreed to assume responsibility and such person, firm, or corporation shall not thereafter be responsible to any hospital encompassed by such notification. A patient's attorney who so notifies a person, firm, or corporation and who receives a copy of any lien notice encompassed by such notification from the person, firm, or corporation shall pay such hospital the amount to which the hospital is entitled pursuant to section 582.1 from the amount received from the person, firm, or corporation. If there is a dispute concerning the amount owed to a hospital pursuant to section 582.1, a patient's attorney shall hold in trust the maximum amount to which the hospital may be entitled pursuant to section 582.1 and may disburse any other amounts to the patient, attorney, or other persons entitled to the funds. Any dispute concerning the amount owed to a hospital pursuant to section 582.1 shall be resolved by the court in which the patient filed an action to recover for the patient's injury and the court shall retain jurisdiction of the case to resolve the amount of the lien after dismissal of the action. If no such action was commenced by the patient, a court in which such action could have been brought shall have jurisdiction to determine the amount owed to the hospital.

Approved May 11, 2007

CHAPTER 155

PHARMACEUTICAL COLLECTION AND DISPOSAL PILOT PROJECT S.F. 579

AN ACT relating to a pharmaceutical collection and disposal pilot project and including an effective date provision.

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

Section 1. PHARMACEUTICAL COLLECTION AND DISPOSAL PILOT PROJECT. Of the moneys allocated under section 455E.11, subsection 2, paragraph "a", subparagraph (1), subparagraph subdivision (c), the department shall use two hundred twenty-five thousand dollars for a one-year pharmaceutical collection and disposal pilot project beginning May 1, 2007. The project shall demonstrate how to properly manage and dispose of unused, excess, old, or seized pharmaceuticals through approved techniques that exclude disposal in a landfill and disposal to a municipal wastewater treatment facility. The department shall award moneys allocated pursuant to this section to a public agency that operates a household hazardous waste regional collection center that serves a minimum of fifteen counties, that is licensed as a reverse distributor by the board of pharmacy examiners, and that is endorsed by the governor's office of drug control policy. The department shall make the award to a public agency who applies in a manner and according to procedures required by the department.

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

Approved May 11, 2007

CHAPTER 156

REMOTE CONTROL OR INTERNET HUNTING OF WILD ANIMALS, GAME BIRDS, UNGULATES, OR PRESERVE WHITETAIL

H.F. 671

AN ACT prohibiting remote control or internet hunting of wild animals, or game birds or ungulates or preserve whitetail kept on hunting preserves, and providing penalties.

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

Section 1. <u>NEW SECTION</u>. 481A.125A REMOTE CONTROL OR INTERNET HUNTING—CRIMINAL AND CIVIL PENALTIES.

- 1. As used in this section, "remote control or internet hunting" means use of a computer or other electronic device, equipment, or software to remotely control the aiming or discharge of a firearm or other weapon, allowing a person who is not physically present to take a wild animal, a game bird or ungulate kept on a hunting preserve under chapter 484B, or a preserve whitetail kept on a hunting preserve under chapter 484C.
- 2. A person shall not offer for sale, take, or assist in the taking of a wild animal, a game bird or ungulate kept on a hunting preserve under chapter 484B, or a preserve whitetail kept on a hunting preserve under chapter 484C, by remote control or internet hunting.

- 3. A person who violates this section is guilty of a serious misdemeanor. A second or subsequent violation of this section is punishable as a class "D" felony.
- 4. In addition, any person who violates this section is subject to a civil penalty, which may be levied by the department, of not more than ten thousand dollars for each violation of this section. The moneys collected from imposition of a civil penalty shall be deposited in the state fish and game protection fund.

Approved May 11, 2007

CHAPTER 157

ENERGY CITY DESIGNATION PROGRAM

H.F. 773

AN ACT establishing an energy city designation program.

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

Section 1. NEW SECTION. 473.41 ENERGY CITY DESIGNATION PROGRAM.

- 1. The department shall establish an energy city designation program, with the objective of encouraging cities to develop and implement innovative energy efficiency programs. To qualify for designation as an energy city, a city shall submit an application on forms prescribed by the department by rule, indicating the following:
- a. Submission of community-based plans for energy reduction projects, energy-efficient building construction and rehabilitation, and alternative or renewable energy production.
- b. Efforts to secure local funding for community-based plans, and documentation of any state or federal grant or loan funding being pursued in connection therewith.
- c. Involvement of local schools, civic organizations, chambers of commerce, and private groups in a community-based plan.
- d. Existing or proposed ordinances encouraging energy efficiency and conservation, recycling efforts, and energy-efficient building code provisions and enforcement.
- e. Organization of an energy day observance and proclamation with a commemorating event and awards ceremony for leading energy-efficient community businesses, groups, schools, or individuals.
- 2. The department shall establish by rule criteria for awarding energy city designations. If more than one designation is awarded annually, the criteria shall include a requirement that the department award the designations to cities of varying populations. Rules shall also be established identifying and publicizing state grant and loan programs relating to energy efficiency, and the development of a procedure whereby the department shall coordinate with other state agencies preferences given in the awarding of grants or making of loans to energy city designated applicants.

Approved May 11, 2007

CHAPTER 158

JOINT EXERCISE OF GOVERNMENT POWERS — DOCUMENTATION — ACCOUNTABILITY

H.F. 808

AN ACT concerning accountability requirements for entities, administrators, and boards created for joint exercise of governmental powers and providing effective dates.

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

- Section 1. Section 28E.6, subsections 2 and 3, Code 2007, are amended to read as follows:
- 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 the entity created shall be a government body for purposes of chapter 22 unless the entity created or agreement includes public agencies from more than one state.
- 3. a. All A summary of the proceedings of each regular, adjourned, or special meeting of the joint board 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 one newspaper of general circulation within the geographic area served by the joint board of the entity created or the administrator or joint board specified in the agreement. The summary of the proceedings shall include the date, time, and place the meeting was held, the members present, and the actions taken at the meeting. The joint board of the entity created or the administrator or joint board specified in the agreement shall furnish a copy the summary of the proceedings to be published submitted for publication to the newspaper within one week twenty days 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. The publication of the schedule of bills allowed may consolidate amounts paid to the same claimant if the purpose of the individual bills is the same. 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.
- b. An entity created which had a cash balance, including investments, of less than one hundred thousand dollars at the end of the previous fiscal year and which had total expenditures of less than one hundred thousand dollars during the prior fiscal year is not required to publish as required in paragraph "a". However, such an entity shall file without charge, in an electronic format, the information described in paragraph "a" with the office of the county recorder in the most populous county served by the entity. The county recorder shall make the information submitted available to the public, which information shall also include access to a copy of the agreement creating the entity.
- <u>c.</u> This subsection shall not apply if the <u>to an</u> entity <u>or the administrator or joint board specified created</u> in <u>the an</u> agreement <u>that</u> includes public agencies from more than one state <u>or to a contract entered into pursuant to section 28E.12</u>.
 - Sec. 2. Section 28E.8, Code 2007, is amended to read as follows: 28E.8 FILING AND RECORDING.
- 1. a. Before entry into force, an agreement made pursuant to this chapter shall be filed, in an electronic format, with the secretary of state and recorded with the county recorder in a manner specified by the secretary of state. In counties in which the office of county recorder is abolished, the agreement shall be recorded with the county auditor.
- b. Any amendment, modification, or notice of termination of an agreement made pursuant to this chapter shall be filed, in an electronic format, with the secretary of state within thirty days of the effective date of the amendment, modification, or termination, in a manner specified by the secretary of state.

- 2. a. In addition to subsection 1, each entity subject to section 28E.5 shall submit, in an electronic format, an initial report to the secretary of state as prescribed by the secretary of state. The report shall include, as applicable, the name of the entity created, the board members of the joint board created, whether the entity is exempt from the publication requirements of section 28E.6, subsection 3, a valid electronic mail address, and any additional information the secretary of state deems appropriate.
- b. Following submission of an initial report pursuant to paragraph "a", each entity subject to section 28E.5 shall submit, in an electronic format, a biennial report to the secretary of state in a manner prescribed by the secretary of state by April 1 of every odd-numbered year beginning in calendar year 2009.
- Sec. 3. JOINT EXERCISE OF GOVERNMENTAL POWERS REPORTING REQUIRE-MENTS TRANSITION PROVISION. Notwithstanding any provision of section 28E.8, subsection 2, as enacted by this Act, to the contrary, an entity created prior to January 1, 2008, shall be required to submit an initial report to the secretary of state by July 1, 2008.

Sec. 4. EFFECTIVE DATE.

- 1. The section of this Act amending section 28E.6, being deemed of immediate importance, takes effect upon enactment.
- 2. The sections of this Act amending section 28E.8 and enacting a transition provision take effect January 1, 2008.

Approved May 11, 2007

CHAPTER 159

REGULATION OF HEALTH-RELATED ACTIVITIES — MISCELLANEOUS CHANGES AND FEES

H.F. 925

AN ACT relating to health-related activities and regulation, including the practices of optometry and mortuary science, establishment of a state public health dental director and an oral health bureau, dependent adult abuse, membership on the child death review team, and immunity for emergency response, and providing for the revision of fees.

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

DIVISION I OPTOMETRY

Section 1. Section 154.1, Code 2007, is amended to read as follows:

154.1 OPTOMETRY — <u>DIAGNOSTICALLY</u> CERTIFIED LICENSED OPTOMETRISTS — THERAPEUTICALLY CERTIFIED OPTOMETRISTS.

- <u>1.</u> For the purpose of this subtitle the following classes of persons shall be deemed to be engaged in the practice of optometry:
- 1. a. Persons employing any means other than the use of drugs, medicine, or surgery for the measurement of the visual power and visual efficiency of the human eye; persons engaged in the prescribing and adapting of lenses, prisms, and contact lenses, and persons engaged in the using or employing of visual training or ocular exercise, for the aid, relief, or correction of vision.

- 2. b. Persons who allow the public to use any mechanical device for such a purpose described in paragraph "a".
- 3. c. Persons who publicly profess to be optometrists and to assume the duties incident to said the profession.
- 2. Certified <u>Diagnostically certified</u> licensed optometrists may employ cycloplegics, mydriatics, and topical anesthetics as diagnostic agents topically applied to determine the condition of the human eye for proper optometric practice or referral for treatment to a person licensed under chapter 148, 150, or 150A. A <u>diagnostically</u> certified licensed optometrist is an optometrist who is licensed to practice optometry in this state and who is certified by the board of optometry examiners to use diagnostic agents. A <u>certified licensed optometrist shall be provided</u> with a distinctive certificate by the board which shall be displayed for viewing by the patients of the optometrist.
- 3. Therapeutically certified optometrists may employ all diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of conditions of the human eye and adnexa pursuant to this paragraph subsection, excluding the use of injections other than to counteract an anaphylactic reaction, and notwithstanding section 147.107, may without charge supply any of the above pharmaceuticals to commence a course of therapy. Therapeutically certified optometrists may prescribe oral steroids for a period not to exceed fourteen days without consultation with a primary care physician. Therapeutically certified optometrists shall not prescribe oral Imuran or oral Methotrexate. Therapeutically certified optometrists may be authorized, where reasonable and appropriate, by rule of the board, to employ new diagnostic and therapeutic pharmaceutical agents approved by the United States food and drug administration on or after July 1, 2002, for the diagnosis and treatment of the human eye and adnexa. The board shall not be required to adopt rules relating to topical pharmaceutical agents, oral antimicrobial agents, oral antihistamines, oral antiglaucoma agents, and oral analgesic agents. Superficial foreign bodies may be removed from the human eye and adnexa. The therapeutic efforts of a therapeutically certified optometrist are intended for the purpose of examination, diagnosis, and treatment of visual defects, abnormal conditions, and diseases of the human eye and adnexa, for proper optometric practice or referral for consultation or treatment to persons licensed under chapter 148, 150, or 150A. A therapeutically certified optometrist is an optometrist who is licensed to practice optometry in this state and who is certified by the board of optometry examiners to use the agents and procedures authorized pursuant to this paragraph subsection. Atherapeutically certified optometrist shall be provided with a distinctive certificate by the board which shall be displayed for viewing by the patients of the optometrist.

Sec. 2. Section 154.3, Code 2007, is amended to read as follows:

154.3 LICENSE.

- 1. Every applicant for a license to practice optometry shall:
- a. 1. Be a graduate of an accredited school of optometry and meet requirements as established by rules of the board.
 - b. 2. Present an official transcript issued by an accredited school of optometry.
 - e. 3. Pass an examination as determined by the board by rule.
- 2. A person applying to be licensed as an optometrist after January 1, 1980, shall also apply to be a certified licensed optometrist and shall, in addition to satisfactorily completing all requirements for a license to practice optometry, satisfactorily complete a course consisting of at least one hundred contact hours in pharmacology and receive clinical training as it applies to optometry with particular emphasis on the topical application of diagnostic agents to the human eye for the purpose of examination of the human eye, and the diagnosis of conditions of the human eye, at an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or the United States office of education.
- 3. A person licensed as an optometrist prior to January 1, 1980 who applies to be a certified licensed optometrist shall first satisfactorily complete a course consisting of at least one hun-

dred contact hours in pharmacology as it applies to optometry including clinical training as it applies to optometry with particular emphasis on the topical application of diagnostic agents to the human eye and possible adverse reactions thereto, for the purpose of examination of the human eye and the diagnosis of conditions of the human eye, provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or the United States office of education, and approved by the board of optometry examiners.

- 4. In addition to the examination required by subsection 1, paragraph "c", a person applying to be a certified licensed optometrist shall also pass an examination prescribed by the optometry examiners in the subjects of physiology and pathology appropriate to the use of diagnostic pharmaceutical agents and diagnosis of conditions of the human eye, and pharmacology including systemic effects of ophthalmic diagnostic pharmaceutical agents and the possible adverse reactions thereto, authorized for use by optometrists by section 154.1.
- 5. A person applying to be licensed as an optometrist after January 1, 1986, shall also apply to be a therapeutically certified optometrist and shall, in addition to satisfactorily completing all requirements for a license to practice optometry, satisfactorily complete a course as defined by rule of the state board of optometry examiners with particular emphasis on the examination, diagnosis and treatment of conditions of the human eye and adnexa provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States office of education, and approved by the board of optometry examiners. The rule of the board shall require a course including a minimum of forty hours of didactic education and sixty hours of approved supervised clinical training in the examination, diagnosis and treatment of conditions of the human eye and adnexa. The board may also, by rule, provide a procedure by which an applicant who has received didactic education meeting the requirements of rules adopted pursuant to this subsection at an approved school of optometry may apply to the board for a waiver of the didactic education requirements of this subsection.
- 6. A person licensed in any state as an optometrist prior to January 1, 1986, who applies to be a therapeutically certified optometrist shall first satisfactorily complete a course as defined by rule of the board of optometry examiners with particular emphasis on the examination, diagnosis and treatment of conditions of the human eye and adnexa provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States office of education, and approved by the board of optometry examiners. The rule of the board shall require a course including a minimum of forty hours of didactic education and sixty hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa. Effective July 1, 1987, the board shall require that therapeutically certified optometrists prior to the utilization of topical and oral antiglaucoma agents, oral antimicrobial agents and oral analgesic agents shall complete an additional forty-four hours of education with emphasis on treatment and management of glaucoma and use of oral pharmaceutical agents for treatment and management of ocular diseases, provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States office of education, and approved by the board of optometry examiners. Upon completion of the additional forty-four hours of education, a therapeutically certified optometrist shall also pass an oral or written examination prescribed by the board. The board shall suspend the optometrist's therapeutic certificate for failure to comply with this subsection by July 1, 1988.

The board shall adopt rules requiring an additional twenty hours per biennium of continuing education in the treatment and management of ocular disease for all therapeutically certified optometrists. The department of ophthalmology of the school of medicine of the state university of Iowa shall be one of the providers of this continuing education.

7. A person licensed in any state as an optometrist prior to January 1, 1986, who applies to be a therapeutically certified optometrist shall also be required to qualify as a certified licensed optometrist as defined in subsections 2, 3, and 4.

- 8. In addition to the examination required by subsection 1, paragraph "c", a person applying to be a therapeutically certified optometrist shall also pass an examination prescribed by the board of optometry examiners in the examination, diagnosis, and treatment of diseases of the human eye and adnexa.
 - Sec. 3. Section 154.10, Code 2007, is amended to read as follows:
 - 154.10 STANDARD OF CARE.
- 1. A <u>diagnostically</u> certified licensed optometrist employing diagnostic pharmaceutical agents as authorized by section 154.1 shall be held to the same standard of care in the use of such agents and in diagnosis as is common to persons licensed under chapter 148, 150, or 150A in this state.
- <u>2.</u> A therapeutically certified optometrist employing pharmaceutical agents as authorized by section 154.1 shall be held to the same standard of care in the use of such agents and in diagnosis and treatment as is common to persons licensed under chapter 148, 150, or 150A in this state.
 - Sec. 4. Sections 154.4, 154.5, 154.6, and 154.7, Code 2007, are repealed.

DIVISION II MORTUARY SCIENCE

- Sec. 5. Section 156.1, subsection 6, Code 2007, is amended to read as follows:
- 6. "Intern" means a person registered by the board to practice mortuary science under the direct supervision of a funeral director preceptor certified by the board.
 - Sec. 6. Section 156.1, subsection 7, paragraph d, Code 2007, is amended to read as follows:
- d. Embalming by disinfecting or preserving dead human bodies, entire or in part, by the use of chemical substances, fluids, or gases in the body, or by the introduction of the same into the body by vascular or injections, hypodermic injections, or by direct surface application into the organs or cavities for the purpose of preservation or disinfection.
 - Sec. 7. Section 156.4, subsections 1 and 3, Code 2007, are amended to read as follows:
- 1. The practice of a funeral director must be conducted from a funeral establishment licensed by the board. The board may specify criteria for exceptions to the requirement of this subsection in rules.
- 3. Applications for the examination for a funeral director's license shall be in writing and verified on a form furnished by the board.
 - Sec. 8. Section 156.8A, Code 2007, is amended to read as follows:
 - 156.8A STUDENT PRACTICUM.

The board, by rule, shall provide for practicums in mortuary science for students available through any school accredited by the American board of funeral service education and shall regulate the registration, training, and fees for such practicums.

- Sec. 9. Section 156.9, subsection 2, Code 2007, is amended to read as follows:
- 2. In addition to the grounds stated in sections 147.55 and 272C.10, the board may revoke or suspend the license of <u>or otherwise discipline</u>, a funeral director for any one of the following acts:
- a. Knowingly misrepresenting any material matter to a prospective purchaser of funeral merchandise, furnishings, or services.
- b. Executing a death certificate or burial transit permit for use by anyone except a funeral director or a certified intern who is working under the direct supervision of a funeral director unless otherwise allowed under section 144.32. A violation of chapter 144 related to the practice of mortuary science.
- c. Knowingly aiding, assisting, procuring, advising, or allowing a person to unlawfully practice mortuary science.

- d. Willful or repeated violations of this chapter, or the rules adopted pursuant to this chapter.
- e. Conviction of any crime related to the practice of mortuary science or implicating the licensee's competence to safely perform mortuary science services, including but not limited to a crime involving moral character, dishonesty, fraud, theft, embezzlement, extortion, or controlled substances, in a court of competent jurisdiction in this state, or in another state, territory, or district of the United States, or in a foreign jurisdiction. For purposes of this paragraph, "conviction" includes a guilty plea, deferred judgment, or other finding of guilt. A certified copy of the judgment is prima facie evidence of the conviction.
 - Sec. 10. Section 156.10, Code 2007, is amended to read as follows: 156.10 INSPECTION.
- 1. The director of public health shall inspect all places where dead human bodies are prepared or held for burial, entombment, or cremation, and shall adopt and enforce such rules and regulations in connection with the inspection as shall be necessary for the preservation of the public health.
- 2. An The Iowa department of public health shall assess an inspection fee for each an inspection of a place where dead human bodies are prepared for burial or cremation shall be fifteen dollars per year, which shall be collected by the director of public health. The fee shall be determined by the department by rule.
- Sec. 11. Section 156.15, subsection 2, paragraph a, Code 2007, is amended to read as follows:
- a. Been convicted of a felony or a misdemeanor involving moral turpitude any crime related to the practice of mortuary science or implicating the establishment's ability to safely perform mortuary science services, or if the applicant is an association, joint stock company, partnership, or corporation, that a managing officer or owner has been convicted of a felony or a misdemeanor involving moral turpitude such a crime, under the laws of this state, another state, or the United States.
 - Sec. 12. Section 156.13, Code 2007, is repealed.

DIVISION III STATE PUBLIC HEALTH DENTAL DIRECTOR AND ORAL HEALTH BUREAU ESTABLISHED

Sec. 13. NEW SECTION. 135.14 STATE PUBLIC HEALTH DENTAL DIRECTOR — DUTIES.

- 1. The position of state public health dental director is established within the department.
- 2. The dental director shall perform all of the following duties:
- a. Plan and direct all work activities of the statewide public health dental program.
- b. Develop comprehensive dental initiatives for prevention activities.
- c. Evaluate the effectiveness of the statewide public health dental program and of program personnel.
- d. Manage the oral health bureau including direction, supervision, and fiscal management of bureau staff.
 - e. Other related work as required.

Sec. 14. <u>NEW SECTION</u>. 135.15 ORAL HEALTH BUREAU ESTABLISHED — RESPONSIBILITIES.

An oral health bureau is established within the division of health promotion and chronic disease prevention of the department. The bureau shall be responsible for all of the following:

1. Providing population-based oral health services, including public health training, improvement of dental support systems for families, technical assistance, awareness-building

activities, and educational services, at the state and local level to assist Iowans in maintaining optimal oral health throughout all stages of life.

- 2. Performing infrastructure building and enabling services through the administration of state and federal grant programs targeting access improvement, prevention, and local oral health programs utilizing maternal and child health programs, Medicaid, and other new or existing programs.
- 3. Leveraging federal, state, and local resources for programs under the purview of the bureau.
- 4. Facilitating ongoing strategic planning and application of evidence-based research in oral health care policy development that improves oral health care access and the overall oral health of all Iowans.
- 5. Developing and implementing an ongoing oral health surveillance system for the evaluation and monitoring of the oral health status of children and other underserved populations.

DIVISION IV DEPENDENT ADULT ABUSE

- Sec. 15. Section 235B.3, subsection 1, Code 2007, is amended to read as follows:
- 1. <u>a.</u> The department shall receive dependent adult abuse reports and shall collect, maintain, and disseminate the reports by establishing a central registry for dependent adult abuse information. The department shall evaluate the reports expeditiously. However, the department of inspections and appeals is solely responsible for the evaluation and disposition of dependent adult abuse cases within health care facilities and shall inform the department of human services of such evaluations and dispositions.
- <u>b.</u> Reports of dependent adult abuse which is the result of the acts or omissions of the dependent adult shall be collected and maintained in the files of the dependent adult as assessments only and shall not be included in the central registry.
- c. A report of dependent adult abuse that meets the definition of dependent adult abuse under section 235B.2, subsection 5, paragraph "a", subparagraph (1), subparagraph subdivision (a) or (d), which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department as an assessment only for a five-year period and shall not be included in the central registry and shall not be considered to be founded dependent adult abuse. However, a subsequent report of dependent adult abuse that meets the definition of dependent adult abuse under section 235B.2, subsection 5, paragraph "a", subparagraph (1), subparagraph subdivision (a) or (d), that occurs within the five-year period and that is committed by the caretaker responsible for the act or omission which was the subject of the previous report of dependent adult abuse which the department determined was minor, isolated, and unlikely to reoccur.
- Sec. 16. Section 235B.9, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 5. Dependent adult abuse information which is determined to be minor, isolated, and unlikely to reoccur shall be expunged five years after the receipt of the initial report by the department. If a subsequent report of dependent adult abuse committed by the caretaker responsible for the act or omission which was the subject of the previous report of dependent adult abuse which the department determined was minor, isolated, and unlikely to reoccur is received by the department within the five-year period, the information shall be sealed ten years after receipt of the subsequent report unless good cause can be shown why the information should remain open to authorized access.

DIVISION V MISCELLANEOUS PROVISIONS

Sec. 17. Section 135.11, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 31. In consultation with the advisory committee for perinatal guide-

lines, develop and maintain the statewide perinatal program based on the recommendations of the American academy of pediatrics and the American college of obstetricians and gynecologists contained in the most recent edition of the guidelines for perinatal care, and shall adopt rules in accordance with chapter 17A to implement those recommendations. Hospitals within the state shall determine whether to participate in the statewide perinatal program, and select the hospital's level of participation in the program. A hospital having determined to participate in the program shall comply with the guidelines appropriate to the level of participation selected by the hospital.

Sec. 18. Section 135.24, subsection 5, paragraph a, Code 2007, is amended to read as follows:

a. "Charitable organization" means a charitable organization within the meaning of section 501(c)(3) of the Internal Revenue Code which has as its primary purpose the sponsorship or support of programs designed to improve the quality, awareness, and availability of chiropractic, dental, medical, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, or emergency medical care services to children and to serve as a funding mechanism for provision of chiropractic, dental, medical, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, or emergency medical care services, including but not limited to immunizations, to children in this state.

Sec. 19. Section 135.43, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The membership of the review team is subject to the provisions of sections 69.16 and 69.16A, relating to political affiliation and gender balance. Review team members who are not designated by another appointing authority shall be appointed by the director of public health in consultation with the director of human services. Membership terms shall be for three years. A membership vacancy shall be filled in the same manner as the original appointment. The review team shall elect a chairperson and other officers as deemed necessary by the review team. The review team shall meet upon the call of the chairperson, upon the request of a state agency, or as determined by the review team. The members of the team are eligible for reimbursement of actual and necessary expenses incurred in the performance of their official duties.

- Sec. 20. Section 135.43, subsection 5, Code 2007, is amended to read as follows:
- 5. a. The following individuals shall designate a liaison to assist the review team in fulfilling its responsibilities:
 - a. (1) The director of public health.
 - b. (2) The director of human services.
 - e. (3) The commissioner of public safety.
 - d. The administrator of the bureau of vital records of the Iowa department of public health.
 - e. (4) The attorney general.
 - f. (5) The director of transportation.
 - g. (6) The director of the department of education.
- b. In addition, the chairperson of the review team shall designate a liaison from the public at large to assist the review team in fulfilling its responsibilities.

Sec. 21. <u>NEW SECTION</u>. 135.147 IMMUNITY FOR EMERGENCY AID — EXCEPTIONS.

1. A person, corporation, or other legal entity, or an employee or agent of such person, corporation, or entity, who, during a public health disaster, in good faith and at the request of or under the direction of the department or the department of public defense renders emergency care or assistance to a victim of the public health disaster shall not be liable for civil damages for causing the death of or injury to a person, or for damage to property, unless such acts or omissions constitute recklessness.

- 2. The immunities provided in this section shall not apply to any person, corporation, or other legal entity, or an employee or agent of such person, corporation, or entity, whose act or omission caused in whole or in part the public health disaster and who would otherwise be liable therefor.
 - Sec. 22. Section 135I.4, subsection 5, Code 2007, is amended to read as follows:
- 5. Adopt rules in accordance with chapter 17A for the implementation and enforcement of this chapter, and the establishment of fees. The department shall appoint an advisory committee composed of owners, operators, local officials, and representatives of the public to advise it in the formulation of appropriate rules.
 - Sec. 23. Section 135I.6, Code 2007, is amended to read as follows: 135I.6 ENFORCEMENT.

If the department or a local board of health acting pursuant to agreement with the department determines that a provision of this chapter or a rule adopted pursuant to this chapter has been or is being violated, the department may withhold or revoke the registration of a swimming pool or spa, or the department or the local board of health may order that a facility or item of equipment not be used, until the necessary corrective action has been taken. The department or the local board of health may request the county attorney to bring appropriate legal proceedings to enforce this chapter, including an action to enjoin violations. The attorney general may also institute appropriate legal proceedings at the request of the department. This remedy is in addition to any other legal remedy available to the department or a local board of health.

- Sec. 24. Section 135M.4, subsection 1, paragraph d, Code 2007, is amended to read as follows:
- d. The prescription drug or supplies are prescribed by a health care practitioner for use by an eligible individual and are dispensed by a pharmacist <u>or are dispensed to an eligible individual</u> by the prescribing health care practitioner or the practitioner's authorized agent.
 - Sec. 25. Section 139A.13A, subsection 1, Code 2007, is amended to read as follows:
- 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 or voluntary confinement request issued by the department, or a local board, or the centers for disease control and prevention of the United States department of health and human services.
 - Sec. 26. Section 144.28, subsection 1, Code 2007, is amended to read as follows:
- 1. The medical certification shall be completed and signed by the physician in charge of the patient's care for the illness or condition which resulted in death within seventy-two hours after receipt of the death certificate from the funeral director or individual who initially assumes custody of the body, except when inquiry is required by the county medical examiner. If upon inquiry into the death, the county medical examiner determines that a preexisting natural disease or condition was the likely cause of death and that the death does not affect the public interest as described in section 331.802, subsection 3, the county medical examiner may elect to defer to the physician in charge of the patient's preexisting condition the certification of the cause of death. When inquiry is required by the county medical examiner, the medical examiner shall investigate the cause of death and shall complete and sign the medical certification within seventy-two hours after determination of the cause of death.
 - Sec. 27. Section 144.46, Code 2007, is amended to read as follows: 144.46 FEE FOR COPY OF RECORD FEES.
- <u>1.</u> The department by rule shall establish fees based on the average administrative cost which shall be collected by the state registrar or the county registrar for each <u>of the following:</u>

- <u>a. A</u> certified copy or short form certification of certificates or records, or for a <u>certificate or record.</u>
 - $\underline{\textbf{b.}}$ A search of the files or records when no copy is made, or when no record is found on file.
- c. A copy of a certificate or record or a vital statistics data file provided to a researcher in accordance with section 144.44.
- d. A copy of a certificate or record or a vital statistics data file provided to a federal, state, local, or other public or private agency for statistical purposes in accordance with section 144.45.
- e. Verification or certification of vital statistics data provided to a federal, state, or local governmental agency authorized by rule to receive such data.
- <u>2.</u> Fees collected by the state registrar and by the county registrar on behalf of the state under this section shall be deposited in the general fund of the state <u>and the vital records fund established in section 144.46A in accordance with an apportionment established by rule. Fees collected by the county registrar pursuant to section 331.605, subsection 6, shall be deposited in the county general fund. <u>A fee shall not be collected from a political subdivision or agency of this state.</u></u>
- Sec. 28. Section 144.46A, subsections 2 and 3, Code 2007, are amended to read as follows: 2. The department shall adopt rules providing for an increase in the fees charged by the state registrar for vital records services under section 144.46 in an amount necessary to pay for the purposes designated in subsection 1.
- 3. 2. Increased fees collected by the state registrar pursuant to this section shall be credited to the vital records fund. Moneys credited to the fund pursuant to section 144.46 and otherwise are appropriated to the department to be used for the purposes designated in subsection 1. Notwithstanding section 8.33, moneys credited to the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert to any fund but shall remain available for expenditure for the purposes designated.
- Sec. 29. Section 152.1, subsection 4, paragraph c, Code 2007, is amended to read as follows:
- c. Make the pronouncement of death for a patient whose death is anticipated if the death occurs in a licensed hospital, a licensed health care facility, a Medicare-certified home health agency, of a Medicare-certified hospice program or facility, or an assisted living facility or residential care facility, with notice of the death to a physician and in accordance with any directions of a physician.
- Sec. 30. Section 152.1, subsection 6, paragraph e, Code 2007, is amended to read as follows:
- e. Make the pronouncement of death for a patient whose death is anticipated if the death occurs in a licensed hospital, a licensed health care facility, a Medicare-certified home health agency, of a Medicare-certified hospice program or facility, an assisted living facility, or a residential care facility, with notice of the death to a physician and in accordance with any directions of a physician.

Approved May 11, 2007

CHAPTER 160

COMPLAINTS AGAINST PEACE OFFICERS AND PUBLIC SAFETY AND EMERGENCY PERSONNEL — ADMINISTRATIVE PROCEDURES

S.F. 457

AN ACT relating to the rights of peace officers and public safety and emergency personnel.

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

Section 1. <u>NEW SECTION</u>. 80F.1 PEACE OFFICER, PUBLIC SAFETY, AND EMERGENCY PERSONNEL BILL OF RIGHTS.

- 1. As used in this section, unless the context otherwise requires:
- a. "Complaint" means a formal written allegation signed by the complainant or a written statement by an officer receiving an oral complaint stating the complainant's allegation.
- b. "Formal administrative investigation" means an investigative process ordered by a commanding officer of an agency or commander's designee during which the questioning of an officer is intended to gather evidence to determine the merit of a complaint which may be the basis for seeking removal, discharge, or suspension, or other disciplinary action against the officer.
- c. "Informal inquiry" means a meeting by supervisory or command personnel with an officer who is the subject of an allegation, for the purpose of resolving the allegation or determining whether a formal administrative investigation should be commenced.
- d. "Interview" means the questioning of an officer who is the subject of a complaint pursuant to the formal administrative investigation procedures of the investigating agency, if such a complaint may be the basis for seeking removal, discharge, or suspension, or other disciplinary action against the officer. "Interview" does not include questioning as part of any informal inquiry or questioning related to minor infractions of agency rules which will not result in removal, discharge, suspension, or other disciplinary action against the officer.
- e. "Officer" means a certified law enforcement officer, fire fighter, emergency medical technician, corrections officer, detention officer, jailer, probation or parole officer, communications officer, or any other law enforcement officer certified by the Iowa law enforcement academy and employed by a municipality, county, or state agency.
- f. "Statement" means the statement of the officer who is the subject of an allegation in response to a complaint.
- 2. This section is not applicable to a criminal investigation of an officer or where other investigations pursuant to state or federal law require different investigatory procedures.
- 3. A formal administrative investigation of an officer shall be commenced and completed in a reasonable period of time and an officer shall be immediately notified of the results of the investigation when the investigation is completed.
- 4. An officer shall not be compelled to submit to a polygraph examination against the will of the officer except as otherwise provided in section 730.4, subsection 3.
- 5. An officer who is the subject of a complaint, shall at a minimum, be provided a written summary of the complaint prior to an interview. If a collective bargaining agreement applies, the complaint or written summary shall be provided pursuant to the procedures established under the collective bargaining agreement. If the complaint alleges domestic abuse, sexual abuse, or sexual harassment, an officer shall not receive more than a written summary of the complaint.
- 6. An officer being interviewed shall be advised by the interviewer that the officer shall answer the questions and be advised that the answers shall not be used against the officer in any subsequent criminal proceeding.
- 7. An interview of an officer who is the subject of the complaint shall, at a minimum, be audio recorded.

- 8. The officer shall have the right to have legal counsel present, at the officer's expense, during the interview of the officer. In addition, the officer shall have the right, at the officer's expense, to have a union representative present during the interview or, if not a member of a union, the officer shall have the right to have a designee present.
- 9. If a formal administrative investigation results in the removal, discharge, or suspension, or other disciplinary action against an officer, copies of any witness statements and the investigative agency's report shall be timely provided to the officer, upon the request of the officer.
 - 10. An interview shall be conducted at any facility of the investigating agency.
- 11. If an interview is conducted while an officer is off duty, the officer shall be compensated as provided by law, or as provided in the applicable collective bargaining agreement.
- 12. If a complaint is determined by the investigating officer to be a violation of section 718.6, the investigating officer shall be responsible for filing the necessary paperwork with the county attorney's office in order for the county attorney to make a determination as to whether to charge the person with a violation of section 718.6.
- 13. An officer shall have the right to pursue civil remedies under the law against a citizen arising from the filing of a false complaint against the officer.
- 14. Notwithstanding any other provision of state law to the contrary, an officer shall not be denied the opportunity to be a candidate for any elected office as long as the officer's candidacy does not violate the federal Hatch Act, 5 U.S.C. § 1501 et seq. An officer may be required, as a condition of being a candidate, to take a leave of absence during the campaign. If the officer is subject to chapter 341A and is a candidate for county sheriff, the candidate, upon the candidate's request, shall automatically be given a leave of absence without pay as provided in section 341A.18.
- 15. An officer shall have the right, as any other citizen, to engage in political activity except while on duty as long as the officer's political activity does not violate the federal Hatch Act, 5 U.S.C. § 1501 et seq. An officer shall not be required to engage in political activity by the officer's agency, a representative of the officer's agency, or any other agency.
- 16. An officer shall not be discharged, disciplined, or threatened with discharge or discipline in retaliation for exercising the rights of the officer enumerated in this section.
- 17. The rights enumerated in this section are in addition to any other rights granted pursuant to a collective bargaining agreement or other applicable law.
- 18. A municipality, county, or state agency employing an officer shall not publicly release the officer's official photograph without the written permission of the officer or without a request to release pursuant to chapter 22.
- 19. If a formal administrative investigation results in removal, discharge, suspension, or disciplinary action against an officer, and the officer alleges in writing a violation of the provisions of this section, the municipality, county, or state agency employing the officer shall hold in abeyance for a period of ten days any punitive action taken as a result of the investigation, including a reprimand. An allegation of a violation of this section may be raised and given due consideration in any properly authorized grievance or appeal exercised by an officer, including but not limited to a grievance or appeal exercised pursuant to the terms of an applicable collective bargaining agreement and an appeal right exercised under section 341A.12 or 400.20.

CHAPTER 161

STATE EARNED INCOME TAX CREDIT — MISCELLANEOUS CHANGES

S.F. 590

AN ACT relating to the state earned income tax credit by increasing the amount of the tax credit and making the tax credit refundable and including effective and retroactive applicability date provisions.

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

Section 1. Section 422.12B, subsection 1, Code 2007, is amended to read as follows:

1. The taxes imposed under this division less the credits allowed under section 422.12 shall be reduced by an earned income credit equal to six and one-half seven percent of the federal earned income credit provided in section 32 of the Internal Revenue Code. Any credit in excess of the tax liability is nonrefundable refundable.

COORDINATING AMENDMENTS

Sec. 2. Section 422.11, Code 2007, is amended to read as follows: 422.11 FRANCHISE TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections section 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 sections section 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 sections section 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. 3. Section 422.11A, Code 2007, is amended to read as follows: 422.11A NEW JOBS TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections section 422.12 and 422.12B, shall be reduced by a new jobs tax credit. An industry which has entered into an agreement under chapter 260E and which has increased its base employment level by at least ten percent within the time set in the agreement or, in the case of an industry without a base employment level, adds new jobs within the time set in the agreement is entitled to this new jobs tax credit for the tax year selected by the industry. In determining if the industry has increased its base employment level by ten percent or added new jobs, only those new jobs directly resulting from the project covered by the agreement and those directly related to those new jobs shall be counted. The amount of this credit is equal to the product of six percent of the taxable wages upon which an employer is required to contribute to the state unemployment compensation fund, as defined in section 96.19, subsection 37, times the number of new jobs existing in the tax year that directly result from the project covered by the agreement or new jobs that directly result from those new jobs. The tax year chosen by the industry shall either begin or end during the period beginning with the date of the agreement and ending with the date by which the project is to be completed under the agreement. An individual may claim the new jobs tax credit allowed a partnership, subchapter S corporation, or 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, subchapter S corporation, or estate or trust. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following ten tax years or until depleted, whichever is the earlier. For purposes of this section, "agreement", "industry", "new job", and "project" mean the same as defined in section 260E.2 and "base employment level" means the number of full-time jobs an industry employs at the plant site which is covered by an agreement under chapter 260E on the date of that agreement.

Sec. 4. Section 422.11C, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The taxes imposed under this division, less the credits allowed under sections section 422.12 and 422.12B, shall be reduced by an ethanol blended gasoline 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:

- Sec. 5. Section 422.11D, subsection 1, Code 2007, is amended to read as follows:
- 1. The taxes imposed under this division, less the credits allowed under sections section 422.12 and 422.12B, shall be reduced by a historic preservation and cultural and entertainment district tax credit equal to the amount as computed under chapter 404A for rehabilitating eligible property. Any credit in excess of the tax liability shall be refunded as provided in section 404A.4, subsection 3.
 - Sec. 6. Section 422.11E, subsection 1, Code 2007, is amended to read as follows:
- 1. The taxes imposed under this division, less the credits allowed under sections section 422.12 and 422.12B, shall be reduced by an assistive device tax credit. A small business purchasing, renting, or modifying an assistive device or making workplace modifications for an individual with a disability who is employed or will be employed by the small business is eligible, subject to availability of credits, to receive this assistive device tax credit which is equal to fifty percent of the first five thousand dollars paid during the tax year for the purchase, rental, or modification of the assistive device or for making the workplace modifications. Any credit in excess of the tax liability shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year. If the small business elects to take the assistive device tax credit, the small business shall not deduct for Iowa tax purposes any amount of the cost of an assistive device or workplace modifications which is deductible for federal tax purposes.
 - Sec. 7. Section 422.11F, Code 2007, is amended to read as follows:

422.11F INVESTMENT TAX CREDITS.

- 1. The taxes imposed under this division, less the credits allowed under <u>sections</u> <u>section</u> 422.12 <u>and 422.12B</u>, 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 section 422.12 and 422.12B, shall be reduced by investment tax credits authorized pursuant to sections 15.333 and 15E.193B, subsection 6.
 - Sec. 8. Section 422.11G, Code 2007, is amended to read as follows:
 - 422.11G VENTURE CAPITAL FUND INVESTMENT TAX CREDIT.

The tax imposed under this division, less the credits allowed under sections section 422.12 and 422.12B, shall be reduced by a venture capital fund investment tax credit authorized pursuant to section 15E.51.

Sec. 9. Section 422.11H, Code 2007, is amended to read as follows:

422.11H ENDOW IOWA TAX CREDIT.

The tax imposed under this division, less the credits allowed under sections section 422.12

and 422.12B, shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.

Sec. 10. Section 422.11I, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The taxes imposed under this division, less the credits allowed under sections section 422.12 and 422.12B, shall be reduced by a soy-based cutting tool oil tax credit. A manufacturer, as defined in section 428.20, is eligible to receive a soy-based cutting tool oil tax credit which is equal to the costs incurred by the manufacturer during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based cutting tool oil to using soy-based cutting tool oil. The costs eligible for the credit are limited to those costs meeting all of the following requirements:

Sec. 11. Section 422.11J, Code 2007, is amended to read as follows:

422.11J TAX CREDITS FOR WIND ENERGY PRODUCTION AND RENEWABLE ENERGY.

The taxes imposed under this division, less the credits allowed under sections section 422.12 and 422.12B, shall be reduced by tax credits for wind energy production allowed under chapter 476B and for renewable energy allowed under chapter 476C.

Sec. 12. Section 422.11K, Code 2007, is amended to read as follows:

422.11K ECONOMIC DEVELOPMENT REGION REVOLVING FUND CONTRIBUTION TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections section 422.12 and 422.12B, shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.

Sec. 13. Section 422.11L, Code 2007, is amended to read as follows:

422.11L WAGE-BENEFITS TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections section 422.12 and 422.12B, shall be reduced by a wage-benefits tax credit authorized pursuant to section 15I.2.

Sec. 14. Section 422.11M, Code 2007, is amended to read as follows:

422.11M AGRICULTURAL ASSETS TRANSFERRED TO BEGINNING FARMERS.

The taxes imposed under this division, less the credits allowed under sections section 422.12 and 422.12B, shall be reduced by an agricultural assets transfer tax credit as allowed under section 175.37.

Sec. 15. Section 422.11N, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The taxes imposed under this division, less the credits allowed under sections section 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:

Sec. 16. Section 422.11O, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The taxes imposed under this division, less the credits allowed under sections section 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:

Sec. 17. Section 422.11P, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The taxes imposed under this division, less the credits allowed under sections section 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.

Sec. 18. Section 422.11Q, Code 2007, is amended to read as follows:

422.11Q IOWA FUND OF FUNDS TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections section 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. 19. Section 422.11R, Code 2007, is amended to read as follows:

422.11R SOY-BASED TRANSFORMER FLUID TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections section 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. 20. Section 422.11S, subsection 1, Code 2007, is amended to read as follows:

1. The taxes imposed under this division, less the credits allowed under sections section 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.

Sec. 21. Section 422.12, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A tuition credit equal to twenty-five percent of the first one thousand dollars which the taxpayer has paid to others for each dependent in grades kindergarten through twelve, for tuition and textbooks of each dependent in attending an elementary or secondary school situated in Iowa, which school is accredited or approved under section 256.11, which is not operated for profit, and which adheres to the provisions of the federal Civil Rights Act of 1964 and chapter 216. As used in this subsection, "textbooks" means books and other instructional materials and equipment used in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state and does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to inculcate those tenets, doctrines, or worship. "Textbooks" includes books or materials used for extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or programs of a similar nature. Notwithstanding any other provision, all other credits allowed under this section and section 422.12B shall be deducted before the tuition credit under this subsection. The department, when conducting an audit of a taxpayer's return, shall also audit the tuition tax credit portion of the tax return.

Sec. 22. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2007, for tax years beginning on or after that date.

Approved May 15, 2007

CHAPTER 162

FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM H.F. 892

AN ACT creating a film, television, and video project promotion program, providing tax credits and income exclusions, and including effective and retroactive applicability dates.

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

Section 1. NEW SECTION. 15.391 SHORT TITLE.

This part shall be known as the "Film, Television, and Video Project Promotion Program".

Sec. 2. NEW SECTION. 15.392 PURPOSE.

The purpose of the film, television, and video project promotion program is to assist legitimate film, television, and video producers in the production of film, television, and video projects in the state and to increase the fiscal impact on the state's economy of film, television, and video projects produced in the state. The program includes assistance in the production of advertising projects in a film, television, or video medium.

Sec. 3. <u>NEW SECTION</u>. 15.393 FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM — TAX CREDITS AND EXCLUSION.

- 1. The department shall establish and administer a film, television, and video project promotion program that provides for the registration of projects to be shot on location in the state. A project that is registered under the program is entitled to the assistance provided in subsection 2. A fee shall not be charged for registering. The department shall not register a project unless the department determines that all of the following are met:
- a. The project is a legitimate effort to produce an entire film, television, or video episode or a film, television, or video segment in the state.
- b. The project will include expenditures of at least one hundred thousand dollars in the state and have an economic impact on the economy of the state or locality sufficient to justify assistance under the program.
- c. The project will further tourism, economic development, and population retention or growth in the state or locality.
- d. Other criteria established by rule relating to the economic impact and promotional aspects of the project on the state or locality.
- 2. A project registered with the department under the program is eligible for the following assistance:
- a. (1) For tax years beginning on or after January 1, 2007, a qualified expenditure tax credit shall be allowed against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.24, for a portion of a tax-payer's qualified expenditures in a project registered under the program. The tax credit shall equal twenty-five percent of the qualified expenditures on a project. An individual may claim a tax credit under this paragraph "a" of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following 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 claims the tax credit.
- (2) A qualified expenditure by a taxpayer is a payment to an Iowa resident or an Iowa-based business for the sale, rental, or furnishing of tangible personal property or for services directly related to the registered project including but not limited to aircraft, vehicles, equipment, materials, supplies, accounting, animals and animal care, artistic and design services, graphics, construction, data and information services, delivery and pickup services, graphics, labor and

 $^{^{1}\,}$ The term "graphics" is listed twice in this sentence in the enrolled Act

personnel, lighting, makeup and hairdressing, film, music, photography, sound, video and related services, printing, research, site fees and rental, travel related to Iowa distant locations, trash removal and cleanup, and wardrobe. For the purposes of this subparagraph, "labor and personnel" does not include the director, producers, or cast members other than extras and stand-ins. The department of revenue, in consultation with the department of economic development, shall by rule establish a list of eligible expenditures.

- (3) After verifying the eligibility for a tax credit under this paragraph "a", the department of economic development shall issue a film, television, and video project promotion program tax credit certificate to be attached to the person's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of credit, other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred. Tax credit certificates issued under this paragraph "a" may be transferred to any person or entity. Within ninety days of transfer, the transferee shall submit the transferred tax credit certificate to the 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 department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit 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. Atax credit shall not be claimed by a transferee under this paragraph "a" until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.24, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V, under chapter 432, or against the moneys and credits tax imposed in section 533.24. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V, under chapter 432, or against the moneys and credits tax imposed in section 533.24.
- (4) A taxpayer claiming a tax credit under this paragraph "a", a business in which such taxpayer has an equity interest, and a business in which such taxpayer participates in its management is not eligible to receive the adjusted gross income reduction under paragraph "c".
- b. (1) For tax years beginning on or after January 1, 2007, an investment tax credit shall be allowed against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.24, for a portion of a taxpayer's investment in a project registered under the program. The tax credit shall equal twenty-five percent of the investment in the project. An individual may claim a tax credit under this paragraph of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following 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 claims the tax credit. A taxpayer shall not claim a tax credit under this paragraph "b" for qualified expenditures for which a tax credit is claimed under paragraph "a".
- (2) After verifying the eligibility for a tax credit under this paragraph "b", the department of economic development shall issue a film, television, and video project promotion program tax credit certificate to be attached to the person's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project comple-

tion, the amount of credit, other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred. Tax credit certificates issued under this paragraph "b" may be transferred to any person or entity. Within ninety days of transfer, the transferee shall submit the transferred tax credit certificate to the 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 department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit 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 this paragraph "b" until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.24, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V, under chapter 432, or against the moneys and credits tax imposed in section 533.24. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V, under chapter 432, or against the moneys and credits tax imposed in section 533.24.

- c. For tax years beginning on or after January 1, 2007, a reduction in adjusted gross income for purposes of taxes imposed in chapter 422, divisions II and III, for payments received from the sale, rental, or furnishing of tangible personal property or services directly related to the production of a project registered under this section which meets the criteria of a qualified expenditure under paragraph "a", subparagraph (2).
- 3. The department shall promote the program and the assistance available under the program on an internet website.
- 4. A project that depicts or describes any obscene material, as defined in section 728.1, shall not be eligible to receive assistance under this section.
- Sec. 4. Section 422.7, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 50. Subtract, to the extent included, an amount equal to any income received from the sale, rental, or furnishing of tangible personal property or services directly related to the production of a project registered under section 15.393 which meets the criteria of a qualified expenditure under section 15.393, subsection 2, paragraph "a", subparagraph (2).
- Sec. 5. <u>NEW SECTION</u>. 422.11T FILM QUALIFIED EXPENDITURE TAX CREDIT. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a qualified expenditure tax credit authorized pursuant to section 15.393, subsection 2, paragraph "a".

Sec. 6. NEW SECTION. 422.11U FILM INVESTMENT TAX CREDIT.

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 15.393, subsection 2, paragraph "b".

Sec. 7. Section 422.33, Code 2007, is amended by adding the following new subsections: <u>NEW SUBSECTION</u>. 24. The taxes imposed under this division shall be reduced by a qualified expenditure tax credit authorized pursuant to section 15.393, subsection 2, paragraph "a".

<u>NEW SUBSECTION</u>. 25. The taxes imposed under this division shall be reduced by an investment tax credit authorized pursuant to section 15.393, subsection 2, paragraph "b".

- Sec. 8. Section 422.35, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 23. Subtract, to the extent included, an amount equal to any income received from the sale, rental, or furnishing of tangible personal property or services directly related to the production of a project registered under section 15.393 which meets the criteria of a qualified expenditure under section 15.393, subsection 2, paragraph "a", subparagraph (2).
- Sec. 9. Section 422.60, Code 2007, is amended by adding the following new subsections: NEW SUBSECTION. 13. The taxes imposed under this division shall be reduced by a qualified expenditure tax credit authorized pursuant to section 15.393, subsection 2, paragraph "a". NEW SUBSECTION. 14. The taxes imposed under this division shall be reduced by an investment tax credit authorized pursuant to section 15.393, subsection 2, paragraph "b".
- Sec. 10. <u>NEW SECTION</u>. 432.12J FILM QUALIFIED EXPENDITURE TAX CREDIT. The tax imposed under this chapter shall be reduced by a qualified expenditure tax credit authorized pursuant to section 15.393, subsection 2, paragraph "a".
 - Sec. 11. NEW SECTION. 432.12K FILM INVESTMENT TAX CREDIT.

The tax imposed under this chapter shall be reduced by an investment tax credit authorized pursuant to section 15.393, subsection 2, paragraph "b".

Sec. 12. Section 533.24, Code 2007, is amended by adding the following new subsections: <u>NEW SUBSECTION</u>. 11. The moneys and credits tax imposed under this section shall be reduced by a qualified expenditure tax credit authorized pursuant to section 15.393, subsection 2, paragraph "a".

<u>NEW SUBSECTION</u>. 12. The moneys and credits tax imposed under this section shall be reduced by an investment tax credit authorized pursuant to section 15.393, subsection 2, paragraph "b".

Sec. 13. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2007, for tax years beginning on and after that date.

Approved May 17, 2007

CHAPTER 163

DISSOLUTION OF MARRIAGE — PROPERTY DIVISION — INHERITED OR GIFTED PROPERTY

S.F. 340

AN ACT relating to the consideration of inherited or gifted property in dissolution-of-marriage property division proceedings and including an effective date and an applicability provision.

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

Section 1. Section 598.21, subsection 5, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The court shall divide all property, except inherited property or gifts received <u>or expected</u> by one party, equitably between the parties after considering all of the following:

- Sec. 2. Section 598.21, subsection 5, paragraph i, Code 2007, is amended to read as follows: i. Other economic circumstances of each party, including pension benefits, vested or unvested, and future interests. Future interests may be considered, but expectancies or interests arising from inherited or gifted property created under a will or other instrument under which the trustee, trustor, trust protector, or owner has the power to remove the party in question as a beneficiary, shall not be considered.
- Sec. 3. EFFECTIVE DATE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and applies to all dissolutions granted on or after the effective date of this Act.

Approved May 21, 2007

CHAPTER 164

RAILWAY SAFETY — CLOSE-CLEARANCE WARNING DEVICES

S.F. 472

AN ACT requiring the posting of close-clearance warning devices along railroad tracks and providing a penalty.

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

- Section 1. NEW SECTION. 327F.13 CLOSE-CLEARANCE WARNING DEVICES.
- 1. The owner of a railroad track shall place a warning device at a location where the close clearance between the track and a building, machinery, trees, brush, or other object is such that the building, machinery, trees, brush, or other object physically impedes a person who is lawfully riding the side of a train in the course of the person's duties in service to a railroad company from clearing the building, machinery, trees, brush, or other object.
- 2. The warning device shall be placed in a location which provides adequate notice to a person riding the side of a train so that the person may prepare for the close clearance. Any signs posted shall not be a danger to other persons working on the property.

- 3. Placement of a warning device pursuant to this section does not relieve the owner of a railroad track from any duties required under chapter 317 or section 327F.27.
 - 4. A violation of this section is punishable as a schedule "one" penalty under section 327C.5.
- 5. This section does not apply to a railroad that operates locomotives powered by overhead or suspended electric power lines.
- 6. The department of transportation shall adopt rules to implement this section. Notwith-standing any other provision, the department of transportation shall be allowed to enter any property on which railroad track is located for the purpose of administering and enforcing this section. Entry upon any private property shall be with knowledge and notice to the property owner.
- 7. This section only applies to a location where a close-clearance warning device is required to be placed pursuant to rules of the department when funds are available from the department to reimburse the owner of the railroad track for the cost of the close-clearance warning device, including cost of installation.

Approved May 21, 2007

CHAPTER 165

HISTORIC PRESERVATION AND CULTURAL AND ENTERTAINMENT DISTRICT TAX CREDITS

S.F. 566

AN ACT relating to historic preservation and cultural and entertainment district tax credits, and providing applicability date provisions.

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

- Section 1. Section 404A.1, subsection 1, Code 2007, is amended to read as follows:
- 1. A historic preservation and cultural and entertainment district tax credit, subject to the availability of the credit, is granted against the tax imposed under chapter 422, division II, III, or V, or chapter 432, for the rehabilitation of eligible property located in this state as provided in this chapter. Tax credits in excess of tax liabilities shall be refunded or credited as provided in section 404A.4, subsection 3.
 - Sec. 2. Section 404A.4, subsection 3, Code 2007, is amended to read as follows:
- 3. A person receiving a historic preservation and cultural and entertainment district tax credit under this chapter which is in excess of the person's tax liability for the tax year is entitled to a refund of the excess at a discounted value. The discounted value of the tax credit refund, as calculated by the department of economic development, in consultation with the department of revenue, shall be determined based on the discounted value of the tax credit five years after the tax year of the project completion at an interest rate equivalent to the prime rate plus two percent. The refunded tax credit shall not exceed seventy-five percent of the allowable tax credit. Any credit in excess of the tax liability shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following year.
 - Sec. 3. Section 404A.4, subsection 4, Code 2007, is amended to read as follows:
 - 4. The total amount of tax credits that may be approved for a fiscal year under this chapter

shall not exceed two ten million four hundred thousand dollars in the fiscal year beginning July 1, 2007, fifteen million dollars in the fiscal year beginning July 1, 2008, and twenty million dollars in the fiscal year beginning July 1, 2009, and each fiscal year thereafter. For the fiscal period beginning July 1, 2005, and ending June 30, 2015, an additional four million dollars of tax credits may be approved each fiscal year for purposes of projects located in cultural and entertainment districts certified pursuant to section 303.3B. Of the tax credits approved for a fiscal year under this chapter, ten percent of the dollar amount of tax credits shall be allocated for purposes of new projects with qualified costs of five hundred thousand dollars or less, and forty percent of the dollar amount of tax credits shall be allocated for purposes of new projects located in cultural and entertainment districts certified pursuant to section 303.3B or identified in Iowa great places agreements developed pursuant to section 303.3C. Any of the additional tax credits allocated for projects located in certified cultural and entertainment districts or identified in Iowa great places agreements and for projects with a cost of five hundred thousand dollars or less that are not approved reserved during a fiscal year shall be applied to reserved tax credits issued in accordance with section 404A.3 in order of original reservation. The department of cultural affairs shall establish by rule the procedures for the application, review, selection, and awarding of certifications of completion. The departments of economic development, cultural affairs, and revenue shall each adopt rules to jointly administer this subsection and shall provide by rule for the method to be used to determine for which fiscal year the tax credits are available. With the exception of tax credits issued pursuant to contracts entered into prior to July 1, 2005 2007, tax credits shall not be reserved for more than five three years.

- Sec. 4. Section 422.11D, subsection 1, Code 2007, is amended to read as follows:
- 1. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a historic preservation and cultural and entertainment district tax credit equal to the amount as computed under chapter 404A for rehabilitating eligible property. Any credit in excess of the tax liability shall be refunded or credited to the following year, as provided in section 404A.4, subsection 3.
- Sec. 5. Section 422.33, subsection 10, paragraph a, Code 2007, is amended to read as follows:
- a. The taxes imposed under this division shall be reduced by a historic preservation and cultural and entertainment district tax credit equal to the amount as computed under chapter 404A for rehabilitating eligible property. Any credit in excess of the tax liability shall be refunded or credited to the following year, as provided in section 404A.4, subsection 3.
- Sec. 6. Section 422.60, subsection 4, paragraph a, Code 2007, is amended to read as follows:
- a. The taxes imposed under this division shall be reduced by a historic preservation and cultural and entertainment district tax credit equal to the amount as computed under chapter 404A for rehabilitating eligible property. Any credit in excess of the tax liability shall be refunded or credited to the following year, as provided in section 404A.4, subsection 3.
 - Sec. 7. Section 432.12A, subsection 1, Code 2007, is amended to read as follows:
- 1. The tax imposed under this chapter shall be reduced by a historic preservation and cultural and entertainment district tax credit equal to the amount as computed under chapter 404A for rehabilitating eligible property. Any credit in excess of the tax liability shall be refunded or credited to the following year, as provided in section 404A.4, subsection 3.

Sec. 8. TAX CREDIT CERTIFICATES — RESERVATION DATES.

1. The department of cultural affairs shall reissue historic preservation and cultural and entertainment district tax credit certificates held by the original tax credit certificate recipient. Tax credit certificates with a redemption date in the year 2010 shall be reissued with a redemption date of 2009. Tax credit certificates with a redemption date in the year 2011 shall be reissued with a redemption date in the yea

sued with a redemption date of 2010. Tax credit certificates with a redemption date in the years 2012, 2013, 2014, 2015, 2016, or 2017 shall be issued with a redemption date of 2011. Tax credit certificates that have been sold since issuance shall not be reissued pursuant to this subsection.

- 2. In the order of original reservation dates, the department of cultural affairs shall modify the reservation date of reserved historic preservation and cultural and entertainment district tax credits based on the availability of additional moneys for tax credits under this bill.
- Sec. 9. APPLICABILITY. This Act applies to historic preservation and cultural and entertainment district tax credits applied for or reserved prior to July 1, 2007.

Approved May 21, 2007

CHAPTER 166

CIGARETTE FIRE SAFETY STANDARDS — ENFORCEMENT H.F. 718

AN ACT relating to cigarette fire safety standards, and providing penalties.

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

Section 1. NEW SECTION. 101B.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Cigarette Fire Safety Standards Act".

Sec. 2. <u>NEW SECTION</u>. 101B.2 DEFINITIONS.

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

- 1. "Agent" means a distributor as defined in section 453A.1 authorized by the department of revenue to purchase and affix stamps pursuant to section 453A.10.
 - 2. "Cigarette" means cigarette as defined in section 453A.1.
 - 3. "Department" means the department of public safety.
 - 4. "Manufacturer" means any of the following:
- a. An entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced, anywhere, which cigarettes the manufacturer intends to be sold in this state, including cigarettes intended to be sold in the United States through an importer.
- b. The first purchaser of cigarettes anywhere, that intends to resell in the United States, cigarettes manufactured or produced anywhere, that the original manufacturer did not intend to be sold in the United States.
 - c. An entity that becomes a successor of an entity described in paragraph "a" or "b".
- 5. "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the repeatability testing, and which program ensures that the testing repeatability remains within the required repeatability values specified in section 101B.4.
- 6. "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent of the time.
 - 7. "Retailer" means retailer as defined in section 453A.1.
- 8. "Sale" means any transfer of title or possession, exchange or barter, in any manner or by any means or any agreement. In addition to cash and credit sales, the giving of cigarettes as

a sample, prize, or gift or the exchanging of cigarettes for any consideration other than money is considered a sale.

- 9. "Sell" means to sell, or to offer or agree to sell.
- 10. "Wholesaler" means wholesaler as defined in section 453A.1.

Sec. 3. <u>NEW SECTION</u>. 101B.3 GENERAL REQUIREMENTS — ADMINISTRATION.

- 1. Beginning January 1, 2009, cigarettes shall not be sold or offered for sale to any person in this state unless:
- a. The cigarettes have been tested in accordance with the test method prescribed in section 101B.4.
 - b. The cigarettes meet the performance standard specified in section 101B.4.
- c. A written certification has been filed by the manufacturer with the department and in accordance with section 101B.5.
 - d. The cigarettes have been marked in accordance with section 101B.7.
- 2. This chapter shall not be construed to prohibit a wholesaler or retailer from selling the wholesaler's or retailer's inventory of cigarettes existing prior to January 1, 2009, provided that the wholesaler or retailer is able to establish both of the following:
- a. Tax stamps were affixed to the cigarettes on inventory pursuant to section 453A.10 before January 1, 2009.
- b. The inventory of cigarettes was purchased before January 1, 2009, in comparable quantity to the amount of inventory of cigarettes purchased during the same period of the prior year.
- 3. This chapter shall not be construed to prohibit any person from selling or offering for sale cigarettes that have not been certified by the manufacturer in accordance with section 101B.5 if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States.
- 4. The department of public safety shall administer this chapter and may adopt rules pursuant to chapter 17A to administer this chapter. This chapter shall be implemented in accordance with the implementation and substance of the New York fire safety standards for cigarettes.

Sec. 4. <u>NEW SECTION</u>. 101B.4 TEST METHOD — PERFORMANCE STANDARD — TEST REPORTS.

- 1. a. Testing of cigarettes shall be conducted in accordance with ASTM (American society for testing and materials) international standard E2187-04, standard test method for measuring the ignition strength of cigarettes.
- b. The department may adopt a subsequent ASTM standard test method for measuring the ignition strength of cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM international standard E2187-04 and the performance standard in this section.
 - 2. Testing shall be conducted on ten layers of filter paper.
- 3. The performance standard shall require that no more than twenty-five percent of the cigarettes tested in a test trial shall exhibit full-length burns.
 - 4. Forty replicate tests shall comprise a complete test trial for each cigarette tested.
- 5. The performance standard required by this section shall only be applied to a complete test trial.
- 6. a. Testing shall be conducted by a laboratory that has been accredited pursuant to international organization for standardization/international electrotechnical commission standard 17025 or other comparable accreditation standard required by the department.
- b. Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The testing repeatability shall be no greater than nineteen one-hundredths.

- 7. This section shall not require additional testing if cigarettes are tested consistent with this chapter for any other purpose.
- 8. Each cigarette listed in a certification submitted in accordance with section 101B.5 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard pursuant to this section, shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least fifteen millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least fifteen millimeters from the lighting end and either ten millimeters from the filter end of the tobacco column, or ten millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.
- 9. a. The manufacturer of a cigarette that the department determines cannot be tested in accordance with the test method prescribed in this section shall propose a test method and performance standard for the cigarette to the department. Upon approval of the proposed test method and a determination by the department that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in this section, the manufacturer may employ the test method and performance standard to certify the cigarette in accordance with section 101B.5.
- b. If the department determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this chapter and the department finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this subsection, the department shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the department demonstrates a reasonable basis why the alternative test should not be accepted under this chapter. All other applicable requirements of this chapter shall apply to the manufacturer.
- 10. A manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years and shall make copies of the reports available to the department and the office of the attorney general upon written request.
- 11. Testing performed or sponsored by the department to determine a cigarette's compliance with the performance standard required by this section shall be conducted in accordance with this section.

Sec. 5. NEW SECTION. 101B.5 CERTIFICATION.

- 1. Each manufacturer shall submit a written certification to the department attesting to all of the following:
- a. Each cigarette listed in the certification has been tested in accordance with section 101B.4.
- b. Each cigarette listed in the certification meets the performance standard pursuant to section 101B.4.
 - 2. Each cigarette listed in the certification shall be described with the following information:
 - a. The brand or trade name on the package.
 - b. The style of cigarette, such as light or ultra light.
 - c. The length of the cigarette in millimeters.
 - d. The circumference of the cigarette in millimeters.
 - e. The flavor of the cigarette, such as menthol or chocolate, if applicable.
 - f. Whether the cigarette is filtered or nonfiltered.
 - g. The type of cigarette package, such as soft pack or box.
 - h. The marking approved in accordance with section 101B.7.
- i. The name, address, and telephone number of the laboratory, if different than the manufacturer, that conducted the test.
 - j. The date the testing was performed.
 - 3. Each cigarette certified under this section shall be recertified every three years.

- 4. The manufacturer shall, upon request, make a copy of the written certification available to the office of the attorney general and the department of revenue for purposes of ensuring compliance with this chapter.
- 5. For each cigarette listed in a certification, a manufacturer shall pay a fee of one hundred dollars to the department.
- 6. If a manufacturer has certified a cigarette pursuant to this section, and makes any change to the cigarette thereafter that is likely to alter the cigarette's compliance with the reduced cigarette ignition propensity standards mandated by this chapter, prior to the cigarette being sold or offered for sale in this state, the manufacturer shall retest the cigarette in accordance with the testing standards specified in section 101B.4 and shall maintain records of the retesting as required pursuant to section 101B.4. Any altered cigarette that does not meet the performance standard specified in section 101B.4 shall not be sold in this state.

Sec. 6. NEW SECTION. 101B.6 NOTIFICATION OF CERTIFICATION.

- 1. A manufacturer certifying cigarettes in accordance with section 101B.5 shall provide a copy of the certification to all wholesalers and agents to whom the manufacturer sells cigarettes, and shall also provide sufficient copies of an illustration of the cigarette packaging marking used by the manufacturer in accordance with section 101B.7 for each retailer to whom the wholesalers or agents sell cigarettes.
- 2. A wholesaler or agent shall provide a copy of the cigarette packaging markings received from a manufacturer to all retailers to whom the wholesaler or agent sells cigarettes. A wholesaler, agent, or retailer shall permit the state fire marshal, department of revenue, or the office of the attorney general to inspect markings of cigarette packaging marked in accordance with section 101B.7.

Sec. 7. NEW SECTION. 101B.7 MARKING OF CIGARETTE PACKAGING.

- 1. Cigarettes that have been certified by a manufacturer in accordance with section 101B.5 shall be marked to indicate compliance with the requirements of this chapter. The marking shall be in eight point type or larger and consist of one of the following:
- a. Modification of the product's universal product code to include a visible mark printed at or around the area of the universal product code. The mark may consist of an alphanumeric or symbolic character or characters permanently stamped, engraved, embossed, or printed in conjunction with the universal product code.
- b. Any visible alphanumeric or symbolic character or combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap.
- c. Printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards of this chapter.
- 2. A manufacturer shall use only one marking, and shall apply the marking uniformly for all packages including but not limited to packs, cartons, and cases and to brands marketed by that manufacturer.
 - 3. The manufacturer shall notify the department of the marking selected.
- 4. Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to the department for approval. Upon receipt of the request, the department shall approve or disapprove the marking offered. A marking in use and approved for the sale of cigarettes in the state of New York shall be deemed approved. A proposed marking shall be deemed approved if the department fails to act within ten business days of receiving a request for approval.
- 5. A manufacturer shall not modify its approved marking until the modification has been approved by the department in accordance with this section.

Sec. 8. NEW SECTION. 101B.8 PENALTIES — ENFORCEMENT.

1. A manufacturer, wholesaler, agent, or other person who knowingly sells cigarettes at wholesale in violation of section 101B.3 is subject to the following:

- a. For a first offense, a civil penalty not to exceed five thousand dollars for each sale of the cigarettes.
- b. For each subsequent offense, a civil penalty not to exceed ten thousand dollars for each sale of the cigarettes, provided that the total penalty assessed against any such person shall not exceed fifty thousand dollars in any thirty-day period.
- $2. \,$ A retailer who knowingly sells cigarettes in violation of section 101B.3, is subject to the following:
- a. For a first offense, a civil penalty not to exceed five hundred dollars for each sale or offer for sale of the cigarettes, and for each subsequent offense a civil penalty not to exceed two thousand dollars for each sale or offer for sale of the cigarettes, provided that the total number of cigarettes sold or offered for sale in such sale does not exceed one thousand cigarettes.
- b. For a first offense, a civil penalty not to exceed one thousand dollars for each sale or offer for sale of the cigarettes, and for each subsequent offense a civil penalty not to exceed five thousand dollars for each sale or offer for sale of the cigarettes, provided that the total number of cigarettes sold or offered for sale in such sale exceeds one thousand cigarettes, and provided that the penalty against the retailer does not exceed twenty-five thousand dollars in any thirty-day period.
- 3. A manufacturer who fails to maintain test reports or who fails to make copies of the reports available to the department or the office of the attorney general within sixty days of receiving a written request pursuant to section 101B.4, is subject to a civil penalty not to exceed ten thousand dollars for each day beyond the sixtieth day that the manufacturer fails to provide the test reports.
- 4. In addition to any penalty prescribed by law, any corporation, partnership, sole proprietorship, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to section 101B.5 is subject to the following:
 - a. For a first offense, a civil penalty of at least twenty-five thousand dollars.
- b. For a second or subsequent offense, a civil penalty not to exceed one hundred thousand dollars for each false certification.
 - 5. Any person violating any other provision of this chapter is subject to the following:
 - a. For a first offense, a civil penalty not to exceed one thousand dollars.
- b. For a second or subsequent offense, a civil penalty not to exceed five thousand dollars for each violation.
- 6. Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required pursuant to section 101B.4 shall be subject to forfeiture. However, prior to the destruction of any cigarettes forfeited, the holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarettes.
- 7. In addition to any other remedy provided by law, the department of public safety or the office of the attorney general may file an action in district court for a violation of this chapter, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of this chapter, including enforcement costs relating to the specific violation and attorney fees. Each violation of the chapter or of rules adopted under this chapter constitutes a separate civil violation for which the department of public safety or the office of the attorney general may seek relief.
- 8. The department of revenue in the regular course of conducting inspections of a wholesaler, agent, or retailer may inspect cigarettes in the possession or control of the wholesaler, agent, or retailer or on the premises of any wholesaler, agent, or retailer to determine if the cigarettes are marked as required pursuant to section 101B.7. If the cigarettes are not marked as required, the department of revenue shall notify the department of public safety.
- 9. To enforce the provisions of this chapter, the department of public safety and the office of the attorney general may examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale, including the stock of cigarettes on the premises.
 - Sec. 9. <u>NEW SECTION</u>. 101B.9 CIGARETTE FIRE SAFETY STANDARD FUND. A cigarette fire safety standard fund is created as a special fund in the state treasury under

the control of the department of public safety. The fund shall consist of all moneys recovered from the assessment of civil penalties or certification fees under this chapter. The moneys in the fund shall, in addition to any moneys made available for such purpose, be available, subject to appropriation, to the department of public safety for the purpose of fire safety and prevention programs, including for entry level fire fighter training, equipment, and operations.

Sec. 10. NEW SECTION. 101B.10 APPLICABILITY — PREEMPTION.

- 1. This chapter shall cease to be applicable if federal fire safety standards for cigarettes that preempt this chapter are enacted and take effect subsequent to January 1, 2009, and the state fire marshal shall notify the secretary of state and the Code editor if such federal fire safety standards for cigarettes are enacted.
- 2. Notwithstanding any law to the contrary, political subdivisions shall not adopt or enforce any ordinance, rule, or regulation that conflicts with any provision of this chapter, or with any policy of the state expressed by this chapter, whether the policy is expressed by inclusion of or exclusion from this chapter.

Approved May 21, 2007

CHAPTER 167

STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM
— FIRE FIGHTER APPLICANTS — PHYSICAL ABILITY TESTS

H.F. 864

AN ACT providing for candidate physical ability tests for fire fighter applicants under the statewide fire and police retirement system and providing an effective date.

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

Section 1. Section 400.8, subsection 1, Code 2007, is amended to read as follows:

1. The commission, when necessary under the rules, including minimum and maximum age limits, which shall be prescribed and published in advance by the commission and posted in the city hall, shall hold examinations for the purpose of determining the qualifications of applicants for positions under civil service, other than promotions, which examinations shall be practical in character and shall relate to matters which will fairly test the mental and physical ability of the applicant to discharge the duties of the position to which the applicant seeks appointment. The physical examination of applicants for appointment to the positions of police officer, police matron, or fire fighter shall be held in accordance with medical protocols established by the board of trustees of the fire and police retirement system established by section 411.5 and shall be conducted in accordance with the directives of the board of trustees. In addition, applicants for appointment to the position of fire fighter covered under the fire and police retirement system established by chapter 411 shall, prior to appointment, pay for and successfully complete the candidate physical ability test established by international organizations representing fire chiefs and fire fighters and conducted by an organization licensed by such international organizations to conduct the test in the state. The department of public safety shall have the authority to adopt rules in accordance with chapter 17A concerning the candidate physical ability test as provided by this subsection. However, the prohibitions of section 216.6, subsection 1, paragraph "d", regarding tests for the presence of the antibody to the human immunodeficiency virus shall not apply to such examinations. The board of trustees may

change the medical protocols at any time the board so determines. The physical examination of an applicant for the position of police officer, police matron, or fire fighter shall be conducted after a conditional offer of employment has been made to the applicant. An applicant shall not be discriminated against on the basis of height, weight, sex, or race in determining physical or mental ability of the applicant. Reasonable rules relating to strength, agility, and general health of applicants shall be prescribed. The costs of the physical examination required under this subsection shall be paid from the trust and agency fund of the city.

Sec. 2. EFFECTIVE DATE. This Act takes effect July 1, 2008.

Approved May 21, 2007

CHAPTER 168

ENERGY INDEPENDENCE, EFFICIENCY, AND RELATED RESEARCH AND DEVELOPMENT

H.F. 918

AN ACT establishing the office of energy independence and the Iowa power fund and related provisions, and providing an effective date.

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

SUBCHAPTER I GENERAL PROVISIONS

Section 1. <u>NEW SECTION</u>. 469.1 DEFINITIONS.

For the purposes of this chapter:

- 1. "Board" means the Iowa power fund board created in section 469.6.
- 2. "Committee" means the due diligence committee created in section 469.7.
- 3. "Director" means the director of the office of energy independence.
- 4. "Foreign" means a locality outside of or nation other than the United States, Canada, or Mexico.
 - 5. "Fund" means the Iowa power fund created in section 469.9.
 - 6. "Office" means the office of energy independence.

Sec. 2. NEW SECTION. 469.2 OFFICE OF ENERGY INDEPENDENCE.

The office of energy independence is established to coordinate state activities concerning energy independence.

Sec. 3. <u>NEW SECTION</u>. 469.3 DIRECTOR OF OFFICE OF ENERGY INDEPENDENCE.

- 1. A director of the office of energy independence shall be appointed by the governor, subject to confirmation by the senate, and shall serve at the pleasure of the governor. The governor shall fill a vacancy in the office in the same manner as the original appointment was made. The director shall be selected primarily for administrative ability and knowledge concerning renewable energy, renewable fuels, and energy efficiency. The salary of the director shall be fixed by the governor.
 - 2. The director shall do all of the following:
 - a. Direct the office of energy independence.

- b. Coordinate the administration of the Iowa power fund.
- c. Lead outreach and public education efforts concerning renewable energy, renewable fuels, and energy efficiency.
 - d. Pursue new research and investment funds from federal and private sources.
- e. Coordinate and monitor all existing state and federal renewable energy, renewable fuels, and energy efficiency grants, programs, and policy.
- f. Advise the governor and general assembly concerning renewable energy, renewable fuels, and energy efficiency policy and legislation.
- g. Establish performance measures for determining effectiveness of renewable energy, renewable fuels, and energy efficiency efforts.
- h. Contract for and utilize assistance from the department of economic development regarding administration of grants, loans, and other financial incentives related to section 469.9, subsection 4, paragraph "a", subparagraph (1), the department of natural resources and the utilities board regarding assistance in the administration of grants, loans, and other financial incentives related to section 469.9, subsection 4, paragraph "a", subparagraph (2), and other state agencies as appropriate.
 - i. Develop an Iowa energy independence plan pursuant to section 469.4.
- j. Submit an annual report to the governor and general assembly by November 1 of each year concerning the activities and programs of the office, Iowa power fund, and other departments related to renewable energy, renewable fuels, and energy efficiency. The report shall include an assessment of needs with respect to renewable energy, renewable fuels, and energy efficiency efforts and policy and fiscal recommendations for renewable energy, renewable fuels, and energy efficiency. In addition, the director shall review issues relating to the transportation of biofuels and explore leading and participating in multistate efforts relating to renewable energy and energy efficiency.
- k. Adopt rules pursuant to chapter 17A concerning the office, the Iowa power fund, and the programs and functions of the office and the fund.

Sec. 4. <u>NEW SECTION</u>. 469.4 IOWA ENERGY INDEPENDENCE PLAN.

- 1. The director shall develop an Iowa energy independence plan with the assistance of the department of natural resources as provided in section 473.7, and in association with public and private partners selected by the director including representatives of the energy industry, environmental interests, agricultural interests, business interests, other interested parties, and members of the general public. The plan shall be subject to approval by the board.
- 2. The plan shall provide cost-effective options and strategies for reducing the state's consumption of energy, dependence on foreign sources of energy, use of fossil fuels, and greenhouse gas emissions. The options and strategies developed in the plan shall provide for achieving energy independence from foreign sources of energy by the year 2025.
- 3. The plan shall be initially submitted to the governor and members of the general assembly by December 14, 2007, and by December 14 annually thereafter. The plan shall be made electronically available to the public. The director shall conduct public meetings around the state to gather input to be used in developing the plan.
- 4. The plan shall identify cost-effective options and strategies that will allow the state to accomplish the following:
- a. Maximize use of emerging technologies and practices to enhance energy efficiency and conservation and develop alternative and renewable energy sources.
 - b. Retain and create high-quality jobs that provide good wages and benefits.
- c. Enhance the development of the state's bioeconomy including but not limited to the design, construction, operation, and maintenance of bioengineering, biorefining, and other bioproduct manufacturing facilities in this state.
 - d. Encourage federal, local, and private industry investment in the state's bioeconomy.
- e. Promote sustainable land use, soil conservation, clean air, sustainable water supply, and clean water practices.
 - f. Reduce greenhouse gas emissions, both on an aggregate and per capita basis.

- g. Advance the interests of crop, biomass, and livestock producers and biofuel and other bioproduct manufacturers.
- h. Identify the road, transit, trail, rail, pipeline, transmission, distributed generation, and other infrastructure investments needed to enhance the state's energy independence efforts.
- i. Identify strategies to increase affordability of energy for individuals, families, organizations, and businesses, including low-income persons.
- j. Review and assess the effectiveness of existing state programs, including but not limited to financial assistance programs and tax policies, in enhancing the state's energy independence efforts.
- k. Develop short-term and long-term recommendations for the role of individuals, families, community organizations, cities, counties, public and private education institutions, and state agencies in enhancing the state's energy independence efforts.
- l. Develop short-term and long-term recommendations regarding state energy regulatory policy.

Sec. 5. NEW SECTION. 469.5 INTELLECTUAL PROPERTY.

The director shall promote utilization across the state of the results of research, development, and commercialization activities funded in whole or in part by the Iowa power fund. The director is authorized to negotiate provisions with applicants that address issues relating to income generated from patents, trademarks, licenses, or royalties expected to be produced as a result of moneys proposed to be expended from the fund. The director may seek assistance from appropriate state agencies or outside expertise. An applicant shall not be prevented from protecting any previously developed intellectual property.

Sec. 6. <u>NEW SECTION</u>. 469.6 IOWA POWER FUND BOARD.

- 1. An eighteen-member Iowa power fund board is created with the following membership:
- a. The chairperson of the utilities board or the chairperson's designee.
- b. The director of the department of economic development or the director's designee.
- c. The director of the department of natural resources or the director's designee.
- d. The secretary of agriculture or the secretary's designee.
- e. Seven members appointed by the governor subject to confirmation by the senate. All appointees shall represent nonpublic organizations or businesses, or research institutions, and must demonstrate experience or expertise in one or more of the fields of renewable energy, renewable fuels, agribusiness, energy efficiency, greenhouse gas reductions, utility operations, research and development of new technologies, commercialization of new technologies, economic development, and finance.
 - f. Seven members serving in an ex officio, nonvoting capacity, appointed as follows:
 - (1) One member of the senate appointed by the majority leader of the senate.
 - (2) One member of the senate appointed by the minority leader of the senate.
- (3) One member of the house of representatives appointed by the speaker of the house of representatives.
- (4) One member of the house of representatives appointed by the minority leader of the house of representatives.
- (5) One member representing the state board of regents appointed by the president of the state board of regents.
- (6) One member representing the community colleges appointed by the executive director of the Iowa association of community college presidents.
- (7) One member representing independent colleges and universities appointed by the president of the Iowa association of independent colleges and universities.
 - A legislative member is eligible for per diem and expenses as provided in section 2.10.
- 2. The members appointed by the governor shall be appointed for three-year staggered terms beginning and ending as provided in section 69.19. A vacancy on the board shall be filled for the unexpired term in the same manner as the original appointment was made.
 - 3. The members of the board shall be reimbursed for actual and necessary travel and related

expenses incurred in the discharge of official duties. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.

- 4. A majority of the voting members of the board constitutes a quorum, and a majority of the total voting membership of the board is necessary to act in any matter within the jurisdiction of the board.
 - 5. The duties of the board include all of the following:
- a. Consider and approve grants, loans, or investments and other financial incentives made from the fund.
 - b. Advise the director concerning strategic direction for the fund.
- c. Provide the governor with advice concerning economic development, policy, technical issues, and strategic direction concerning renewable energy, renewable fuels, and energy efficiency.
- d. Direct moneys from the fund to be used to purchase private or public technical assistance needed to conduct due diligence activities and to develop an Iowa energy independence plan.

Sec. 7. <u>NEW SECTION</u>. 469.7 DUE DILIGENCE COMMITTEE.

- 1. A seven-member due diligence committee is created to review applications that will come before the board for financial assistance from moneys in the fund. The committee, after a thorough review, shall determine whether a proposed project using moneys from the fund is practical, economically feasible, and furthers the goals of the fund, and shall provide recommendations to the board regarding any moneys proposed to be expended from the fund. The recommendations may be conditional or recommend that a proposal be rejected. Membership of the committee shall consist of the following:
- a. One member designated by the director of the office of energy independence with expertise in the financing of new businesses and leveraging federal and private sources of funding.
 - b. One member designated by the president of the state board of regents.
 - c. One member designated by the director of the department of economic development.
 - d. One member designated by the director of the Iowa energy center.
- e. One member from a single bioscience development organization determined by the director of the department of economic development to possess expertise in the promotion and commercialization of biotechnology.
 - f. Two members of the Iowa power fund board designated by the chairperson of the board.
- 2. A majority of the members of the committee shall constitute a quorum, and a quorum shall be necessary to act on any matter within the jurisdiction of the committee.
- 3. The director of the office of energy independence shall provide office space, staff assistance, and necessary supplies and equipment to the committee. The director shall budget moneys to pay the compensation expenses of the committee. In performing its functions, the committee is performing a public function on behalf of the state and is a public instrumentality of the state.

Sec. 8. NEW SECTION. 469.8 CONFLICTS OF INTEREST.

If a member of the board or due diligence committee has an interest, either direct or indirect, in a project for which financial assistance may be provided by the board, the interest shall be fully disclosed to the board in writing. The member having the interest shall not participate in the decision-making process with regard to the provision of such financial assistance to the project.

Sec. 9. <u>NEW SECTION</u>. 469.9 IOWA POWER FUND.

- 1. An Iowa power fund is created in the state treasury under the control of the office. 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. The fund shall be used to further the goals of increasing the research, development, pro-

duction, and use of biofuels and other sources of renewable energy, improve¹ energy efficiency, and reduce² greenhouse gas emissions, and shall encourage, support, and provide for research, development, commercialization, and the implementation of energy technologies and practices. The technologies and practices should reduce this state's dependence on foreign sources of energy and fossil fuels. The research, development, commercialization, implementation, and distribution of such technologies and practices are intended to sustain the environment and develop business in this state as Iowans market these technologies and practices to the world.

- 3. The fund shall consist of appropriations made to the fund and other moneys available to and obtained or accepted by the office from federal or private sources to the credit of the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.
- 4. a. Moneys available in the fund for a fiscal year are appropriated to the office to be used in providing financial assistance to entities conducting business, research, or programs in Iowa:
- (1) To accelerate research and development, knowledge transfer, technology innovation, and improve the economic competitiveness of efforts furthering the goals stated in subsection 2.
- (2) To increase the demand for and educate the public about technologies and approaches furthering the goals stated in subsection 2.
- b. Eligibility criteria for grants awarded or loans made pursuant to paragraph "a" after due diligence activities shall be established by the director by rule, and shall include documentation relating to the actual or potential development of the following:
- (1) Commercialization of technology and product development for sale in the national and international market.
- (2) Utilization of crops and products grown or produced in this state that maximize the value of crops used as feedstock in biomanufacturing products and as coproducts.
 - (3) Reduction of greenhouse gas emissions and carbon sequestration.
 - (4) Private or federal matching funds.
- c. The board may reclaim any moneys granted or loaned if the commitments set forth in the documentation required pursuant to paragraph "b" are not met.
- d. All grant and loan recipients must provide to the board a report on the use and effectiveness of the moneys granted or loaned on a periodic basis as determined by the board.
- 5. Notwithstanding section 8.33, moneys credited to the Iowa power fund shall not revert to the fund from which appropriated.

SUBCHAPTER II FINANCIAL INCENTIVES FOR BIOMASS, BIOREFINERY, RENEWABLE ENERGY, AND ENERGY EFFICIENCY PROJECTS

Sec. 10. NEW SECTION. 469.31 DEFINITIONS.

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

- 1. "Agricultural animal" means the same as defined in section 717A.1.
- 2. "Alternative and renewable energy" means energy sources including but not limited to solar, wind turbine, waste management, resource recovery, recovered energy generation, refuse-derived fuel, hydroelectric, agricultural crops or residues, hydrogen produced using renewable fuel sources, and woodburning, or relating to renewable fuel development and distribution.
- 3. "Biobased material" means a material in which carbon is derived in whole or in part from a renewable resource.
- 4. "Biobased product" means a product generated by blending or assembling of one or more biobased materials, either exclusively or in combination with nonbiobased materials, in which the biobased material is present as a quantifiable portion of the total mass of the product.

¹ The word "improving" probably intended

 $^{^{2}\,}$ The word "reducing" probably intended

- 5. "Biomass" means organic material that is available on a renewable or recurring basis, including but not limited to crops; plants, including aquatic plants and grasses; residues; trees grown for energy production; wood waste and wood residues; fibers; animal wastes and other waste materials; animal fats; and other fats, oils, and greases including recycled fats, oils, and greases.
- 6. "Biorefinery" means a cluster of biobased industries producing power, fuel, materials, chemicals, and products.
- 7. "Cellulosic biomass renewable fuel" means renewable fuel derived from an lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including dedicated energy crops and trees, wood and wood residues, plants, grasses, agricultural residues, fiber, animal wastes and other waste materials, refuse-derived fuel, and municipal solid waste.
 - 8. "Crop" means the same as defined in section 717A.1.
- 9. "Recovered energy generation" means a recycled energy system, other than a system whose primary purpose is the generation of electricity, which produces electricity from currently unused waste heat resulting from combustion or other processes and which does not use an additional combustion process.
 - 10. "Renewable fuel" means a fuel that is all of the following:
 - a. A motor vehicle fuel that is any of the following:
- (1) Produced from grain; starch; oilseed; vegetable, animal, or fish materials, including but not limited to fats, greases, and oil; sugar components, grasses, or potatoes; or other biomass.
- (2) Natural gas produced from a biogas source including but not limited to a landfill, sewage waste treatment plant, animal feeding operation, or other place where decaying organic material is found.
- b. Used to replace or reduce the quantity of fossil fuel present in a motor fuel mixture used to operate a motor vehicle.

Sec. 11. <u>NEW SECTION</u>. 469.32 FINANCIAL INCENTIVES RELATING TO PRODUCTS FOR BIOREFINERIES — AUTHORIZATION.

The Iowa power fund board, with the assistance of the office of energy independence and other appropriate state agencies, may provide financial incentives and adopt necessary rules pursuant to chapter 17A in relation to the following:

- 1. Research, development, and commercialization of products derived from or developed for biorefineries, including but not limited to:
- a. Renewable fuel such as cellulosic biomass renewable fuel, and associated agricultural or industrial coproducts which promise to provide environmentally benign product life cycles, promote rural economic development, and diversify energy resources.
 - b. Products to be used as feedstuffs for agricultural animals.
 - c. Other products to add value to the biorefinery supply chain.
- 2. Research, development, and commercialization of specialized crop varieties for use in biorefineries, equipment in production and harvesting, soil conservation, and crop management practices designed for sustainability.
- 3. Research, development, and commercialization of advanced manufacturing and information technology required for supporting biorefineries.
- 4. Market development of biorefinery products, including but not limited to public education, quality testing, transportation, and infrastructure financial support.

Sec. 12. <u>NEW SECTION</u>. 469.33 FEDERAL BIOMASS RESEARCH AND DEVELOP-MENT PROGRAMS — AUTHORIZATION.

The Iowa power fund board, the office of energy independence, and other appropriate state agencies, shall cooperate with federal agencies and participate in federal programs including but not limited to programs under the federal Biomass Research and Development Act of 2000, 7 U.S.C. § 7624, et seq., in order to provide for the production of cost-competitive industrial products derived from biomass, including but not limited to renewable fuels, such as cellulosic biomass renewable fuels or biobased materials and biobased products, and associated agricul-

tural or industrial coproducts which promise to provide environmentally benign product life cycles, promote rural economic development, and diversify energy resources.

Sec. 13. <u>NEW SECTION</u>. 469.34 FINANCIAL INCENTIVES FOR RENEWABLE ENERGY PRODUCTS — AUTHORIZATION.

The Iowa power fund board, with the assistance of the office of energy independence and other appropriate state agencies, may provide financial incentives and adopt necessary rules pursuant to chapter 17A in relation to the following:

- 1. Research, development, and commercialization of renewable energy.
- 2. Market development of renewable energy, including but not limited to public education, quality testing, transportation, transmission, and infrastructure.

Sec. 14. <u>NEW SECTION</u>. 469.35 FINANCIAL INCENTIVES FOR ENERGY EFFICIENCY PROJECTS — AUTHORIZATION.

The Iowa power fund board, with the assistance of the office of energy independence and other appropriate state agencies, may provide financial incentives to individuals or communities and adopt necessary rules pursuant to chapter 17A in relation to the following:

- 1. Research, development, and commercialization of technologies and practices that improve energy efficiency.
 - 2. Implementation of technologies and practices that improve energy efficiency.
 - 3. Public education efforts encouraging improved energy efficiency.

Sec. 15. Section 473.7, subsection 1, Code 2007, is amended to read as follows:

- 1. Deliver to the general assembly by January 15, 1990, a plan for the development, management, and efficient utilization of all energy resources in the state. The plan shall evaluate existing energy utilization with regard to energy efficiency and shall evaluate the future energy needs of the state. The plan shall include but is not limited to the following elements: Assist the director of the office of energy independence with preparation of the Iowa energy independence plan as provided in section 469.4. In addition to assistance requested by the director, the department shall supply and annually update the following information:
 - a. The historical use and distribution of energy in Iowa.
- b. The growth rate of energy consumption in Iowa, including rates of growth for each energy source.
- c. A projection of Iowa's energy needs at a minimum of ten years into the future through the year 2025.
- d. The impact of meeting Iowa's energy needs on the economy of the state, including the impact of energy efficiency and renewable energy on employment and economic development.
- e. The impact of meeting Iowa's energy needs on the environment of the state, including the impact of energy production and use on greenhouse gas emissions.
- f. An evaluation of alternative <u>renewable energy</u> sources and uses of energy, including the <u>current and future technological potential for such sources</u>.
- g. Legislative recommendations that may be necessary as a basis for a state policy for the development and efficient utilization of energy resources.
- h. An evaluation of the ability of existing laws and regulations surrounding the utilization of energy resources.

The department shall develop the plan with the assistance of, and in consultation with, representatives of the energy industry, economic interests, the public, and other interested parties. The department shall submit a report to the general assembly concerning the status and implementation of the plan on a biennial basis. The biennial update shall contain an evaluation of all state energy programs including expected versus actual benefits and forecasts of future energy demand in Iowa.

- Sec. 16. Section 476.6, subsection 14, Code 2007, is amended to read as follows:
- 14. ENERGY EFFICIENCY PLANS. Electric and gas public utilities shall offer energy effi-

ciency programs to their customers through energy efficiency plans. An energy efficiency plan as a whole shall be cost-effective. In determining the cost-effectiveness of an energy efficiency plan, the board shall apply the societal test, utility cost test, rate-payer impact test, and participant test. Energy efficiency programs for qualified low-income persons and for tree planting programs, educational programs, and assessments of consumers' needs for information to make effective choices regarding energy use and energy efficiency need not be cost-effective and shall not be considered in determining cost-effectiveness of plans as a whole. The energy efficiency programs in the plans may be provided by the utility or by a contractor or agent of the utility. Programs offered pursuant to this subsection by gas and electric utilities that are required to be rate-regulated shall require board approval.

Sec. 17. ENERGY EFFICIENCY STUDIES — IOWA UTILITIES BOARD.

- 1. ENERGY EFFICIENCY PLANS. The Iowa utilities board, in conjunction with other interested parties, shall conduct a study of the energy efficiency plans and programs offered by all gas and electric utilities pursuant to section 476.6 to determine the status and effectiveness of energy efficiency programs in the state, using the most accurate and up-to-date information available to the board during the time period prescribed for the study. The board shall report the results of the study, with recommendations for best practices to increase energy efficiency and reduce energy consumption, to the members of the general assembly by January 1, 2008.
- 2. FUTURE CONSUMER ENERGY REDUCTION PLAN. The board shall coordinate with the Iowa energy center to conduct a consumer survey and study relating to consumer knowledge of energy use and energy efficiency, and methods for increasing such knowledge, with the objective of reducing consumer energy utilization. The board shall report the results of the study to the members of the general assembly by January 1, 2008.
- Sec. 18. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 23, 2007

CHAPTER 169

UNIFORM HEALTH INSURANCE APPLICATION FORM FOR SMALL EMPLOYERS

S.F. 346

AN ACT providing for the development of a uniform health insurance application form for use by small employers.

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

Section 1. NEW SECTION. 513B.19 UNIFORM APPLICATION FORM.

The commissioner shall develop, by rule, a uniform application form for use by small employers applying for new health insurance coverage under group health plans offered by small employer carriers. Small employer carriers shall be required to use the uniform application form not less than six months after the rules developing the form become effective under chapter 17A.

CHAPTER 170

COMMERCE — BANKING, DEBT MANAGEMENT, INDUSTRIAL LOANS, AND PROFESSIONAL LICENSING

S.F. 360

AN ACT relating to the regulatory duties of the division of banking of the department of commerce regarding banking, debt management, mortgage banking, industrial loan companies, and professional licensing.

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

Section 1. <u>NEW SECTION</u>. 524.215A PRESERVATION OF DIVISION OF BANKING RECORDS.

- 1. The division of banking may preserve records, papers, or documents kept by the division or in the possession or custody of the division by any of the following means:
 - a. Photographing or microphotographing, or otherwise reproducing upon film.
- b. Preserving in any electronic medium or format capable of being read or scanned by computer and capable of being reproduced by printing or by any other form of reproduction of electronically stored data.
- 2. Photographs, microphotographs, or photographic films or copies thereof, or reproductions of electronically stored data, created pursuant to subsection 1 shall be deemed to be an original record for all purposes, including introduction in evidence in all state and federal courts or administrative hearings, and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.
- 3. Photographs, microphotographs, or photographic films or copies thereof, or reproductions of electronically stored data, created pursuant to subsection 1 shall be preserved in such manner as the division prescribes, and the original photographs, microphotographs, photographic films, copies, and reproductions may be destroyed or otherwise disposed of as the division directs.
 - Sec. 2. Section 524.217, subsection 2, Code 2007, 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, the United States department of the treasury, the 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 524.217, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 6. The superintendent may enter into contractual agreements with other state regulators of financial institutions to share examiners or to assist in each state's respective examinations. The division of banking shall be reimbursed for any costs incurred when providing services to other states pursuant to this subsection. Any division of banking personnel assisting another state with its examination shall be covered by the provisions of the other state's tort claims act, to the extent permitted by the laws of the other state. If the law of the other state does not extend coverage to the division of banking personnel working on the other state's examination, the provisions of chapter 669 shall apply.
- Sec. 4. Section 533A.10, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 3. Except as otherwise provided by this chapter, all papers, documents, examination reports and other writings 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 as long as the information does not specifically identify the complainant. The superintendent may prepare and circulate reports reflecting financial information 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 and may provide this information to the attorney general for purposes of enforcing this chapter or the consumer fraud Act, section 714.16.

Sec. 5. Section 535B.14, Code 2007, is amended to read as follows: 535B.14 RULEMAKING AUTHORITY.

The administrator may adopt, amend, or repeal rules to aid in the administration and enforcement of this chapter, including rules providing the grounds for denial of an individual registration based on information received as a result of a background check, character and fitness grounds, and any other grounds for which an individual registrant or licensee may be disciplined.

Sec. 6. Section 536A.22, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Licensed industrial loan companies may shall not sell senior debt to the general public in the form of thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes, or similar evidences of indebtedness if such debt instruments are insured by a federal deposit insurance agency. Licensees selling debt instruments on January 1, 1996, may continue to do so without obtaining federal deposit insurance until there is a change of control of the licensee which occurs on or after January 1, 1996. If there is a change of control of a licensee on or after January 1, 1996, and the licensee has sold senior debt instruments that are not insured by a federal deposit insurance agency remain outstanding at the time of the change of control, such outstanding senior debt instruments that do not have a stated maturity date shall be redeemed within six months of the date of the change of control. Such outstanding senior debt instruments with stated maturity dates shall be redeemed on their stated maturity dates.

Sec. 7. Section 546.10, Code 2007, is amended by adding the following new subsections: <u>NEW SUBSECTION</u>. 6. The licensing boards included in the bureau pursuant to subsection 1 may refuse to issue or renew a license to practice a profession to any person otherwise qualified upon any of the grounds for which a license may be revoked or suspended or a license may otherwise be disciplined, or upon any other grounds set out in the chapter governing the respective board.

<u>NEW SUBSECTION</u>. 7. The licensing boards included in the bureau pursuant to subsection 1 may suspend, revoke, or refuse to issue or renew a license, or may discipline a licensee based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another state, territory, or country. For purposes of this subsection, "disciplinary action" includes the voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.

<u>NEW SUBSECTION</u>. 8. Notwithstanding any other provision of law to the contrary, the licensing boards included within the bureau pursuant to subsection 1 may by rule establish the conditions under which an individual licensed in a different jurisdiction may be issued a reciprocal or comity license, if, in the board's discretion, the applicant's qualifications for licensure are substantially equivalent to those required of applicants for initial licensure in this state.

<u>NEW SUBSECTION</u>. 9. Notwithstanding section 272C.6, the licensing boards included within the bureau pursuant to subsection 1 may by rule establish the conditions under which

the board may supply to a licensee who is the subject of a disciplinary complaint or investigation, prior to the initiation of a disciplinary proceeding, all or such parts of a disciplinary complaint, disciplinary or investigatory file, report, or other information, as the board in its sole discretion believes would aid the investigation or resolution of the matter.

Sec. 8. Sections 536A.32, 536A.33, and 536A.34, Code 2007, are repealed.

Approved May 24, 2007

CHAPTER 171

UNDERGROUND STORAGE TANK REGULATION S.F. 499

AN ACT relating to regulation of underground storage tanks by the department of natural resources, making appropriations, and providing contingent effective date provisions.

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

- Section 1. Section 455B.474, subsection 1, paragraph b, Code 2007, is amended to read as follows:
- b. Maintaining records of any monitoring or leak detection system, inventory control system, or tank testing or comparable system, and periodic underground storage tank facility compliance inspections conducted by inspectors certified by the department.
- Sec. 2. Section 455B.474, subsection 1, paragraph h, subparagraph (3), Code 2007, is amended to read as follows:
- (3) A certificate may shall be recorded with the county recorder. The owner or operator of a site who has been issued a certificate under this paragraph "h" or a subsequent purchaser of the site shall not be required to perform further corrective action solely because action standards are changed at a later date. A certificate shall not prevent the department from ordering corrective action of a new release.
- Sec. 3. Section 455B.474, subsection 1, Code 2007, is amended by adding the following new paragraph:
- <u>NEW PARAGRAPH</u>. i. Establishing a certified compliance inspector program administered by the department for underground storage tank facility compliance inspections.
- (1) The certified compliance inspector program shall provide for, but not be limited to, all of the following:
- (a) Mandatory periodic underground storage tank facility compliance inspections by owners and operators using inspectors certified by the department.
- (b) Compliance inspector qualifications, certification procedures, certification and renewal fees sufficient to cover administrative costs, continuing education requirements, inspector discipline standards including certification suspension and revocation for good cause, compliance inspection standards, professional liability bonding or insurance requirements, and any other requirements as the commission may deem appropriate. Certification and renewal fees received by the department are appropriated to the department for purposes of the administration of the certified compliance inspector program.
 - (2) The department shall continue to conduct independent inspections as provided in sec-

tion 455B.475 as deemed appropriate to assure effective compliance and enforcement and for the purpose of auditing the accuracy and completeness of inspections conducted by certified compliance inspectors.

- (3) Acts or omissions by a certified compliance inspector, the state, or the department regarding certification, renewal, oversight of the certification process, continuing education, discipline, inspection standards, or any other actions, rules, or regulations arising out of the certification, inspections, or duties imposed by this section shall not be cause for a claim against the state or the department within the meaning of chapter 669 or any other provision of the Iowa Code.
- Sec. 4. Section 455B.474, subsection 1, paragraph d, subparagraph (2), subparagraph subdivision (e), Code 2007, is amended to read as follows:
- (e) A site cleanup report which classifies a site as either high risk, low risk, or no action required shall be submitted by a groundwater professional to the department with a certification that the report complies with the provisions of this chapter and rules adopted by the department. The report shall be determinative of the appropriate classification of the site. However, if the report is found to be inaccurate or incomplete, and if based upon information in the report the risk classification of the site cannot be reasonably determined by the department based upon industry standards, the department shall work with the groundwater professional to obtain the additional information necessary to appropriately classify the site. A groundwater professional who knowingly or intentionally makes a false statement or misrepresentation which results in a mistaken classification of a site shall be guilty of a serious misdemeanor and shall have the groundwater professional's certification revoked under this section 455G.18.
- Sec. 5. Section 455B.474, subsection 1, paragraph f, subparagraph (5), Code 2007, is amended to read as follows:
- (5) A corrective action design report submitted by a groundwater professional shall be accepted by the department and shall be primarily relied upon by the department to determine the corrective action response requirements of the site. However, if the corrective action design report is found to be inaccurate or incomplete, and if based upon information in the report the appropriate corrective action response cannot be reasonably determined by the department based upon industry standards, the department shall work with the groundwater professional to obtain the additional information necessary to appropriately determine the corrective action response requirements. A groundwater professional who knowingly or intentionally makes a false statement or misrepresentation which results in an improper or incorrect corrective action response shall be guilty of a serious misdemeanor and shall have the groundwater professional's certification revoked under this section 455G.18.
- Sec. 6. Section 455B.474, Code 2007, is amended by adding the following new subsections: NEW SUBSECTION. 8. Requirements as may be necessary to maintain state program approval and which are consistent with applicable provisions of the federal Energy Policy Act of 2005, Pub. L. No. 109-58, Title XV, Subtitle B, Underground Storage Tank Compliance, as codified in 42 U.S.C. § 6991 et seq.
- a. The commission shall adopt rules establishing a training program applicable to owners and operators of underground storage tanks. The rules may include provisions for department certification of operators, self-certification by owners and operators, education and training requirements, owner requirements to assure operator qualifications, and assessment of education, training, and certification fees. The rules shall be consistent with and sufficient to comply with the operator training requirements as provided in 42 U.S.C. 6991i, guidance adopted pursuant to that provision by the administrator of the United States environmental protection agency, and state program approval requirements under 42 U.S.C. 6991i(b).
- b. The commission shall adopt rules related to the prohibition on the delivery of regulated substances consistent with and sufficient to comply with the provisions of 42 U.S.C. 6991k,

guidance adopted by the administrator of the United States Environmental Protection Agency pursuant to that provision, and state program approval requirements under 42 U.S.C. 6991k(a)(3).

c. The commission shall adopt rules applicable to secondary containment requirements consistent with and sufficient to comply with the provisions of Pub. L. 109-58, Title XV, section 1530(a), as codified at 42 U.S.C. 6991b(i)(1), and guidance adopted by the administrator of the United States environmental protection agency pursuant to that provision. Each new underground storage tank or piping connected to any such new tank installed after the effective date of this section of this Act, or any existing underground storage tank or existing piping connected to such existing underground storage tank that is replaced after August 1, 2007, shall be secondarily contained if the installation is within one thousand feet of any existing community water system or any existing potable drinking water well as provided in Pub. L. 109-58, Title XV, section 1530(a), as codified at 42 U.S.C. § 6991b(i)(1) and in guidance adopted by the United States environmental protection agency pursuant to that provision. Rules adopted under this paragraph shall not amend or modify the secondary containment requirements in subsection 1, paragraph "f", subparagraph (9).

<u>NEW SUBSECTION.</u> 9. a. Groundwater professionals shall be certified. The commission shall adopt rules pursuant to chapter 17A for such certifications, and the rules shall include provisions for certification suspension or revocation for good cause.

- b. A groundwater professional is a person who provides subsurface soil contamination and groundwater consulting services or who contracts to perform remediation or corrective action services and is one or more of the following:
- (1) A person certified by the American institute of hydrology, the national water well association, the American board of industrial hygiene, or the association of groundwater scientists and engineers.
 - (2) A professional engineer licensed in Iowa.
 - (3) A professional geologist certified by a national organization.
- (4) Any person who has five years of direct and related experience and training as a groundwater professional or in the field of earth sciences.
- (5) Any other person with a license, certification, or registration to practice hydrogeology or groundwater hydrology issued by any state in the United States or by any national organization, provided that the license, certification, or registration process requires, at a minimum, all of the following:
 - (a) Possession of a bachelor's degree from an accredited college.
 - (b) Five years of related professional experience.
- c. The department of natural resources may provide for a civil penalty of no more than fifty dollars for failure to obtain certification. An interested person may obtain a list of certified groundwater professionals from the department of natural resources. The department may impose and retain a fee for the certification of persons under this subsection sufficient to cover the costs of administration.
- d. The certification of groundwater professionals shall not impose liability on the board, the department, or the fund for any claim or cause of action of any nature, based on the action or inaction of a groundwater professional certified pursuant to this subsection.
- e. A person who requests certification under this subsection shall be required to attend a course of instruction and pass a certification examination. An applicant who successfully passes the examination shall be certified as a groundwater professional.
- f. All groundwater professionals shall be required to complete continuing education requirements as adopted by rule by the commission.
- g. The commission may provide for exemption from the certification requirements of this subsection and rules adopted hereunder for a professional engineer licensed pursuant to chapter 542B, if the person is qualified in the field of geotechnical, hydrological, environmental groundwater, or hydrogeological engineering.
- h. Notwithstanding the certification requirements of this subsection, a site cleanup report or corrective action design report submitted by a certified groundwater professional shall be

accepted by the department in accordance with subsection 1, paragraph "d", subparagraph (2), subparagraph subdivision (e), and paragraph "f", subparagraph (5).

<u>NEW SUBSECTION</u>. 10. Requirements that persons and companies performing or providing services for underground storage tank installations, installation inspections, testing, permanent closure of underground storage tanks by removal or filling in place, and other closure activities as defined by rules adopted by the commission be certified by the department. This provision does not apply to persons performing services in their official capacity and as authorized by the state fire marshal's office or fire departments of political subdivisions of the state. The rules adopted by the commission shall include all of the following:

- a. Establishing separate certification criteria applicable to underground storage tank installers and installation inspectors, underground storage tank testers, and persons conducting underground storage tank closure activities as required by commission rules.
- b. Establishing minimum qualifications for certification including but not limited to considerations based on education, character, professional ethics, experience, manufacturer or other private agency certification, training and apprenticeship, and field demonstration of competence. The rules may provide for exemption from education, experience, and training requirements for a licensed engineer for whom underground storage tank installation is within the scope of their license and practice but shall require compliance with other certification requirements.
- c. Requiring a written examination developed and administered by the department or by some other qualified public or private entity identified by the department. The department may contract with a public or private entity to administer the department's examination or a department approved third party examination. The examination shall, at a minimum, be sufficient to establish knowledge of all applicable underground storage tank rules adopted under this section, private industry standards, federal standards, and other applicable standards adopted by the Iowa fire marshal's office pursuant to chapter 101.
- d. Providing for a minimum two-year renewable certification period. A person may apply for a combined certificate applicable to underground storage tank installer and installer inspector certification, tester certification, and closure certification.
- e. Providing that certificate holders obtain and provide proof of financial responsibility for environmental liability with minimum liability limits of one million dollars per occurrence and in the aggregate. The rules may provide exemptions where the certificate holder is employed by the owner or operator of the underground storage tank system and the underground storage tank system is covered by a financial responsibility mechanism under subsection 2.
- f. Providing criteria for the department to take disciplinary action including issuance of warnings, reprimands, suspension and probation, and revocation. Any certificate holder subject to suspension or revocation shall be entitled to notice and an opportunity for an evidentiary hearing as provided in section 17A.18.
- g. Providing for certification reciprocity between states upon demonstration that the out of state certification criteria is substantially equivalent to rules adopted by the commission.
- h. Providing for assessment of fees sufficient to cover the costs of administration of the certification program. A separate fee may be established for persons applying for a combination of installer and installer inspector, testing, or closure certifications. Fees received by the department pursuant to this subsection are appropriated to the department for purposes of the administration of activities under this subsection.
- i. Notwithstanding subsection 7, the commission may adopt rules requiring that all underground storage tank installations, installation inspections, testing, and closure activities be conducted by persons certified in accordance with this subsection.
- j. Acts or omissions of a person certified under this subsection, the state, or the department regarding certification, renewal, oversight of the certification process, continuing education, discipline, inspection standards, or any other actions including department onsite supervision of certified activities, rules, or regulations arising out of the certification, shall not be cause for a claim against the state or the department within the meaning of chapter 669 or any other provision of the Code.

- Sec. 7. Section 455G.9, subsection 1, paragraph k, Code 2007, is amended by striking the paragraph and inserting in lieu thereof the following:
- k. Pursuant to an agreement between the board and the department of natural resources, assessment and corrective action arising out of releases at sites for which a no further action certificate has been issued pursuant to section 455B.474, when the department determines that an unreasonable risk to public health and safety may still exist. At a minimum, the agreement shall address eligible costs, contracting for services, and conditions under which sites may be reevaluated.
- Sec. 8. Section 455G.9, subsection 1, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. 1. Costs for the permanent closure of an underground storage tank system that was in place on the date an eligible claim was submitted under paragraph "a". Reimbursement is limited to costs approved by the board prior to the closure activities.

- Sec. 9. Section 455H.105, subsection 5, Code 2007, is amended to read as follows:
- 5. Adopt rules establishing requirements for the submission, performance, and verification of site assessments, cleanup plans, and certifications of completion. The rules shall provide that all site assessments, cleanup plans, and certifications of completion submitted by a participant shall be prepared by or under the supervision of an appropriately trained professional, including a groundwater professional certified pursuant to section 455G.18 455B.474.

Sec. 10. TRANSITIONAL PROVISIONS.

- 1. Not later than August 1, 2007, the environmental protection commission shall adopt administrative rules previously adopted by the Iowa comprehensive petroleum underground storage tank fund board pursuant to section 455G.17 in existence on the effective date of this Act by emergency rulemaking pursuant to section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b". The rules shall become effective immediately upon filing or on a later effective date specified in the rules. Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.
- 2. Following the adoption of emergency rules, the commission shall commence rulemaking procedures for the administration of section 455B.474, subsection 10.
- 3. Any registration or certification issued pursuant to section 455G.17 shall continue in full force and effect until expiration or renewal.
 - Sec. 11. Section 455G.17, Code 2007, is repealed.
 - Sec. 12. Section 455G.18, Code 2007, is repealed.
- Sec. 13. CONTINGENT EFFECTIVE DATE. The section of this Act repealing section 455G.17, shall take effect upon the Code editor's receipt of notice from the environmental protection commission stating that emergency rules required under the section of this Act relating to transitional provisions have taken effect.

Approved May 24, 2007

CHAPTER 172

REGULATION OF SERVICES FOR CHILDREN AND FAMILIES

S.F. 503

AN ACT relating to regulation of children's services by the department of human services by increasing the age for certain children receiving child care regulated by the department and revising child welfare and juvenile justice service provisions.

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

DIVISION I CHILD CARE SERVICES

Section 1. Section 237A.13, subsection 1, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. f. The person's family circumstances are described in paragraph "a", "b", "c", or "d", the person is thirteen years of age or older but younger than sixteen years of age, and state child care assistance is approved for the person by the director or the director's designee based on a request for an exception to policy made by the person's parent, guardian, or custodian because special family circumstances exist that would place the safety and well-being of the person at risk if the person is left home alone. The definition of child in section 237A.1 does not apply to child care supported by state child care assistance approved pursuant to this lettered paragraph.

DIVISION II INTERSTATE PLACEMENT OF CHILDREN IN FOSTER CARE

- Sec. 2. Section 232.2, subsection 4, paragraph e, Code 2007, is amended to read as follows: e. To the extent the records are available and accessible, a summary of The most recent information available regarding the child's health and education records, including the date the records were supplied to the agency or individual who is the child's foster care provider.
- Sec. 3. Section 232.2, subsection 4, paragraph i, Code 2007, is amended to read as follows: i. A provision that a designee of the department or other person responsible for placement of a child out of state shall visit the child at least once every twelve six months.
 - Sec. 4. Section 232.57, subsection 1, Code 2007, is amended to read as follows:
- 1. For the purposes of this division, unless the context otherwise requires, "reasonable efforts" means the efforts made to prevent permanent removal of a child from the child's home and to encourage reunification of the child with the child's parents and family. Reasonable efforts shall include but are not limited to giving consideration, if appropriate, to interstate placement of a child in the permanency planning decisions involving the child and giving consideration to in-state and out-of-state placement options at a permanency hearing and when using concurrent planning. If a court order includes a determination that continuation of the child in the child's home is not appropriate or not possible, reasonable efforts may include the efforts made in a timely manner to finalize a permanency plan for the child.
 - Sec. 5. Section 232.58, subsection 2, Code 2007, is amended to read as follows:
- 2. Reasonable notice shall be provided of a permanency hearing for an out-of-home placement in which the court order has included a determination that continuation of the child in the child's home is contrary to the child's welfare. A permanency hearing shall be conducted in substantial conformance with the provisions of section 232.99. During the hearing, the court shall consider the child's need for a secure and permanent placement in light of any case permanency plan or evidence submitted to the court and the reasonable efforts made concerning the child. Upon completion of the hearing, the court shall enter written findings identifying

a primary permanency goal for the child. If a case permanency plan is in effect at the time of the hearing, the court shall also make a determination as to whether reasonable progress is being made in achieving the permanency goal and in complying with the other provisions of that case permanency plan.

Sec. 6. Section 232.102, subsection 10, paragraph a, unnumbered paragraph 1, Code 2007, is amended to read as follows:

As used in this division, "reasonable efforts" means the efforts made to preserve and unify a family prior to the out-of-home placement of a child in foster care or to eliminate the need for removal of the child or make it possible for the child to safely return to the family's home. Reasonable efforts shall include but are not limited to giving consideration, if appropriate, to interstate placement of a child in the permanency planning decisions involving the child and giving consideration to in-state and out-of-state placement options at a permanency hearing and when using concurrent planning. If returning the child to the family's home is not appropriate or not possible, reasonable efforts shall include the efforts made in a timely manner to finalize a permanency plan for the child. A child's health and safety shall be the paramount concern in making reasonable efforts. Reasonable efforts may include intensive family preservation services or family-centered services, if the child's safety in the home can be maintained during the time the services are provided. In determining whether reasonable efforts have been made, the court shall consider both of the following:

Sec. 7. Section 232.104, subsection 1, paragraph c, Code 2007, is amended to read as follows:

c. Reasonable notice of a permanency hearing shall be provided to the parties. A permanency hearing shall be conducted in substantial conformance with the provisions of section 232.99. During the hearing, the court shall consider the child's need for a secure and permanent placement in light of any permanency plan or evidence submitted to the court <u>and the reasonable efforts made concerning the child</u>. Upon completion of the hearing, the court shall enter written findings and make a determination identifying a primary permanency goal for the child. If a permanency plan is in effect at the time of the hearing, the court shall also make a determination as to whether reasonable progress is being made in achieving the permanency goal and complying with the other provisions of that permanency plan.

DIVISION III CHILD WELFARE FAMILY-CENTERED AND FAMILY PRESERVATION SERVICES

Sec. 8. Section 225C.49, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The department shall provide coordination of the programs administered by the department which serve individuals with a disability and the individuals' families, including but not limited to the following juvenile justice and child welfare services: family-centered and intensive family preservation services described under section 232.102, decategorization of child welfare funding provided for under section 232.188, and foster care services paid under section 234.35, subsection 3. The department shall regularly review administrative rules associated with such programs and make recommendations to the council on human services, governor, and general assembly for revisions to remove barriers to the programs for individuals with a disability and the individuals' families including the following:

Sec. 9. Section 232.102, subsection 10, Code 2007, is amended to read as follows:

10. a. As used in this division, "reasonable efforts" means the efforts made to preserve and unify a family prior to the out-of-home placement of a child in foster care or to eliminate the need for removal of the child or make it possible for the child to safely return to the family's home. If returning the child to the family's home is not appropriate or not possible, reasonable efforts shall include the efforts made in a timely manner to finalize a permanency plan for the

- child. A child's health and safety shall be the paramount concern in making reasonable efforts. Reasonable efforts may include intensive family preservation services or but are not limited to family-centered services, if the child's safety in the home can be maintained during the time the services are provided. In determining whether reasonable efforts have been made, the court shall consider both of the following:
- (1) The type, duration, and intensity of services or support offered or provided to the child and the child's family. If intensive family preservation family-centered services were not provided, the court record shall enumerate the reasons the services were not provided, including but not limited to whether the services were not available, not accepted by the child's family, judged to be unable to protect the child and the child's family during the time the services would have been provided, judged to be unlikely to be successful in resolving the problems which would lead to removal of the child, or other services were found to be more appropriate.
 - (2) The relative risk to the child of remaining in the child's home versus removal of the child. b. As used in this section:
- (1) "Family-centered, "family-centered services" means services which utilize a comprehensive approach to addressing the problems of individual family members, whether or not the problems are integrally related to the family, within the context of the family and other support intended to safely maintain a child with the child's family or with a relative, to safely and in a timely manner return a child to the home of the child's parent or relative, or to promote achievement of concurrent planning goals by identifying and helping the child secure placement for adoption, with a guardian, or with other alternative permanent family connections. Family-centered services are adapted to the individual needs of a family in the regard to the specific services and other support provided to the child's family and the intensity and duration of service delivery and. Family-centered services are intended to preserve a child's connections to the child's neighborhood, community, and family and to improve the overall capacity of the child's family functioning to provide for the needs of the children in the family.
- (2) "Intensive family preservation services" means services provided to a family with a child who is at imminent risk of out-of-home placement. The services are designed to address any problem creating the need for out-of-home placement and have the following characteristics:—are persistently offered but provided at the family's option; are provided in the family's home; are available twenty-four hours per day; provide a response within twenty-four hours of the initial contact for assistance; have worker caseloads of not more than two through four families per worker at any one time; are provided for a period of four to six weeks; and provide funding in order to meet the special needs of a family.
- Sec. 10. Section 234.6, subsection 6, paragraph c, Code 2007, is amended to read as follows:
- c. Intensive family preservation services and family-centered <u>Family-centered</u> services, as defined in section 232.102, subsection 10, paragraph "b".

DIVISION IV CHILD-PLACING AGENCY INSPECTIONS

Sec. 11. Section 238.20, Code 2007, is amended to read as follows: 238.20 MINIMUM INSPECTION — RECORD.

Authorized employees of the department of inspections and appeals shall visit and inspect the premises of licensed child-placing agencies at least once every six twelve months and make and preserve written reports of the conditions found.

DIVISION V LICENSED FOSTER CARE — RECORD CHECKS

Sec. 12. Section 237.8, subsection 2, paragraph a, Code 2007, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (1A) For an individual subject to licensure under this chapter as

a foster parent, in addition to the record checks conducted under subparagraph (1), the individual's fingerprints shall be provided to the department of public safety for submission through the state criminal history repository to the United States department of justice, federal bureau of investigation for a national criminal history check. The cost of the criminal history check conducted under this subparagraph is the responsibility of the department of human services.

<u>NEW SUBPARAGRAPH</u>. (1B) If the criminal and child abuse record checks conducted in this state under subparagraph (1) for an individual being considered for licensure as a foster parent have been completed and the individual either does not have a record of crime or founded abuse or the department's evaluation of the record has determined that prohibition of the individual's licensure is not warranted, the individual may be provisionally approved for licensure pending the outcome of the fingerprint-based criminal history check conducted pursuant to subparagraph (1A).

DIVISION VI PREADOPTIVE CARE PROVIDERS

- Sec. 13. Section 232.91, subsection 3, Code 2007, is amended to read as follows:
- 3. Any person who is entitled under section 232.88 to receive notice of a hearing concerning a child shall be given the opportunity to be heard in any other review or hearing involving the child. A foster parent, relative, or other individual with whom a child has been placed for preadoptive care shall have the right to be heard in any proceeding involving the child.
- Sec. 14. Section 232.116, subsection 2, paragraph c, Code 2007, is amended to read as follows:
- c. For a child who has been placed in foster family care, any <u>The</u> relevant testimony or written statement provided by the child's foster parents that a foster parent, relative, or other individual with whom the child has been placed for preadoptive care or other care has a right to provide to the court.

Approved May 24, 2007

CHAPTER 173

ELECTRICAL AND MECHANICAL AMUSEMENT DEVICES $S.F.\ 510$

AN ACT concerning electrical and mechanical amusement devices and providing penalties.

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

- Section 1. Section 99B.1, subsections 12, 18, 19, and 23, Code 2007, are amended to read as follows:
- 12. "Distributor" means, for the purposes of sections 99B.10, 99B.10A, and 99B.10B, any person that owns electrical and mechanical amusement devices registered as provided in section 99B.10, subsection 41, paragraph "f", that are offered for use at more than a single location or premises.
- 18. "Manufacturer" means, for the purposes of sections 99B.10, 99B.10A, and 99B.10B, any person engaged in business in this state who originally produces an electrical and mechanical

amusement device required to be registered under section 99B.10, subsection 4 <u>1</u>, <u>paragraph</u> <u>"f"</u>, or individual components for use in such a device.

- 19. "Manufacturer's representative" means, for the purposes of sections 99B.10, 99B.10A, and 99B.10B, any person engaged in business in this state who promotes or sells electrical and mechanical amusement devices required to be registered under section 99B.10, subsection 4 1, paragraph "f", or individual components for use in such devices on behalf of a manufacturer of such devices or components.
- 23. "Owner" means, for the purposes of sections 99B.10A and 99B.10B, any person who owns an operable electrical and mechanical amusement device required to be registered under section 99B.10, subsection 4 1, paragraph "f".
 - Sec. 2. Section 99B.10, Code 2007, is amended to read as follows:
 - 99B.10 ELECTRICAL AND MECHANICAL AMUSEMENT DEVICES PENALTIES.
- 1. It is lawful to own, possess, and offer for use by any person at any location an electrical or mechanical amusement device and the use of the electrical or mechanical amusement device shall not be deemed gambling, but only if all of the following are complied with:
- 1. a. A prize of merchandise exceeding five dollars in value or cash shall not be awarded for use of the device. However, a mechanical or amusement device may be designed or adapted to award a prize or one or more free games or portions of games without payment of additional consideration by the participant.
 - b. A prize of cash shall not be awarded for use of the device.
- 2. c. An amusement device shall not be designed or adapted to cause or to enable a person to cause the release of free games or portions of games when designated as a potential award for use of the device, and shall not contain any meter or other measurement device for recording the number of free games or portions of games which are awarded.
- 3. d. An amusement device shall not be designed or adapted to enable a person using the device to increase the chances of winning free games or portions of games by paying more than is ordinarily required to play the game.
- e. An amusement device required to be registered as provided in paragraph "f", shall not be placed into operation without first obtaining a new amusement device registration tag if electronic or mechanical components have been adapted, altered, or replaced and such adaptation, alteration, or replacement changes the operational characteristics of the amusement device, including but not limited to the game being changed.
- 4. <u>f. (1)</u> Each electrical and mechanical amusement device in operation or distributed in this state that awards a prize, as provided in this section, where the outcome is not primarily determined by the skill or knowledge of the operator, is registered by the department as provided by this <u>subsection lettered paragraph</u> and is only located on premises for which a class "A", class "B", class "C", <u>special class "C"</u>, or class "D" liquor control license or class "B" or class "C" beer permit has been issued pursuant to chapter 123. For an organization that meets the requirements of section 99B.7, subsection 1, paragraph "m", no more than four, and for all other persons, no more than two electrical and mechanical amusement devices registered as provided by this <u>subsection lettered paragraph</u> shall be permitted or offered for use in any single location or premises for which a class "A", class "B", class "C", or class "D" liquor control license or class "B" or class "C" beer permit has been issued pursuant to chapter 123.
- (2) Each person owning an electrical and mechanical amusement device in this state shall obtain a registration tag for each electrical and mechanical amusement device owned that is required to be registered as provided in this subsection lettered paragraph. Upon receipt and approval of an application and a fee of twenty-five dollars for each device required to be registered, the department shall issue an annual registration tag which tag shall be displayed as required by rules adopted by the department. The application shall be submitted on forms designated by the department and contain the information required by rule of the department. A registration may be renewed annually upon submission of a registration application and payment of the annual registration fee and compliance with this chapter and the rules adopted pursuant to this chapter. However, the

- (3) The number of electrical and mechanical amusement devices registered by the department under this subsection lettered paragraph shall not exceed the total number of devices registered by the department as of April 28, 2004. In addition, the department shall not initially register an electrical and mechanical amusement device that is required to be registered as provided in this subsection lettered paragraph to an owner for a location for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 on or after April 28, 2004.
- (4) A person owning or leasing an electrical and mechanical amusement device required to be registered under this subsection lettered paragraph shall only own or lease an electrical and mechanical amusement device that is required to be registered that has been purchased from a manufacturer, manufacturer's representative, or distributor registered with the department under section 99B.10A and shall not advertise or promote the availability of the device to the public as anything other than an electrical and mechanical amusement device pursuant to rules adopted by the department. In addition, an
- (5) An owner at a location for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall not relocate an amusement device registered as provided in this subsection lettered paragraph to a location other than the location of the device on April 28, 2004, and shall not transfer, assign, sell, or lease an amusement device registered as provided in this subsection lettered paragraph to another person for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 after April 28, 2004.
- g. A person owning or leasing an electrical and mechanical amusement device required to be registered under paragraph "f", shall display the registration tag as required by rules adopted by the department.
- h. A person owning or leasing an electrical and mechanical amusement device required to be registered under paragraph "f" shall not allow the electrical and mechanical amusement device to be operated or made available for operation with an expired registration.
- i. A person owning or leasing an electrical and mechanical amusement device required to be registered under paragraph "f", or an employee of a person owning or leasing an electrical and mechanical amusement device required to be registered under paragraph "f", shall not advertise or promote the availability of the device to the public as anything other than an electrical and mechanical amusement device pursuant to rules adopted by the department.
- j. A person owning or leasing an electrical and mechanical amusement device required to be registered under paragraph "f" shall not relocate and place into operation an amusement device in any location other than a location which has been issued an appropriate liquor control license in good standing and to which the device has been appropriately registered with the department.
- 5. k. Any awards given for use of an amusement device shall only be redeemed on the premises where the device is located and only for merchandise sold in the normal course of business for the premises.
- 6. <u>l.</u> Each electrical or mechanical amusement device required to be registered as provided by this section shall, by January 1, 2006, include on the device a counting mechanism which establishes the volume of business of the device. The department and the department of public safety shall have access to the information provided by the counting mechanism.
- 7. m. Each electrical or mechanical amusement device required to be registered as provided by this section at a location for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall include on the device a security mechanism which prevents the device from being operated by a person until action is taken by the owner or owner's designee to allow the person to operate the device.
- 8. n. An electrical or mechanical amusement device required to be registered as provided in this section shall not be a gambling device, as defined in section 725.9, or a device that plays poker, blackjack, or keno.
- 9. o. Any other requirements as determined by the department by rule. Rules adopted pursuant to this subsection lettered paragraph shall be formulated in consultation with affected state agencies and industry and consumer groups.
- A person who violates any provision of subsection 1, except as specified in subsection 3, commits a serious misdemeanor.

- 3. A person who violates any provision of subsection 1, paragraph "a", "e", "g", "h", "i", "j", "k", or "m", shall be subject to the following:
- a. For a first offense under an applicable paragraph, the person commits a simple misdemeanor, punishable as a scheduled violation pursuant to section 805.8C, subsection 4, paragraph "b".
- b. For a second or subsequent offense under the same applicable paragraph, the person commits a serious misdemeanor.
- 4. It Notwithstanding any provision of this section to the contrary, it is lawful for an individual other than an owner or promoter of an amusement device to operate an amusement device, whether or not the amusement device is owned, possessed or offered for use in compliance with this section.

The use of an amusement device which complies with this section shall not be deemed gambling.

- Sec. 3. Section 99B.10A, subsection 1, Code 2007, is amended to read as follows:
- 1. A person engaged in business in this state as a manufacturer, manufacturer's representative, distributor, or for-profit owner of electrical and mechanical amusement devices required to be registered as provided in section 99B.10, subsection 4 1, paragraph "f", shall register with the department. Each person who registers with the department under this section shall pay an annual registration fee in an amount as provided in subsection 2. Registration shall be submitted on application forms designated by the department that shall contain the information required by the department by rule. The department shall adopt rules establishing the criteria for approval or denial of a registration application and providing for the submission of information to the department by a person registered pursuant to this section if information in the initial registration is changed, including discontinuing the business in this state.
- Sec. 4. Section 99B.10A, subsection 2, paragraph c, Code 2007, is amended to read as follows:
- c. For an owner of no more than two electrical and mechanical amusement devices registered as provided in section 99B.10, subsection 41, paragraph "f", at a single location or premises that is not an organization that meets the requirements of section 99B.7, subsection 1, paragraph "m", two thousand five hundred dollars.
- Sec. 5. Section 99B.10B, subsection 1, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
- 1. The department may deny, suspend, or revoke a registration issued pursuant to section 99B.10 or 99B.10A, if the department finds that an applicant, registrant, or an agent of a registrant violated or permitted a violation of a provision of section 99B.10, 99B.10A, or 99B.10C, or a departmental rule adopted pursuant to chapter 17A, or for any other cause for which the director of the department would be or would have been justified in refusing to issue a registration, or upon the conviction of a person of a violation of this chapter or a rule adopted under this chapter which occurred on the premises where the registered amusement device is or is to be located. However, the denial, suspension, or revocation of a registration for one amusement device does not require, but may result in, the denial, suspension, or revocation of the registration for a different amusement device held by the same distributor or owner.
 - Sec. 6. Section 99B.10B, subsection 2, Code 2007, is amended to read as follows:
- 2. <u>a.</u> The department shall revoke a registration issued pursuant to section 99B.10 or 99B.10A, for a period of ten years following at least ten days' written notice and opportunity for an evidentiary hearing, if a person awards commits an offense of awarding a cash prize in violation of section 99B.10, subsection 1, paragraph "b", pursuant to rules adopted by the department. A person whose registration is revoked under this subsection who is a person for which a class "A", class "B", class "C", special class "C", or class "D" liquor control license has been issued pursuant to chapter 123 shall have the person's liquor control license suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3,

paragraph "a". In addition, a \underline{A} person whose registration is revoked under this subsection who is a person for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall have the person's class "B" or class "C" beer permit suspended and that person's sales tax permit suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a".

b. If a person owning or employed by an establishment having a class "A", class "B", class "C", special class "C", or class "D" liquor control license issued pursuant to chapter 123 commits an offense of awarding a cash prize in violation of section 99B.10, subsection 1, paragraph "b", pursuant to rules adopted by the department, the liquor control license of the establishment shall be suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a". If a person owning or employed by an establishment having a class "B" or class "C" beer permit issued pursuant to chapter 123 awards a cash prize in violation of section 99B.10, subsection 1, paragraph "b", pursuant to rules adopted by the department, the beer permit of the establishment and the establishment's sales tax permit shall be suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a".

- Sec. 7. Section 99B.10B, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 3. a. The process for denial, suspension, or revocation of a registration issued pursuant to section 99B.10 or 99B.10A, shall commence by delivering to the applicant or registrant by certified mail, return receipt requested, or by personal service a notice setting forth the proposed action and the particular reasons for such action.
- b. (1) If a written request for a hearing is not received within thirty days after the mailing or service of the notice, the denial, suspension, or revocation of a registrant¹ shall become effective pending a final determination by the department. The proposed action in the notice may be affirmed, modified, or set aside by the department in a written decision.
- (2) If a request for a hearing is timely received by the department, the applicant or registrant shall be given an opportunity for a prompt and fair hearing before the department and the denial, suspension, or revocation shall be deemed suspended until the department makes a final determination. However, the director of the department may suspend a registration prior to a hearing if the director finds that the public integrity of the registered activity is compromised or there is a risk to public health, safety, or welfare. In addition, at any time during or prior to the hearing, the department may rescind the notice of the denial, suspension, or revocation upon being satisfied that the reasons for the denial, suspension, or revocation have been or will be removed. On the basis of any such hearing, the proposed action in the notice may be affirmed, modified, or set aside by the department in a written decision. The procedure governing hearings authorized by this paragraph shall be in accordance with the rules promulgated by the department and chapter 17A.
- c. A copy of the final decision of the department shall be sent by certified mail, return receipt requested, or served personally upon the applicant or registrant. The applicant or registrant may seek judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.
- d. If the department finds cause for denial of a registration issued pursuant to section 99B.10 or 99B.10A, the applicant shall not reapply for the same registration for a period of two years. If the department finds cause for a suspension or revocation, the registration shall be suspended or revoked for a period not to exceed two years.
- Sec. 8. Section 99B.10C, subsections 2 and 3, Code 2007, are amended to read as follows: 2. A person owning or leasing an electrical and mechanical amusement device, or an employee of a person owning or leasing an electrical and mechanical amusement device, who knowingly allows a person under the age of twenty-one years to participate in the operation of an electrical and mechanical amusement device, or a person who knowingly participates in the operation of an electrical and mechanical amusement device, with a person under the age of twenty-one years, is guilty of a simple misdemeanor.

¹ According to enrolled Act; the word "registration" probably intended

- 3. For purposes of this section, an electrical and mechanical amusement device means an electrical and mechanical amusement device required to be registered as provided in section 99B.10, subsection 4 1, paragraph "f".
 - Sec. 9. Section 805.8C, subsection 4, Code 2007, is amended to read as follows:
 - 4. ELECTRICAL AND MECHANICAL AMUSEMENT DEVICE VIOLATIONS.
- <u>a.</u> For violations of legal age for operating an electrical and mechanical amusement device required to be registered as provided in section 99B.10, subsection 4<u>1</u>, <u>paragraph "f"</u>, pursuant to section 99B.10C, subsection 1, the scheduled fine is two hundred fifty dollars. Failure to pay the fine by a person under the age of eighteen shall not result in the person being detained in a secure facility.
- b. For first offense violations concerning electrical and mechanical amusement devices as provided in section 99B.10, subsection 3, the scheduled fine is two hundred fifty dollars.

Approved May 24, 2007

CHAPTER 174

CREDIT UNIONS

S.F. 557

AN ACT relating to the regulation of credit unions by revising and reorganizing the Iowa credit union act, making conforming changes, and providing for taxes, fees, and penalties.

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

DIVISION I

Section 1. NEW SECTION. 533.101 TITLE.

This chapter shall be known as the "Iowa Credit Union Act".

Sec. 2. NEW SECTION. 533.102 DEFINITIONS.

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

- 1. "Account insurance plan" means an arrangement providing account and share insurance which is of a type authorized under section 533.307.
 - 2. "Common bond" means the shared characteristic of members of a credit union.
- 3. "Credit union" means a cooperative, nonprofit association, organized or incorporated in accordance with the provisions of this chapter or under the laws of another state or the Federal Credit Union Act, 12 U.S.C. § 1751, et seq., for the purposes of creating a source of credit at a fair and reasonable rate of interest, of encouraging habits of thrift among its members, and of providing an opportunity for its members to use and control their own money on a democratic basis in order to improve their economic and social condition.

A credit union is also a supervised financial organization as that term is defined and used in chapter 537, the Iowa consumer credit code.

4. "Credit union service organization" means a corporation or limited partnership organized under state law to provide financial and financial-related services for one or more credit unions, each of which owns part of the capital stock of the credit union service organization, as authorized under section 533.301, subsection 5, paragraph "f", and which corporation or

limited partnership is subject to examination by the credit union division of the Iowa department of commerce or a federal supervisory agency.

- 5. "Ownership share" means a share of a credit union acquired by a member at the time membership is initiated.
 - 6. "Review board" means the credit union review board.
 - 7. "State credit union" means a credit union organized pursuant to section 533.201.
- 8. "Superintendent" means the superintendent of credit unions appointed pursuant to section 533.104.

Sec. 3. NEW SECTION. 533.103 CREDIT UNION DIVISION CREATED.

A credit union division of the department of commerce is created to administer this chapter.

Sec. 4. NEW SECTION. 533.104 SUPERINTENDENT.

- 1. A superintendent of credit unions shall be appointed by the governor, subject to confirmation by the senate, to regulate credit unions.
- a. The appointee shall be selected solely with regard to qualification and fitness to discharge the duties of office.
- b. The individual appointed shall have at least five years' experience as a director or executive officer of a credit union, or comparable experience in the regulation or examination of credit unions. For purposes of this paragraph, credit union membership does not qualify as credit union experience.
- 2. The superintendent shall have an office at the seat of government. The superintendent's term of office shall be four years beginning and ending as provided by section 69.19. The governor may remove the superintendent for malfeasance in office, or for any cause that renders the superintendent ineligible, incapable, or unfit to discharge the duties of the office.
- 3. The superintendent shall receive a salary set by the governor within a range established by the general assembly.
- 4. A vacancy in the office of superintendent shall be filled for the unexpired portion of the regular term.
- 5. The superintendent may adopt rules as necessary or appropriate to administer this chapter, subject to the prior approval of the rules by the review board.

Sec. 5. NEW SECTION. 533.105 DEPUTY SUPERINTENDENT.

- 1. The superintendent may appoint an employee of the credit union division as deputy superintendent to perform the duties of the superintendent during the superintendent's absence or inability to act.
- 2. The deputy superintendent shall serve at the pleasure of the superintendent. If the office of the superintendent becomes vacant, the deputy superintendent shall have all powers and duties of the superintendent until a new superintendent is appointed by the governor in accordance with this chapter.
 - 3. The deputy superintendent shall receive a salary to be fixed by the superintendent.

Sec. 6. NEW SECTION. 533.106 EMPLOYEES.

- 1. a. The superintendent may appoint assistants, examiners, and other employees as the superintendent considers necessary to the proper discharge of duties imposed upon the superintendent by the laws of this state.
- b. Pay plans shall be established for the credit union division employees, other than clerical employees, who supervise and examine the accounts and affairs of credit unions and other persons, subject to supervision and regulation by the superintendent, that are substantially equivalent to those paid by the national credit union administration and other federal supervisory agencies in this area of the United States.
- 2. a. A state credit union, or its officers, directors, or employees, shall not directly or indirectly make a loan of money or property to the superintendent.
- b. The superintendent shall not directly or indirectly accept a loan of money or property from a state credit union, or its officers, directors, or employees.

- 3. a. An employee of the credit union division, other than the superintendent, may borrow money from a state credit union only on comparable terms and conditions to those ordinarily extended to all members of the credit union. The employee shall notify the superintendent of the acceptance of a loan from a state credit union.
- b. The superintendent may restrict borrowing by employees from state credit unions if the superintendent determines such borrowing will interfere with the functions of the credit union division.
- c. An employee shall not participate in the examination of a credit union where the employee has a loan.
- 4. The superintendent or an employee of the credit union division, other than a member of the review board, shall not perform any services for or be an officer, director, or employee of a state credit union or any other entity supervised or regulated by the credit union division.
- 5. A person who violates this section shall be permanently disqualified from acting as an officer, director, or employee of a state credit union and permanently disqualified from acting as superintendent or an employee of the credit union division.
- 6. The superintendent or an employee of the credit union division who is convicted of theft, burglary, robbery, larceny, embezzlement, or other crime involving breach of trust shall be forever disqualified from holding any position in the credit union division.

Sec. 7. NEW SECTION. 533.107 CREDIT UNION REVIEW BOARD.

- 1. A credit union review board is created. The review board shall consist of seven members, five of whom shall have been members in good standing for at least the previous five years of either an Iowa state chartered credit union, or a credit union chartered under the Federal Credit Union Act and having its principal place of business in Iowa. Two of the members may be public members; however, at no time shall more than five of the members be directors or employees of a credit union. The members shall serve for three-year staggered terms beginning and ending as provided by section 69.19.
- 2. The members of the review board shall be appointed by the governor subject to confirmation by the senate. The governor may appoint the members of the review board from a list of nominees submitted to the governor by the credit unions located in this state.
- 3. The review board shall meet at least four times each year and shall hold special meetings at the call of the chairperson. Four members constitute a quorum.
- 4. Each member of the review board shall receive actual and necessary expenses incurred in the discharge of official duties. Each member of the review board may also be eligible to receive compensation as provided in section 7E.6.
- 5. A member of the review board shall not take part in any action or participate in any decision when the matter under consideration specifically relates to a credit union of which the review board member is a member.
- 6. The review board may adopt rules pursuant to chapter 17A or take other action as it deems necessary or suitable, to administer this chapter.

Sec. 8. <u>NEW SECTION</u>. 533.108 RECORDS OF CREDIT UNION DIVISION.

- 1. a. Records of the credit union division are public records subject to the provisions of chapter 22, except as otherwise provided in this chapter.
- b. Papers, documents, writings, reports, reports of examinations and other information relating specifically to the supervision and regulation of a specific state credit union or of other persons by the superintendent pursuant to the laws of this state are not public records and shall not be open for examination or copying by the public or for examination or publication by the news media. The superintendent or an employee of the credit union division shall not disclose such information in any manner to any person other than the person examined, except as otherwise authorized by this section.
- 2. a. The superintendent or an employee of the credit union division shall not be subpoenaed in any cause or proceeding to give testimony concerning papers, documents, writings, reports, reports of examinations, or other information relating to the supervision and regula-

tion of a specific state credit union or persons by the superintendent pursuant to the laws of this state.

- b. The papers, documents, writings, reports, reports of examinations, and other information of the credit union division that relate to the supervision and regulation of a specific state credit union or persons shall not be offered in evidence in a court or be subject to subpoena by a party, except when relevant in the following matters:
 - (1) In actions or proceedings brought by the superintendent.
- (2) In matters in which an interested and proper party seeks review of a decision of the superintendent.
- (3) In actions or proceedings that arise out of the criminal provisions of the laws of this state or of the United States.
- (4) In actions brought as shareholder derivative suits against a credit union by a member who has acquired an ownership share.
- (5) In actions brought to recover moneys or to recover upon an indemnity bond for embezzlement, misappropriation, or misuse of credit union funds.
- 3. a. Information, records, and documents utilized for the purpose of, or in the course of, investigation, regulation, or examination of a specific credit union, received by the credit union division from some other governmental entity that treats such information, records, and documents as confidential, are confidential and shall not be disclosed by the division and are not subject to subpoena.
- b. Information, records, and documents under paragraph "a" do not constitute a public record subject to examination and copying under chapter 22.
- c. The superintendent may exchange with governmental regulatory officials confidential information, records, and documents that are not a public record subject to examination and copying under chapter 22 provided that the other officials are subject to, or agree to comply with, standards of confidentiality comparable to those contained in this section.

Sec. 9. <u>NEW SECTION</u>. 533.109 INSURANCE AND SURETY BOND.

- 1. The superintendent shall acquire good and sufficient bond in a company authorized to do business in this state in order to ensure both of the following:
- a. The faithful performance of the deputy superintendent, assistants, examiners, and all other employees of the credit union division.
- b. Protection from any liability that may accrue in case of the loss of property of a state credit union, or of a member of a state credit union or of any other person, in the course of an examination, investigation, or other function required or allowed by the laws of this state.
- 2. The superintendent shall be bonded in accordance with chapter 64, provided that such bond shall be in the amount of one hundred thousand dollars.

Sec. 10. NEW SECTION. 533.110 REIMBURSEMENT OF EXPENSES.

- 1. The superintendent, deputy superintendent, assistants, examiners, and other employees of the credit union division are entitled to receive reimbursement for expenses incurred in the performance of their duties.
- 2. The superintendent, and when specifically authorized by the superintendent, the deputy superintendent, assistants, examiners, and other employees of the division, are entitled to receive reimbursement for expenses incurred while attending conventions, meetings, conferences, schools, or seminars relating to the performance of their duties.

Sec. 11. <u>NEW SECTION</u>. 533.111 EXPENSES OF THE CREDIT UNION DIVISION.

- 1. a. All expenses required in the discharge of the duties and responsibilities imposed upon the credit union division, the superintendent, and the review board by the laws of this state shall be paid from fees provided by the laws of this state and appropriated by the general assembly from the general fund of the state.
- b. All fees imposed under this chapter are payable to the superintendent, who shall pay all fees and other moneys received to the treasurer of state within the time required by section 12.10. The treasurer of state shall deposit such funds in the general fund of the state.

- 2. The superintendent shall account for receipts and disbursements according to the separate duties imposed upon the superintendent by the laws of this state, and each separate duty shall be fiscally self-sustaining.
- 3. The credit union division may expend additional funds, including funds for additional personnel, if the additional expenditures are actual expenses that exceed the funds budgeted for credit union examinations and directly result from examinations of state credit unions.
- a. The amounts necessary to fund the excess examination expenses shall be collected from state credit unions being regulated, and the collections shall be treated as repayment receipts as defined in section 8.2.
- b. The division shall notify in writing the legislative services agency and the department of management when hiring additional personnel. The written notification shall include documentation that any additional expenditure related to such hiring will be totally reimbursed to the general fund of the state, and shall also include the division's justification for hiring such personnel. The division must obtain the approval of the department of management only if the number of additional personnel to be hired exceeds the number of full-time equivalent positions authorized by the general assembly.
- 4. a. All fees and other moneys collected shall be deposited into the general fund of the state and expenses required to be paid under this section shall be paid from funds appropriated for those purposes. Moneys deposited into the general fund of the state pursuant to this section shall be subject to the requirements of section 8.60.
- b. Funds appropriated to the credit union division shall be subject at all times to the warrant of the director of revenue, drawn upon written requisition of the superintendent or a designated representative, for the payment of all salaries and other expenses necessary to carry out the duties of the credit union division.
- 5. The credit union division may accept reimbursement of expenses related to the examination of a state credit union from the national credit union administration or any other guarantor or insurance plan authorized by this chapter. These reimbursements shall be deposited into the general fund of the state.

Sec. 12. <u>NEW SECTION</u>. 533.112 ANNUAL FEES — EXAMINATION FEES — DELIN-QUENCIES.

- 1. Each state credit union shall pay an annual fee as determined by the superintendent based on the actual cost of operating the credit union division. The superintendent shall consider recommendations from the review board and from state credit unions in determining the amount of the annual fee.
- 2. Each state credit union, corporation, credit union service organization, or other person subject to an examination pursuant to section 533.113 shall pay an examination fee. The superintendent shall establish by rule an examination fee schedule.
- 3. a. Failure of a state credit union, corporation, credit union service organization, or other person to pay a fee pursuant to subsection 1 or 2 shall result in the fee being considered delinquent and a penalty equal to five percent of the original fee may be assessed for each day or part of a day the payment remains delinquent.
- b. A fee delinquency under this subsection by a corporation, credit union service organization, or other person may result in the superintendent collecting the delinquent fee and penalty from the state credit union owning shares or investments or having business transactions or a relationship with such corporation, credit union service organization, or other person.
- c. A fee delinquency under this subsection may also constitute grounds for revocation of the certificate of approval of the credit union to operate in this state.

Sec. 13. NEW SECTION. 533.113 EXAMINATIONS.

- 1. The superintendent may do any or all of the following:
- a. Make or cause to be made an examination of a credit union whenever the superintendent believes such examination is necessary or advisable, but in no event less frequently than once during each twenty-four-month period.

- b. Make or cause to be made such limited examinations at such times and with such frequency as the superintendent deems necessary and advisable to determine the condition of any state credit union and whether any person has violated the provisions of this chapter.
- c. Make or cause to be made an examination of any corporation or credit union service organization in which a state credit union owns shares or has made an investment.
- d. Make or cause to be made an examination of any person having business transactions or a relationship with any state credit union, upon application to and order of the district court of Polk county, when such examination is deemed necessary and advisable in order to determine whether the capital of the state credit union is impaired or whether the safety of its deposits is imperiled.
- e. Accept, in lieu of the examination of a state credit union, or any corporation or credit union service organization in which a state credit union owns shares or has made an investment, or of any person having business transactions or a relationship with any state credit union, an examination report prepared by a federal regulatory authority.
- f. Accept, in lieu of the examination of a state credit union, an audit report conducted by a certified public accounting firm selected from a list of firms previously approved by the superintendent. The cost of the audit shall be paid by the state credit union.
- g. Accept, in lieu of the examination of an out-of-state credit union which also conducts business in this state, an examination report prepared by a state or federal regulatory authority.
- h. Retain, at the examinee's expense, accountants, investigators, and other experts as reasonably necessary to assist in the conduct of the examination. Any person so retained shall serve in a purely advisory capacity at the direction of the superintendent.
- 2. A state credit union and all of its officers and agents shall give to the representatives of the superintendent free and unimpeded access to all books, papers, securities, records, and other sources of information under their control.
- 3. a. A report of examination shall be forwarded to the chairperson of a state credit union within thirty days after the completion of the examination. Within thirty days of the receipt of this report, a meeting of the directors shall be called by the state credit union to consider matters contained in the report and the action taken shall be set forth in the minutes of the board.
- b. The report of examination of any affiliate or of any person examined as provided in this subsection shall not be transmitted by the superintendent to any such affiliate or person or to the board of directors of any state credit union unless authorized or requested by such affiliate or person.
- 4. a. Whenever the superintendent deems it necessary and advisable, the superintendent may notify the board of directors of a state credit union that a meeting will be held at a place and time and manner as the superintendent directs. The superintendent's notice may disclose the purpose of the meeting.
- b. The superintendent may present to the board at the meeting any item the superintendent desires to bring to the attention of the board, including but not limited to any report of an examination required or allowed by this chapter, any conclusions or projections drawn by the superintendent, any recommendations made relative to a report of an examination, and any other matters concerning the operation and condition of the state credit union.
- c. The state credit union shall cause the matters presented at the meeting to be recorded in the minutes of the meeting.
- d. Each member of the board of directors shall furnish the superintendent a statement on forms supplied by the superintendent that the member is familiar with the matters presented by the superintendent.
- 5. The superintendent may require any of the following state credit unions to submit to an additional examination or to an independent audit performed by a certified public accounting firm as provided in subsection 1, paragraph "f", at the expense of the state credit union:
 - a. A state credit union where the records are inadequate.
- b. A state credit union in which the books have not been balanced as of the end of the month not less than thirty days previously.

- c. A state credit union whose affairs are in an unfavorable condition.
- 6. The superintendent may furnish a copy of the examination report and materials relating to any or all examinations made of any state credit union and any affiliate of a state credit union to any or all of the following, including any official or supervising examiner of any office or regulatory authority:
 - a. The national credit union administration.
 - b. The federal deposit insurance corporation.
 - c. The federal reserve system.
 - d. The office of the comptroller of the currency.
 - e. The office of thrift supervision.
 - f. The federal home loan bank.
 - g. Financial institution regulatory authorities of other states.
- h. The financial crimes enforcement network of the United States department of the treasury.
- 7. If the superintendent concludes that a state credit union's affairs are in an unfavorable condition, the superintendent may direct the state credit union to consider consolidation, dissolution, or any other form of reorganization.

Sec. 14. NEW SECTION. 533.114 ANNUAL REPORT OF SUPERINTENDENT.

- 1. The superintendent shall report annually to the governor in the manner and within the time required by chapter 7A. A copy of the report shall be furnished by the superintendent to each state credit union and to the Iowa credit union league and its affiliates.
- 2. In addition to the matters required by chapter 7A, the annual report of the superintendent shall contain all of the following:
- a. A summary of applications approved or denied by the superintendent pursuant to this chapter since the last previous report.
- b. A summary of the assets, liabilities, and capital structures of all state credit unions, and a summary of the volume of consumer installment credit outstanding per state credit union, as of December 31 of the year for which the report is made.
- c. A statement of the receipts and disbursements of funds of the superintendent during the calendar year ending on the preceding December 31 and of the funds on hand on that December 31, including an estimate of the disbursements of credit union division funds for consumer credit protection during the year for which the report is made.
- d. Information that the administrator of the Iowa consumer credit code may require to be included.
- e. A list of state credit unions that have been designated as serving predominantly low-income members pursuant to section 533.301, subsection 1.
- f. Other information the superintendent deems appropriate and advisable to disclose in the discharge of the duties imposed upon the superintendent by this chapter.

Sec. 15. NEW SECTION. 533.115 RECIPROCITY.

- 1. Subject to rules of the superintendent, a credit union organized in another state may do business in Iowa if state credit unions organized in Iowa may do business in the state in which the out-of-state credit union is organized.
- 2. Notwithstanding subsection 1, an out-of-state credit union shall meet the same deposit insurance requirements established by this chapter for a state credit union prior to doing business in Iowa.

Sec. 16. <u>NEW SECTION</u>. 533.116 ENFORCEMENT OF IOWA CONSUMER CREDIT CODE.

- 1. The superintendent shall enforce the Iowa consumer credit code with respect to state credit unions, as provided in sections 537.2303, 537.2305, and 537.6105.
- 2. The superintendent shall cooperate with the administrator of the Iowa consumer credit code as designated in section 537.6103, and shall assist that administrator whenever necessary to provide for the discharge of the duties of that administrator.

3. Notwithstanding other provisions of this chapter to the contrary, the superintendent shall furnish to the administrator of the Iowa consumer credit code, access to or copies of records in the custody of the credit union division that relate to a state credit union when necessary to enable the administrator of the Iowa consumer credit code to enforce chapter 537.

Sec. 17. NEW SECTION. 533.117 SMALL LOANS LEGISLATION.

This chapter does not apply to any person engaged in the business of loaning money under chapter 536.

Sec. 18. NEW SECTION. 533.201 ORGANIZATION.

- 1. In order to simplify the organization of state credit unions, the superintendent shall cause to be prepared an approved form of articles of incorporation and a form of bylaws, consistent with this chapter, which shall be used by state credit union incorporators.
- 2. a. A group comprised of at least seven residents of the state of Iowa may apply to the superintendent for permission to organize a state credit union.
- b. A state credit union shall be organized by delivering to the superintendent articles of incorporation that state all of the following:
 - (1) The name and location of the proposed state credit union.
- (2) The names and addresses of the subscribers to the articles and the number of shares subscribed to by each.
- (3) The share structure of the state credit union. A state credit union may have more than one class of shares. The par value of the shares of the state credit union shall be established by the board of directors.
- 3. The applicants shall prepare and adopt bylaws for the general governance of the state credit union consistent with the provisions of this chapter.
- 4. The articles and the bylaws, both executed in duplicate, shall be forwarded with a fee of ten dollars to the superintendent.
- 5. a. The superintendent shall determine whether the articles and bylaws conform to the provisions of this chapter within thirty days of receipt.
- b. The superintendent shall notify the applicants of the determination after review of the articles and bylaws.
- c. If the decision is favorable, the superintendent shall issue a certificate of approval, which shall be attached to the duplicate articles of incorporation and returned, together with the duplicate bylaws, to the applicants.
- d. Articles and bylaws approved by the superintendent shall be binding upon the applicants and the board of directors of a state credit union. If the board of directors does not follow the articles of incorporation and bylaws, the members of the state credit union may pursue a derivative action in Iowa district court.
- 6. a. The applicants shall file the duplicate of the articles of incorporation and the attached certificate of approval with the county recorder of the county within which the state credit union is to have its principal place of business.
- b. The county recorder shall record and index the duplicate of the articles of incorporation and the attached certificate of approval and return the articles of incorporation and the certificate of approval, with the recorder's certificate of record attached, to the superintendent for permanent record.
- 7. Articles of incorporation may be amended by a favorable vote of a majority of the members present at a meeting, if that number constitutes a quorum and if the proposed amendment was contained in the notice of the meeting.
 - 8. Bylaws may be amended by any of the following methods:
- a. The favorable vote of a majority of the members present at a meeting, if that number constitutes a quorum and if the proposed amendment was contained in the notice of the meeting.
 - b. The favorable vote of a majority of the members of the board.
- c. By a majority vote of members voting by mailed or electronic ballot, ensuring the confidentiality of voters, according to procedures specified by rule of the superintendent, requiring

at least twenty days' notice to all members. An announcement shall be made to members of the results of the vote. Ballots shall be preserved for a reasonable period of time following the vote.

- d. A combination of procedures as specified in paragraphs "a" and "c", whereby members are allowed to vote either in person at a meeting or by mailed or electronic ballot, according to procedures specified by rule of the superintendent. If the proposed amendment receives a favorable majority of the total votes cast in person and by mailed or electronic ballot, the bylaws shall be amended.
- 9. An amendment to the articles of incorporation or bylaws must be approved by the superintendent before the amendment becomes effective.
- 10. The original articles or amended articles may contain a provision eliminating or limiting the personal liability of a director, officer, or employee of the state credit union or its shareholders for monetary damages for breach of fiduciary duty as a director, officer, or employee, provided that the provision does not eliminate or limit the liability of a director, officer, or employee for any breach of the director's, officer's, or employee's duty of loyalty to the state credit union or its shareholders, for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, or for any transaction from which the director, officer, or employee derives an improper personal benefit. However, a provision shall not eliminate or limit the liability of a director, officer, employee, or shareholder for any act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 19. $\,$ NEW SECTION. 533.202 COMMON BOND — MEMBERSHIP — OWNERSHIP SHARE.

- 1. a. State 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.
 - b. Changes in the common bond may be made by the board of directors.
- 2. a. The membership of a state credit union consists of those persons in the common bond who have subscribed to one ownership share and have complied with the other requirements specified by the articles of incorporation and bylaws.
 - b. Organizations, incorporated or otherwise, may be members.
- c. Unless the state credit union's bylaws state otherwise, once a person or organization becomes a member of a state credit union in accordance with this chapter, the person or organization may remain a member of that state credit union, and retain all membership privileges, until the person or organization chooses to withdraw from the membership of the state credit union, or is expelled pursuant to section 533.210.

Sec. 20. NEW SECTION. 533.203 FISCAL YEAR — MEMBERSHIP MEETINGS.

- 1. The fiscal year of all state credit unions shall end December 31.
- 2. Annual meetings shall be held, and special meetings may be held, in the manner indicated in the bylaws.
- a. At all meetings, a member shall have one vote regardless of the number of or class of shares held by the member.
 - b. There shall be no voting by proxy.
 - c. A member other than a natural person may cast a single vote through a delegated agent.
- 3. a. The majority of members present at any meeting may vote to modify, amend, or reverse any act of the board of directors or instruct the board to take action not inconsistent with the articles, bylaws, or this chapter.
- b. In order to be binding upon the board of directors, any action taken by the membership to modify, amend, or reverse an act of the board, or to instruct the board to take action, requires an affirmative vote of a majority of all eligible members obtained by submitting the modification, amendment, or reversal to the members by mail or electronic ballot, pursuant to rules adopted by the superintendent.

Sec. 21. NEW SECTION. 533.204 ELECTION OF BOARD.

- 1. At the organizational meeting a board of directors of not less than nine members shall be elected to hold office for such terms as the bylaws provide and until successors are elected and qualified.
- 2. At each annual meeting one member shall be elected to fill each position vacated by reason of an expiring term or other cause.
- 3. Pursuant to rules adopted by the superintendent, state credit unions may allow members to vote on the election of directors via electronic means including but not limited to the internet or telephone.
- 4. A record of the names and addresses of the directors, officers, and committee persons shall be filed with the superintendent within ten days following each election.
- 5. A state credit union wishing to maintain a board of directors of less than nine members may apply to the superintendent for permission to reduce the required number of directors. An application to reduce the required number of directors under this subsection must demonstrate both of the following:
 - a. The application is necessitated by a hardship or other special circumstance.
- b. A lesser number of directors is in the best interest of the state credit union and its members.

In no event may the superintendent allow fewer than seven directors on a state credit union board.

Sec. 22. <u>NEW SECTION</u>. 533.205 BOARD OF DIRECTORS — DUTIES.

- 1. Within five days following the organizational meeting and each annual meeting, the directors shall elect the following officers from the membership of the board of directors:
 - a. A chairperson of the board.
 - b. A vice chairperson.
 - c. A secretary.
 - d. A chief financial officer whose title shall be designated by the board.
 - 2. a. The board of directors shall appoint the following committees:
 - (1) A credit committee of not less than three members.
 - (2) An auditing committee of not less than three members.
 - b. The board may also appoint alternate members of the credit committee.
- c. Only a member of the board or a member of the state credit union may be appointed to the credit committee or to the auditing committee.
 - d. The board may appoint an executive committee to act on its behalf.
- 3. The duties and responsibilities of a director and of the board of directors shall include, but are not limited to, all of the following:
 - a. General management of the affairs of the state credit union.
- b. Setting the amount of the surety bond that shall be required of all officers and employees handling money.
- c. Attendance at no less than seventy-five percent of the regular board meetings held during the calendar year.
- d. Periodic review of the original records of the state credit union, or comprehensive summaries prepared by the officers of the state credit union, pertaining to loans, security interests, and investments.
 - e. Review of the adequacy of the state credit union's internal controls.
 - f. Periodic review of utilization of security measures.
- g. Establishing education and training programs to ensure that the director possesses adequate knowledge to manage the affairs of the state credit union.
- 4. a. Directors of a state credit union shall discharge the duties of their position in good faith and with that diligence, care, and skill which ordinarily prudent persons would exercise under similar circumstances in like positions.
- b. The directors have a continuing responsibility to assure themselves that the state credit union is being managed according to law and that the practices and policies adopted by the board are being implemented.

- 5. a. The board of directors shall name or employ an individual who performs active executive or official duties for the state credit union as its chief executive officer.
- b. The board shall fix the tenure and provide for the reasonable compensation of the chief executive officer.
 - c. The chief executive officer may be a member of the board of directors.
- 6. a. The chief executive officer or the chief executive officer's designee shall determine the compensation and tenure of employees of the state credit union.
 - b. An employee of the state credit union shall not be a member of the board of directors.
- c. For purposes of this section, an employee of the state credit union means an individual employed by the state credit union other than the chief executive officer.
- 7. A state credit union shall not pay an overdraft of a director, officer, or employee of the state credit union on an account at the state credit union, unless the payment of funds is made in accordance with either of the following:
- a. A written, preauthorized, interest-bearing extension of credit plan that specifies a method of repayment.
- b. A written, preauthorized transfer of collected funds from another account of the account holder at the state credit union.
- 8. A credit union director shall not receive compensation for service as a director. However, a director may be reimbursed for reasonable expenses directly related to such service.

Sec. 23. NEW SECTION. 533.206 MEETINGS OF THE BOARD.

Unless the bylaws provide otherwise, the board of directors may permit any and all directors to participate in all except one meeting per year of the board of directors through the use of any means of communication by which all directors participating in the meeting may simultaneously hear each other and communicate during the meeting. A director participating in a meeting by this means is deemed to be present at the meeting.

Sec. 24. NEW SECTION. 533.207 CREDIT COMMITTEE.

- 1. The credit committee shall have responsibility for the general supervision of all loans to members.
 - 2. Applications for loans shall be on a form approved by the credit committee.
- a. All applications shall set forth the purpose for which the loan is desired, the security, if any, offered and such other data as may be required.
- b. Within the meaning of this section, an assignment of shares or deposits or the endorsement of a note may be deemed security.
- 3. At least a majority of the members of the credit committee shall review and act on all loan applications and may grant approval, or the credit committee, with the prior approval of the board of directors, may grant one or more loan officers the power to approve or reject loans subject to written conditions and regulations adopted by the credit committee.
- 4. The credit committee shall meet as often as may be necessary after due notice to each member.

Sec. 25. NEW SECTION. 533.208 AUDITING COMMITTEE.

The auditing committee shall perform the following functions:

- 1. Make or cause to be made an examination of the affairs of the state credit union at least annually, including an audit of its financial records. If the auditing committee feels such action to be necessary, the auditing committee shall call the members together after the audit and submit to them its report.
- 2. Make or cause to be made an annual report and submit it at the annual meeting of the members.
- 3. Suspend by unanimous vote any officer, director, or member of the auditing committee and call the members together to act on the suspension, if the auditing committee deems the action to be necessary to the proper conduct of the state credit union. The members at the meeting may sustain the suspension and remove the officer, director, or member permanently or may reinstate the officer, director, or member.

4. Call a special meeting of state credit union members by majority vote to consider a matter to be submitted by the auditing committee.

Sec. 26. NEW SECTION. 533.209 CONFLICTS OF INTEREST.

- 1. A director, committee member, officer, or employee of a state credit union shall not directly or indirectly participate in either the deliberation upon or the determination of any matter in which the director, committee member, officer, or employee has a direct or indirect interest.
- 2. For the purposes of this section, an interest may include, but is not limited to, a pecuniary or familial interest.

Sec. 27. NEW SECTION. 533.210 EXPULSION OF CREDIT UNION MEMBER.

- 1. The board of directors may expel any member of a state credit union who has failed to do either of the following:
 - a. Carry out the member's obligations to the state credit union.
 - b. Comply with the state credit union's bylaws or policies.
- 2. A member of a state credit union may be expelled by a majority vote of the board of directors at a regular or special meeting of the board.
- a. An expelled member may request a hearing before the membership of the state credit union, which shall be held within sixty days of an expelled member's request.
- b. At the hearing, the membership may reinstate the expelled member by majority vote, upon terms and conditions prescribed at the hearing.
- 3. Any member may withdraw from the state credit union at any time, but advance notice of withdrawal may be required as provided in this section.
- 4. After deducting all amounts due from the member to the state credit union and the amount necessary to honor outstanding share drafts drawn against accounts of the member, all amounts paid on shares or as deposits of an expelled or withdrawing member, along with accrued dividends and interest to the date of expulsion or withdrawal, shall be paid to that member.
- 5. Upon expulsion or withdrawal of a member from a state credit union, or at any other time, the state credit union may require sixty days' notice of intention to withdraw shares and thirty days' notice of intention to withdraw deposits, except that a state credit union shall not at any time require notice of withdrawal with respect to funds that are subject to withdrawal by share drafts.
- 6. Withdrawing or expelled members shall have no further rights in the state credit union. However, withdrawing or expelled members shall not be released from any remaining liability to the state credit union because of the expulsion or withdrawal.

Sec. 28. NEW SECTION. 533.211 SUSPENSION OR RESTRICTION OF SERVICES.

- 1. A state credit union may suspend or deny certain services to members who have done any of the following:
 - a. Caused a loss to the state credit union.
 - b. Violated the membership agreement or any policy adopted by the board.
 - c. Been physically or verbally abusive to state credit union members or staff.
- 2. Members with suspended services may maintain a share account, and continue to vote at annual and special meetings.

Sec. 29. <u>NEW SECTION</u>. 533.212 USE OF NAME "CREDIT UNION" REQUIREMENTS — RESTRICTIONS — EXCEPTIONS.

- 1. a. A state credit union organized in accordance with this chapter shall include the words "credit union" in its name.
 - b. All state credit union offices shall be identified by use of the state credit union's full name.
- c. The full name of a state credit union shall be used in all legal documents of the state credit union.
 - 2. a. A person other than a credit union shall not use a name or title containing the words

"credit union", or any derivation, and shall not represent in advertising or otherwise that the person is conducting business as a credit union, except as provided in subsection 3.

- b. A person who violates paragraph "a" may be enjoined from the use of words, advertising, or other representation prohibited by paragraph "a".
 - 3. The prohibitions contained in subsection 2 do not apply to any of the following entities:
 - a. A credit union organized under this chapter or the laws of another state.
 - b. A credit union organized under the Federal Credit Union Act, 12 U.S.C. § 1751 et seq.
- c. The Iowa credit union league, a chapter, affiliate, or subsidiary of the Iowa credit union league or a political action committee formed pursuant to the Federal Election Campaign Act, 2 U.S.C. § 431 et seq., or chapter 68A by the Iowa credit union league or by credit unions organized under this chapter or federal law.
- d. A joint service center operated by two or more credit unions where credit union services are made available to credit union members.
- e. An organization formed for educational purposes in association with an accredited elementary or secondary school that engages in receipt of deposits of no more than twenty dollars per depositor and uses the words "educational credit union" in its name. An educational credit union must be affiliated with a state credit union organized under this chapter. Notwithstanding this recognition given to an educational credit union, an educational credit union is not a state credit union within the scope or regulation of this chapter.

Sec. 30. NEW SECTION. 533.213 CORPORATE CENTRAL CREDIT UNION.

- 1. A corporate central credit union may be established.
- a. Credit unions organized under this chapter, the Federal Credit Union Act, or any other credit union act and credit union organizations may be members.
- b. Regulated financial institutions, nonprofit organizations, and cooperative organizations may also be members to the extent and manner provided for in the bylaws of the corporate central credit union.
- 2. A corporate central credit union shall not be required to transfer to its legal reserve more than five percent of its net income for the year.
- 3. A corporate central credit union shall have all the powers, restrictions, and obligations imposed upon, or granted to a state credit union under this chapter, except that the corporate central credit union may also exercise any of the following additional powers subject to the adoption of rules by the superintendent and with the prior written approval of the superintendent:
 - a. Borrow any amount from any source.
- b. Invest in or purchase obligations or securities or other designated investments to the same extent authorized for other supervised financial institutions.
- c. Invest in or acquire shares, stocks, or other obligations of an organization providing services that are associated with the operations of credit unions. However, the aggregate amount invested pursuant to this paragraph shall not exceed fifty percent of the total of all reserves and undivided earnings of the corporate central credit union.
- d. Buy or sell investment securities and corporate bonds that are evidences of indebtedness. However, the purchase or sale is limited to marketable obligations of a corporation or state or federal agency issued without recourse.
- e. Establish one or more capital accounts in the same manner as if it were a federal credit union.
- f. Sell all or part of its assets to another corporate central credit union and assume the liabilities of a selling corporate central credit union if the action is pursuant to a plan agreed upon by a majority of the board of directors and, in the case of the sale of all of its assets, the affirmative vote of a majority of its members either by mail or in person at a meeting called for that purpose.
- g. Invest in the shares or deposits of another similarly organized corporate central credit union, or central liquidity facility.
 - h. Make other investments approved by the superintendent.

Sec. 31. NEW SECTION. 533.214 CENTRAL CREDIT UNIONS.

Credit unions known as central credit unions may exist for the purpose of serving credit unions, members of dissolved and members of other credit unions, directors, officers, and employees of credit unions, employee groups as described in section 533.301, subsection 13, and such other persons as the superintendent approves.

Sec. 32. NEW SECTION. 533.301 POWERS.

A state credit union shall have the power to do all of the following:

- 1. Receive payments for ownership shares, other shares, or as deposits from any or all of the following:
 - a. Members of the state credit union.
- b. Nonmembers as prescribed by rule where the state credit union is serving predominantly low-income members. Rules adopted allowing nonmember deposits in state credit unions serving predominantly low-income members shall be designed solely to meet the needs of the low-income members.
 - c. Other state credit unions.
 - d. Federal, state, county, and city governments.
 - 2. Make loans or leases to members.
- 3. Make loans to a cooperative society or other organization having membership in the state credit union.
- 4. Make deposits in state and national banks, state and federal savings banks or savings and loan associations, and state and federal credit unions, the accounts of which are insured by the federal deposit insurance corporation or the national credit union share insurance fund.
 - 5. Make investments in any or all of the following:
- a. Time deposits in state and national banks, state and federal savings banks or savings and loan associations, and state and federal credit unions, the deposits of which are insured by the federal deposit insurance corporation or the national credit union share insurance fund.
- b. Obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by the United States government or any agency of the United States government, or any trust or trusts established for investing directly or collectively in the United States government or any agency of the United States government.
 - c. General obligations of this state and any subdivision of this state.
 - d. Purchase of notes of liquidating credit unions with the approval of the superintendent.
 - e. Shares and deposits in other credit unions.
- f. Shares, stocks, loans, and other obligations or a combination of shares, stocks, loans, and other obligations of a credit union service organization, corporation, or association, provided the membership or ownership, as the case may be, of the credit union service organization, corporation, or association is primarily confined or restricted to credit unions or organizations of credit unions, and provided that the purpose of the credit union service organization, corporation, or association is primarily designed to provide services to credit unions, organizations of credit unions, or credit union members. However, the aggregate amount invested pursuant to this paragraph shall not exceed five percent of the assets of the credit union.
- g. Obligations issued by federal land banks, federal intermediate credit banks, banks for cooperatives, or any of the federal farm credit banks.
 - h. Commercial paper issued by United States corporations as defined by rule.
- i. Corporate bonds as defined by and subject to terms and conditions imposed by the superintendent, provided that the superintendent shall not approve investment in corporate bonds unless the bonds are rated in the two highest grades of corporate bonds by a nationally accepted rating agency.
- j. Any permissible investment for federal credit unions, provided that this paragraph shall not permit a credit union to invest in a credit union service organization except as provided in paragraph "f".
 - 6. Borrow money as provided in this chapter.
 - 7. Assess penalties as may be provided by the bylaws.
 - 8. Sue and be sued.

- 9. Make contracts.
- 10. Purchase, hold, and dispose of property necessary and incidental to its operation, except that any property acquired through foreclosure shall be disposed of within a period not to exceed ten years.
- 11. Exercise such incidental powers as may be necessary or requisite to enable the state credit union to carry on the business effectively for which it is incorporated.
- 12. Apply for share account and deposit account insurance that meets the requirements of this chapter, and take all actions necessary to maintain an insured status.
- 13. Serve a group of persons having an insufficient number of members to form or conduct the affairs of a separate credit union, upon the approval of the superintendent. The existence of a common bond relationship between the group and the credit union affecting that service shall not be required.
- 14. Deposit with a credit union that has been in existence for not more than a year, an amount not to exceed twenty-five percent of the assets of the new credit union, but only one credit union may, at any time, make such a deposit.
- 15. Acquire the conditional sales contracts, promissory notes, or other similar instruments executed by its members, but the rate of interest existing on the instruments shall not exceed the highest rate charged by the acquiring credit union on its outstanding loans.
- 16. a. Sell, participate in, or discount the obligations of its members with or without recourse.
- b. Purchase the obligations of credit union members, provided the obligations meet the requirements of this chapter.
- 17. Acquire and hold shares in a corporation engaged in providing and operating facilities through which a credit union and its members may engage, by means of either the direct transmission of electronic impulses to and from the credit union or the recording of electronic impulses or other indicia of a transaction for delayed transmission to the credit union, in transactions in which such credit union is otherwise permitted to engage pursuant to applicable law, subject to the prior approval of the superintendent.
- 18. Engage in any transaction otherwise permitted by this chapter and applicable law, by means of either the direct transmission of electronic impulses to or from the state credit union or the recording of electronic impulses or other indicia of a transaction for delayed transmission to the state credit union.
- a. Subject to the provisions of chapter 527, a state credit union may utilize, establish, or operate, alone or with one or more other credit unions, banks incorporated under chapter 524 or federal law, savings and loan associations incorporated under chapter 534 or federal law, corporations licensed under chapter 536A, or third parties, the satellite terminals permitted under chapter 527, by means of which the state credit union may transmit to or receive from any member electronic impulses constituting transactions pursuant to this subsection. However, such utilization, establishment, or operation shall be lawful only when in compliance with chapter 527.
- b. This subsection shall not be construed as authority for any person to engage in transactions not otherwise permitted by applicable law, and shall not be deemed to repeal, replace, or in any other way affect any applicable law or rule regarding the maintenance of or access to financial information maintained by any credit union.
 - 19. Establish one or more state credit union offices other than its main office.
- a. A state credit union may furnish at any of its offices all credit union services ordinarily furnished to the membership at its principal place of business.
- b. The central executive and official business and recordkeeping functions of a state credit union shall be exercised at its principal place of business or at another state credit union office or a location authorized by the superintendent for these functions.
- c. A state credit union shall file an informational statement in the form prescribed by the superintendent prior to opening a state credit union office.
- d. A state credit union office shall not be opened without a certificate to establish a state credit union office issued by the superintendent.

- e. The establishment of a state credit union office must be reasonably necessary for service to, and in the best interests of, the members of the state credit union, and shall not endanger the safety and soundness of the state credit union opening the office.
- f. A state credit union may join with one or more credit unions in the operation of an office facility to meet the service needs of its members.
- 20. Contract with another credit union to furnish services which either could otherwise legally perform. Contracted services provided under this subsection are subject to regulation and examination like other services.
 - 21. Purchase insurance or make the purchase of insurance available for members.
 - 22. Charge fees and penalties and apply them to income.
- 23. a. (1) Act as agent of the federal government when requested by the secretary of the United States department of treasury.
- (2) Perform such services as may be required in connection with the collection of taxes and other obligations due the United States and the lending, borrowing, and repayment of moneys by the United States.
 - (3) Act as a depository of public money when designated for that purpose.
 - b. (1) Act as agent of this state when requested by the treasurer of state.
- (2) Perform such services as may be required in connection with the collection of taxes and other obligations due this state and the lending, borrowing, and repayment of moneys by this state.
 - (3) Act as a depository of public moneys when designated for that purpose.
- 24. Receive public funds pursuant to chapter 12C and pledge its assets to secure the deposit of public funds.
- 25. Engage in any activity authorized by the superintendent which would be permitted if the state credit union were federally chartered and which is consistent with state law.
- 26. To promote the public welfare, make donations for religious, charitable, scientific, educational, or community betterment purposes.
- 27. Set off a member's accounts against any of the member's debts or liabilities owed the state credit union pursuant to an agreement entered into between the member and the state credit union. The state credit union shall also have a lien on the shares and deposits of a member for any sum due to the state credit union from the member or for any loan endorsed by the member. ¹

Sec. 33. NEW SECTION. 533.302 CAPITAL.

- 1. The capital of a credit union shall consist of the payments that have been made to it by the several members thereof on shares. A credit union may charge an entrance fee as may be provided by the bylaws.
- 2. A credit union may establish an equity share having a par value not to exceed one hundred dollars which shall be a part of the capital of the credit union and shall not be withdrawn or transferred except upon termination of membership in the credit union. At the option of the credit union, the equity share may earn a dividend and may be insured.

Sec. 34. NEW SECTION. 533.303 RESERVES.

- 1. At the end of each dividend period, but no less than quarterly, the gross income of the state credit union shall be determined.
- 2. A legal reserve against losses on loans and against such other losses as may be specified by rule shall be set aside from the gross income in accordance with the following schedule:
- a. A state credit union in operation for more than four years and having assets of five hundred thousand dollars or more shall set aside the following amounts in the following order:
- (1) Ten percent of the gross income until the legal reserve equals four percent of the total outstanding loans and risk assets.
- (2) Five percent of the gross income until the legal reserve equals six percent of the total outstanding loans and risk assets.
- b. A state credit union in operation for less than four years or having assets of less than five hundred thousand dollars shall set aside the following amounts in the order set forth:

¹ See chapter 118, §1, 3

- (1) Ten percent of the gross income until the legal reserve equals seven and one-half percent of the total outstanding loans and risk assets.
- (2) Five percent of the gross income until the legal reserve equals ten percent of the total outstanding loans and risk assets.
- 3. a. If the legal reserve falls below the percent of the total outstanding loans and risk assets required for a state credit union by this section, the state credit union shall replenish the legal reserve by regular contributions in the amounts needed to reach the required reserve. However, the superintendent may waive the reserve requirement when in the superintendent's opinion the waiver is necessary or desirable.
 - b. The legal reserve shall belong to the state credit union and shall be used to meet losses.
- c. The reserve shall not be distributed to members as interest or dividends except on liquidation of the state credit union or in accordance with a plan approved by the superintendent.
- 4. The superintendent may require a state credit union to set aside additional amounts as a special reserve if an examination of assets discloses that the legal reserve of the state credit union is inadequate.
- 5. A state credit union shall maintain an adequate allowance for loan and lease losses account and such other valuation allowance accounts as may be necessary to provide for the full and fair disclosure, in the state credit union's financial statements, of the assets, liabilities, and equity of the state credit union.
- 6. For the purpose of establishing legal reserves, the following shall not be considered risk assets:
 - a. Cash on hand.
 - b. Deposits and shares in federally insured banks, savings banks, and credit unions.
- c. Assets which are insured by, fully guaranteed as to principal and interest by, or due from the United States government, its agencies, and instrumentalities.
 - d. Loans to other credit unions.
- e. Student loans insured under the provisions of 20 U.S.C. § 1071-1087 or similar state programs.
 - f. Loans insured by the federal housing administration under 12 U.S.C. § 1703.
- g. Loans fully insured or guaranteed by the federal government, a state government, or any agency of either.
 - h. Common trust investments which deal in investments authorized in section 533.301.
 - i. Prepaid expenses.
 - j. Accrued interest on nonrisk investments.
 - k. Furniture and equipment.
 - l. Land and buildings.
 - m. Loans fully secured by a pledge of shares within the state credit union.
 - n. Deposits in the national credit union share insurance fund.
 - o. Real estate loans in transit to the secondary market as specified by rule.
- 7. Notwithstanding any other provision of this section, a state credit union shall maintain a sufficient amount of net worth as required by the state credit union's deposit insurer and rules of the superintendent.

Sec. 35. <u>NEW SECTION</u>. 533.304 INVESTMENT IN CERTAIN SHARES OR EQUITY INTERESTS.

- 1. For purposes of this section, unless the context otherwise requires:
- a. "Equity interests" means limited partnership interests and other equity investments in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability.
- b. "Small business" means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, that meets the appropriate United States small business administration definition of small business and that is principally engaged in the development or exploitation of inventions, technological improvements, new processes, or other products not previously generally available in this state, or other investments which provide an economic benefit to this state.

- c. "Venture capital fund" means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, whose principal business is or will be the making of investments in and the provision of significant managerial assistance to small businesses that meet the United States small business administration definition of small business.
- 2. A state credit union may invest in either of the following to the extent that the total investments under this section shall not be more than five percent of the state credit union's assets:
- a. Shares or equity interests in venture capital funds that agree to invest an amount equal to at least fifty percent of the state credit union's investment in small businesses having their principal offices within this state and having either more than one-half of their assets within this state or more than one-half of their employees employed within this state.
- b. Shares or equity interests in small businesses having their principal offices within this state and having either more than one-half of their assets within this state or more than one-half of their employees employed within this state. A state credit union shall not invest in more than twenty percent of the total capital and surplus of any one small business under this paragraph.

Sec. 36. <u>NEW SECTION</u>. 533.305 INVESTMENT IN BANKS OR SAVINGS BANKS — REQUIRED FINDINGS.

- 1. INVESTMENTS IN BANKS. A state credit union may, with the prior approval of the superintendent, invest in the capital stock, obligations, or other securities of a bank.
- 2. INVESTMENT IN SAVINGS BANKS. A state credit union may, with the prior approval of the superintendent, invest in the capital stock, obligations, or other securities of a savings bank.
- 3. FINDINGS REQUIRED. The superintendent shall not grant an approval under subsection 1 or 2, unless the superintendent makes one of the following findings:
- a. Based upon a preponderance of the evidence presented, the proposed investment will not have the immediate effect of significantly reducing competition between depository financial institutions located in the same community as the institution whose shares would be acquired.
- b. Based upon a preponderance of the evidence presented, the proposed investment would have an anticompetitive effect as described in paragraph "a", but other factors, specifically cited, outweigh the anticompetitive effect so that there would be a net public benefit as a result of the investment.
- 4. COMPETITION PRESERVED. a. The subsequent liquidation of a bank or savings bank whose shares are acquired under this section shall not prevent the subsequent incorporation of another bank or savings bank in the same community.
- b. The superintendent of banking shall not find the liquidation of a bank whose shares are acquired under this section to be grounds for disapproving the incorporation of another bank in the same community under section 524.305.
- c. The superintendent of savings and loan associations shall not find the liquidation of a savings and loan association whose shares are acquired under this section to be grounds for disapproving the incorporation of another savings and loan association in the same community under chapter 534.

Sec. 37. NEW SECTION. 533.306 POWER TO BORROW.

A state credit union may borrow from any source in total a sum that shall not exceed fifty percent of the sum of its share and deposit account balances.

Sec. 38. NEW SECTION. 533.307 ACCOUNT INSURANCE.

Except as provided in section 533.302, subsection 2, a credit union organized under this chapter, as a condition of maintaining its privilege of organization, shall acquire and maintain insurance to protect each shareholder and each depositor against loss of funds held on account by the credit union. The insurance shall be obtained from the national credit union administrator or from some other share guarantor or insurance plan approved by the Iowa commissioner

of insurance and the superintendent, provided that each credit union shall acquire deposit insurance from the appropriate agency of the federal government.

Sec. 39. <u>NEW SECTION</u>. 533.308 FIDELITY BOND AND GENERAL INSURANCE COVERAGE.

- 1. A state credit union shall maintain a fidelity bond for state credit union employees and officials in a sufficient amount to indemnify the state credit union against losses that may be incurred by reason of any act or acts of fraud, dishonesty, forgery, theft, larceny, embezzlement, wrongful abstraction, misapplication, misappropriation, or other unlawful act committed by the employee or official directly or through connivance with others, and general insurance coverage for losses caused by persons not associated with the state credit union.
- a. The fidelity bond and general insurance coverage shall be obtained from a company authorized to do business in this state.
- b. The superintendent may require additional coverage for a state credit union if, in the opinion of the superintendent, current coverage is insufficient. The board of directors of the state credit union shall obtain the additional coverage within thirty days after written notice from the superintendent.
- 2. The superintendent may furnish to any official of an insurance plan by which the accounts of a state credit union are insured or by which its employees and officials are bonded, any information relating to examinations, investigations, and reports of the status of that state credit union or its employees and officials for the purpose of facilitating the availability or continuation of the insurance or bond of the state credit union or resolution of a claim.

Sec. 40. NEW SECTION. 533.309 SHARE ACCOUNTS.

A state credit union may have share accounts including, but not limited to, the following types:

- 1. OWNERSHIP SHARE ACCOUNT. The ownership share account shall consist of an account balance held by the state credit union in accordance with the state credit union's bylaws. Each member may acquire only one ownership share. In the case of a joint account, the joint account owners may acquire only one ownership share unless each joint account owner applies for and is accepted as an individual member. The state credit union shall not set off fees against a member's ownership share.
- 2. JOINT ACCOUNTS. A member may designate any person or persons to hold shares, deposits, and thrift club accounts with the member in joint tenancy with the right of survivorship, but such joint tenants shall not be permitted to cast more than one vote per ownership share jointly held in the state credit union. However, a joint tenant may have other rights of a jointly held ownership share, including the ability to obtain loans, or hold office or be required to pay an entrance fee. Payment of part or all of such joint accounts to any of the joint tenants shall, to the extent of such payment, discharge the liability to all.
- 3. ACCOUNT FOR MINORS. Shares may be issued and deposits accepted in the name of a minor. Such shares and deposits may be withdrawn by the minor and payments made on such withdrawals shall be valid. A minor under sixteen years of age shall not be entitled to vote in the meetings of the members either personally or through the minor's parent or guardian, and a minor shall not become a director until the minor reaches the minor's eighteenth birthday.
- 4. BENEFICIARY ACCOUNT. If a member makes a deposit for the benefit of a person other than the depositor, the name and residence address of the beneficiary shall be disclosed and the account shall be kept in the name of the depositor, for the benefit of the beneficiary. The account balance may be withdrawn by the depositor or, upon the death of the depositor, by the beneficiary or the beneficiary's legal representative.

Sec. 41. <u>NEW SECTION</u>. 533.310 DEPOSITS IN THE NAMES OF TWO OR MORE INDIVIDUALS.

When a deposit is made in a state credit union in the names of two or more individuals that

is payable to any one or more of them or is payable to the survivor or survivors, the deposit, including interest, or any part, may be paid to any one or more of the individuals, whether or not the others are living. The receipt or a quittance of the individuals who are paid is a valid and sufficient release and discharge of the state credit union for any payment made pursuant to this section.

Sec. 42. <u>NEW SECTION</u>. 533.311 ACCEPTANCE OF DEPOSITS AND INVESTMENTS WHILE INSOLVENT.

When a state credit union is insolvent, the state credit union shall not do either of the following:

- 1. Accept any deposits or investments in ownership shares.
- 2. Renew or extend the term of any time deposits or time investments.

Sec. 43. NEW SECTION. 533.312 DIVIDENDS AND INTEREST.

- 1. The board of directors may declare dividends at such rates and upon such classes of shares as are determined by the board, at such intervals and for such periods as the board may authorize, and after provision for required reserves pursuant to section 533.303.
- 2. Dividends shall be considered a normal operating expense of the state credit union and shall be paid on all paid-up shares outstanding at the close of the period for which the dividend is declared and shall be available only from undivided earnings.
- 3. The superintendent may restrict or prohibit the payment of a dividend or interest when an impairment of capital exists.

Sec. 44. NEW SECTION. 533.313 SHARE DRAFTS.

- 1. A state credit union may provide its members with share draft accounts.
- a. "Share draft" means a negotiable draft which is payable upon demand and is used to withdraw funds from a share draft account.
 - b. A share draft is an item for purposes of chapter 554, article 4.
- c. The term does not include a draft issued by a state credit union for the transfer of funds between the issuing credit union and another credit union, a bank, a savings and loan association, or another depository financial institution.
- 2. A share draft account is an account that is a demand account from which a state credit union has agreed that funds may be withdrawn by means of a share draft. A share draft account may bear interest or dividends as determined by the board of directors, provided that the state credit union shall not pay interest or dividends on a share draft account at a rate that exceeds the maximum interest rate which a regulated financial institution is able to pay on comparable instruments as allowed by the depository institutions deregulatory committee.
- 3. A state credit union may guarantee payment for a share draft if both the following conditions are met:
- a. A specific guarantee authorization is obtained for the share draft from the state credit union.
- b. The guarantee authorization is immediately noted on the share draft account to prevent the withdrawal of funds needed to pay the guaranteed share draft.
- 4. A state credit union may charge fees and penalties on share drafts and apply fees and penalties to the state credit union's income in relation to share draft services.
- 5. The superintendent may adopt rules relating to share draft programs as necessary to administer this chapter.

Sec. 45. <u>NEW SECTION</u>. 533.314 PAYMENT OF SHARE DRAFTS DURING DISSOLUTION.

Other provisions of section 533.404 notwithstanding, when a state credit union is dissolved, first priority of payment shall be given to unpaid share drafts. However, a share draft shall not be paid if any of the following conditions exist:

1. The share draft was issued on or after the date of dissolution, or on or after the date the state credit union is required by section 533.405, subsection 2, to cease doing business in the event of a voluntary dissolution.

- 2. The share draft is written against an account that does not contain sufficient funds with which to pay the share draft.
- 3. The share draft is payable to a member of the state credit union, or to a member of the family of the issuer of the share draft, or to a business in which the issuer of the share draft has an interest. However, the exception contained in this subsection does not apply to any person referred to in this subsection if the person is a holder in due course, as provided in chapter 554, article 3.

Sec. 46. NEW SECTION. 533.315 LOANS.

- 1. GENERAL LENDING POWER. A state credit union may loan to a member for a provident or productive purpose.
 - a. Loans are subject to the conditions contained in this section and in the bylaws.
- b. A loan may be repaid by the borrower, in whole or in part, any day the office of the state credit union is open for business.
 - c. A loan shall be made pursuant to an application with supportive credit information.
- d. The superintendent may adopt rules requiring periodic updating of credit or financial information for all loans or for classes of loans designated in the rules.
- 2. AGGREGATE LENDING TO ONE MEMBER. A state credit union shall not lend in the aggregate to a member more than ten percent of its member savings.
- 3. LENDING TO A CREDIT UNION DIRECTOR. A director of a state credit union may borrow from that state credit union under the provisions of this chapter, but the rates, terms, and conditions of a loan or line of credit either made to or endorsed or guaranteed by the director shall not be more favorable than the rates, terms, or conditions of comparable existing loans or lines of credit provided to other members. The aggregate amount of all director loans and lines of credit shall not exceed twenty-five percent of the assets of the state credit union.
- 4. LOANS ON REAL PROPERTY. a. A state credit union may make permanent loans, construction loans, combined construction and permanent loans, or second mortgage loans secured by liens on real property, as authorized by rules adopted by the superintendent. The rules shall contain provisions as necessary to ensure the safety and soundness of these loans, and to ensure full and fair disclosure to borrowers of the effects of provisions in agreements for these loans, including provisions permitting change or adjustment of any terms of a loan, provisions permitting, requiring, or prohibiting repayment of a loan on a basis other than of equal periodic installments of interest plus principal over a fixed term, provisions imposing penalties for a borrower's noncompliance with requirements of a loan agreement, or provisions allowing or requiring a borrower to choose from alternative courses of action at any time during the effectiveness of a loan agreement.
- b. (1) A state credit union may include in the loan documents signed by the borrower a provision requiring the borrower to pay the state credit union each month in addition to interest and principal under the note an amount equal to one-twelfth of the estimated annual real estate taxes, special assessments, hazard insurance premium, mortgage insurance premium, or any other payment agreed to by the borrower and the state credit union in order to better secure the loan. The state credit union shall be deemed to be acting in a fiduciary capacity with respect to these funds.
- (2) A state credit union receiving funds in escrow pursuant to an escrow agreement executed on or after July 1, 1982, in connection with a loan as defined in section 535.8, subsection 1, shall pay interest to the borrower on those funds, calculated on a daily basis, at the rate the state credit union pays to its members on ordinary savings deposits.
- (3) A state credit union that maintains an escrow account in connection with any loan authorized by subsection 4, whether or not the mortgage has been assigned to a third person, shall each year deliver to the mortgagor a written annual accounting of all transactions made with respect to the loan and escrow account.
- c. A state credit union that obtains a report or opinion by an attorney or from another mortgage lender relating to defects in or liens or encumbrances on the title to real property, the unmarketability of the title to real property, or the invalidity or unenforceability of liens or en-

cumbrances on real property, shall provide a copy of the report or opinion to the mortgagor and the mortgagor's attorney.

- 5. ESCROW REPORTS. A state credit union may act as an escrow agent with respect to real property that is mortgaged to the state credit union, and may receive funds and make disbursements from escrowed funds in that capacity. The state credit union shall be deemed to be acting in a fiduciary capacity with respect to escrowed funds. A state credit union that maintains an escrow account, whether or not a mortgage has been assigned to a third person, shall deliver to the mortgagor a written summary of all transactions made with respect to the loan and escrow accounts during each calendar year. However, the mortgagor and mortgage may, by mutual agreement, select a fiscal year reporting period other than the calendar year. The summary shall be delivered or mailed not later than thirty days following the year to which the disclosure relates. The summary shall contain all of the following information:
 - a. The name and address of the mortgagee.
 - b. The name and address of the mortgagor.
 - c. A summary of escrow account activity during the year as follows:
 - (1) The balance of the escrow account at the beginning of the year.
 - (2) The aggregate amount of deposits to the escrow account during the year.
- (3) The aggregate amount of withdrawals from the escrow account for each of the following categories:
 - (a) Payments against loan principal.
 - (b) Payments against interest.
 - (c) Payments against real estate taxes.
 - (d) Payments for real property insurance premiums.
 - (e) All other withdrawals.
 - (4) The balance of the escrow account at the end of the year.
 - d. A summary of loan principal for the year as follows:
 - (1) The amount of principal outstanding at the beginning of the year.
 - (2) The aggregate amount of payments against principal during the year.
 - (3) The amount of principal outstanding at the end of the year.
- 6. OTHER LOANS. Loans that are not secured by real property shall be subject to the following conditions:
- a. Loans to any one member that in the aggregate exceed the unsecured loan limit established by the board of directors of a state credit union shall be secured by one or more cosigners or guarantors, or by a first lien on collateral having a value that is approximately equal to the amount in excess of such unsecured loan limit. Every cosigner or guarantor shall furnish the state credit union with evidence of financial responsibility.
- b. This subsection shall not be deemed to preclude a credit committee or loan officer from requiring security for any loan.
 - c. A state credit union may make loans according to any or all of the following:
 - (1) Loans insured under the provisions of 20 U.S.C. § 1071-1087 or similar state programs.
 - (2) Loans insured by the federal housing administration under 12 U.S.C. § 1703.
- (3) Loans to families of low or moderate income as a part of programs authorized in chapter 16.
- d. The restrictions and limitations contained in this subsection do not apply to loans made to a member credit union by a corporate central credit union.
- 7. LOAN RENEWALS AND EXTENSIONS. This section shall not prevent the renewal or extension of loans.
- 8. PENALTIES. The superintendent may impose a penalty on a state credit union for each loan made in violation of this section. If a state credit union, after notice in writing, and opportunity for hearing, fails to satisfactorily resolve the matter within sixty days from receipt of such notice, the superintendent may impose a penalty against such state credit union in an amount not to exceed one hundred dollars per day per violation for each day the violation remains unresolved.

9. CONSUMER CREDIT CODE.

- a. The provisions of the Iowa consumer credit code shall apply to consumer loans made by a state 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 state 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.
- 10. EARLY LOAN REPAYMENT. If a member elects to repay a loan secured by a mortgage or deed of trust upon real property that is a single-family or a two-family dwelling or agricultural land at a date earlier than is required by the terms of the loan, the state credit union shall be governed by section 535.9.
- 11. INTEREST ON PREPAYMENT. Real estate loans on one-family to four-family dwellings may be repaid in part or in full at any time, except that a state credit union may charge not to exceed six months' advance interest on that part of the aggregate amount of all prepayments made on such loan in any twelve-month period which exceeds twenty percent of the original principal amount of the loan; and may charge any negotiated rate on other loans. This subsection, however, does not authorize a state credit union to charge any advance interest or prepayment penalty where prohibited by section 535.9.

Sec. 47. NEW SECTION. 533.316 INTEREST RATES.

- 1. a. Interest rates on loans made by a state credit union, other than loans secured by a mortgage or deed of trust which is a first lien upon real property, shall not exceed the finance charge permitted in sections 537.2401 and 537.2402 on consumer loans.
- b. Interest rates on business loans shall not exceed the finance charge permitted by section 535.2.
- 2. With respect to a loan secured by a mortgage or deed of trust which is a first lien upon real property, a state credit union shall not charge a rate of interest that exceeds the maximum rate permitted by section 535.2.
 - 3. The provisions of this section do not apply to a loan that is subject to section 636.46.

Sec. 48. NEW SECTION. 533.317 AUTHORITY TO LEASE SAFE DEPOSIT BOXES.

- 1. A state credit union may lease safe deposit boxes for the storage of property on terms and conditions prescribed by the state credit union. The terms and conditions shall not bind any person to whom the state credit union does not give notice of the terms and conditions by delivery of a lease and agreement in writing containing the terms and conditions.
- 2. A state credit union may limit its liability provided that the limitations are set forth in the lease and agreement in at least the same size and type as the other substantive provisions of the contract.
- 3. The lease and agreement of a safe deposit box may provide that evidence tending to prove that property was left in a safe deposit box upon the last entry by the member or the member's authorized agent, and that the property or any part of the property was found missing upon subsequent entry, is not sufficient to raise a presumption that the property was lost by any negligence or wrongdoing for which the state credit union is responsible, or put upon the state credit union the burden of proof that the alleged loss was not the fault of the state credit union.
 - 4. A state credit union may lease a safe deposit box to a minor.
- a. A state credit union may deal with a minor with respect to a safe deposit lease and agreement without the consent of a parent, guardian, or conservator and with the same effect as though the minor were an adult.
- b. Any action of the minor with respect to such safe deposit lease and agreement is binding on the minor with the same effect as though the minor were an adult.
 - 5. A state credit union that has on file a power of attorney of a member covering a safe depos-

it lease and agreement, which has not been revoked by the member, shall incur no liability as a result of continuing to honor the provisions of the power of attorney in the event of the death or incompetence of the donor of the power of attorney until the state credit union receives written notice of the death, or written notice of adjudication by a court of the incompetence of the member and the appointment of a guardian or conservator.

Sec. 49. NEW SECTION. 533.318 SAFE DEPOSIT BOX ACCESS.

- 1. A state credit union shall permit a person named in and authorized by a court order to open, examine, and remove the contents of a safe deposit box located at the state credit union.
- 2. If a court order has not been delivered to a state credit union, the following persons may access and remove any or all contents of a safe deposit box located at the state credit union and described in an ownership or rental agreement or lease between the state credit union and a deceased owner or lessee:
 - a. A co-owner or co-lessee of the safe deposit box.
- b. A person designated in the safe deposit box agreement or lease to have access to the safe deposit box upon the death of the lessee, to the extent provided in the safe deposit box agreement or lease.
- c. An executor or administrator of the estate of a deceased owner or lessee upon delivery to the state credit union of a certified copy of letters of appointment.
- d. A person named as an executor in a copy of a purported will produced by the person, provided such access shall be limited to the removal of a purported will, and no other contents shall be removed.
- e. A trustee of a trust created by the deceased owner or lessee upon delivery to the state credit union of a copy of the trust together with an affidavit by the trustee that certifies that the copy of the trust delivered to the state credit union with the affidavit is an accurate and complete copy of the trust, the trustee is the duly authorized and acting trustee under the trust, the trust property includes property in the safe deposit box, and that to the knowledge of the trustee the trust has not been revoked.
- 3. A person removing any contents of a safe deposit box pursuant to subsection 1 or 2 shall deliver any writing purported to be a will of the decedent to the court having jurisdiction over the decedent's estate.
- 4. a. If a person authorized to have access under subsection 1 or 2 does not request access to the safe deposit box within the thirty-day period immediately following the date of death of the owner or lessee of a safe deposit box, and the state credit union has knowledge of the death of the owner or lessee of the safe deposit box, the safe deposit box may be opened by or in the presence of two employees of the state credit union.
- b. If a safe deposit box is opened pursuant to paragraph "a", the state credit union employees present at such opening shall do all of the following:
 - (1) Remove any purported will of the deceased owner or lessee.
- (2) Unseal, copy, and retain in the records of the state credit union a copy of a purported will removed from the safe deposit box. An additional copy of such purported will shall be made, dated, and signed by the credit union employees present at the safe deposit box opening and placed in the safe deposit box. The safe deposit box shall then be resealed.
- (3) The original of a purported will shall be sent by certified mail or restricted certified mail or personally delivered to the district court in the county of the last known residence of the deceased owner or lessee, or the court having jurisdiction over the testator's estate. If the residence is unknown or last known and not in this state, the purported will shall be sent by certified mail or restricted certified mail or personally delivered to the district court in the county where the safe deposit box is located.
- c. If no key is produced, the state credit union may cause the safe deposit box to be opened and the state credit union shall have a claim against the estate of the deceased owner or lessee and a lien upon the contents of the safe deposit box for the costs of opening and resealing the safe deposit box.
- 5. a. A state credit union may rely upon published information or other reasonable proof of death of an owner or lessee.

- b. A state credit union has no duty to inquire about or discover, and is not liable to any person for failure to inquire about or discover, the death of the owner or lessee of a safe deposit box.
- c. A state credit union has no duty to open or cause to be opened, and is not liable to any person for failure to open or cause to be opened, a safe deposit box of a deceased owner or lessee.
- d. Upon compliance with the requirements of this section as appropriate, the state credit union is not liable to any person as a result of the opening of the safe deposit box, removal and delivery of the purported will, or retention of the unopened safe deposit box and contents.

Sec. 50. $\,$ NEW SECTION. 533.319 ADVERSE CLAIMS TO PROPERTY IN SAFE DEPOSIT AND SAFEKEEPING.

- 1. A state credit union shall not be required, in the absence of a court order or indemnity required by this section, to recognize any claim to, or claim of authority to exercise control over, property held in safe deposit or property held for safekeeping pursuant to section 533.321 made by a person or persons other than the following:
 - a. The member in whose name the property is held by the state credit union.
- b. An individual or group of individuals who are authorized to have access to the safe deposit box, or to the property held for safekeeping, pursuant to a certified corporate resolution or other written arrangement with the member, currently on file with the state credit union, which has not been revoked by valid corporate action in the case of a corporation, or by a valid agreement or other valid action appropriate for the form of legal organization of any other member, of which the state credit union has received notice and which is not the subject of a dispute known to the state credit union as to its original validity. The safe deposit and safe-keeping account records of a state credit union shall be presumptive evidence as to the identity of the member on whose behalf the property is held.
- 2. A person making an adverse claim to, or an adverse claim of authority to control, property held in a safe deposit box or for safekeeping, must do either of the following:
- a. Obtain and serve on the state credit union an appropriate court order or judicial process directed to the state credit union, restraining any action with respect to the property until further order of the court or instructing the state credit union to deliver the property, in whole or in part, as indicated in the order or process.
- b. Deliver to the state credit union a bond, in form and amount with sureties satisfactory to the state credit union, indemnifying the state credit union against any liability, loss, or expense which the state credit union might incur because of its refusal to deliver the property to any person described in subsection 1, paragraph "a" or "b".

Sec. 51. <u>NEW SECTION</u>. 533.320 REMEDIES AND PROCEEDINGS FOR NONPAY-MENT OF RENT ON SAFE DEPOSIT BOX.

- 1. A state credit union has a lien upon the contents of a safe deposit box for past due rentals and any expense incurred in opening the safe deposit box, replacement of the locks on the safe deposit box, and of a sale made pursuant to this section.
- 2. If the rental of a safe deposit box is not paid within six months from the day the rental is due, at any time after the six months and while the rental remains unpaid, the state credit union shall mail a notice by restricted certified mail to the member at the member's last known address as shown upon the records of the state credit union, stating that if the amount due for the rental is not paid on or before a specified day, which shall be at least thirty days after the date of mailing such notice, the state credit union will remove the contents of the safe deposit box and hold the contents for the account of the member.
- 3. If the rental for the safe deposit box has not been paid after the expiration of the period specified in a notice mailed pursuant to subsection 2, the state credit union, in the presence of two of its officers, may cause the safe deposit box to be opened and the contents removed. An inventory of the contents of the safe deposit box shall be made by the two officers present and the contents held by the state credit union for the account of the member.

- 4. a. If the contents are not claimed within two years after their removal from the safe deposit box, the state credit union may proceed to sell so much of the contents as is necessary to pay the past due rentals and expense incurred in opening the safe deposit box, replacement of the locks on the safe deposit box, and the sale of the contents.
- b. The sale shall be held at the time and place specified in a notice published prior to the sale once each week for two successive weeks in a newspaper of general circulation published in the city or unincorporated area in which the state credit union has its principal place of business, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the state credit union has its principal place of business.
- c. A copy of the published notice shall be mailed to the member at the member's last known address as shown upon the records of the state credit union.
- d. The notice shall contain the name of the member and need only describe the contents of the safe deposit box in general terms.
- e. The contents of any number of safe deposit boxes may be sold under one notice of sale and the cost of the sale apportioned ratably among the several safe deposit box members involved.
- f. At the time and place designated in the notice the contents taken from each respective safe deposit box shall be sold separately to the highest bidder for cash and the proceeds of each sale applied to the rentals and expenses due to the state credit union and the residue from any such sale shall be held by the state credit union for the account of the member or members.
- g. An amount held as proceeds from such sale shall be credited with interest at the customary annual rate for savings accounts at the state credit union, or in lieu, at the customary rate of interest in the community where such proceeds are held. The crediting of interest does not activate the account to avoid an abandonment as unclaimed property under chapter 556.
- 5. a. Notwithstanding the provisions of this section, shares, bonds, or other securities which, at the time of a sale pursuant to subsection 4, are listed on an established stock exchange in the United States shall not be sold at public sale but may be sold through an established stock exchange.
- b. Upon making a sale of any such securities, an officer of the state credit union shall execute and attach to the securities an affidavit reciting facts showing that the securities were sold pursuant to this section, and that the state credit union has complied with the provisions of this section. The affidavit constitutes sufficient authority to any corporation whose shares are sold or to any registrar or transfer agent of such corporation to cancel the certificates representing the shares to the purchaser of the shares, and to any registrar, trustee, or transfer agent of registered bonds or other securities, to register any such bonds or other securities in the name of the purchaser of the bonds or other securities.
- 6. The proceeds of any sale made pursuant to this section, after the payment of any amounts with respect to which the state credit union has a lien, any property that was not offered for sale and property which, although offered for sale, was not sold, shall be retained by the state credit union until such time as the property is presumed abandoned according to section 556.2, and shall be handled pursuant to chapter 556.

Sec. 52. <u>NEW SECTION</u>. 533.321 AUTHORITY TO RECEIVE PROPERTY FOR SAFE-KEEPING.

- 1. A state credit union may accept property for safekeeping if the state credit union issues a receipt for the property, except in the case of night depositories.
- a. A state credit union accepting property for safekeeping shall purchase and maintain reasonable insurance coverage to ensure against loss incurred in connection with the acceptance of property for safekeeping.
- b. Property held for safekeeping shall not be commingled with the property of the state credit union or the property of others.
- 2. A state credit union has a lien upon any property held for safekeeping and for expenses incurred in any sale made pursuant to this subsection.
 - a. If the charge for safekeeping of property is not paid within six months from the day the

charge is due, at any time after the six months and while the charge remains unpaid, the state credit union may mail a notice to the member at the member's last known address as shown upon the records of the state credit union, stating that if the amount due is not paid on or before a specified day, which shall be at least thirty days after the date of mailing the notice, the state credit union will remove the property from safekeeping and hold the property for the account of the member.

- b. After the expiration of the period specified in the notice, if the charge for safekeeping has not been paid, the state credit union may remove the property from safekeeping, cause the property to be inventoried, and hold the property for the account of the member.
- c. If the property is not claimed within two years after its removal from safekeeping, the state credit union may proceed to sell so much of the property as is necessary to pay the charge which remains unpaid and the expense incurred in making the sale in the manner provided for in section 533.320, subsections 4 and 5.
- d. The proceeds of any sale made pursuant to this section, after payment of any amounts with respect to which the state credit union has a lien, any property that was not offered for sale, and property which, although offered for sale, was not sold, shall be retained by the state credit union until such time as the property is presumed abandoned according to section 556.2, and shall be handled pursuant to chapter 556.

Sec. 53. NEW SECTION. 533.322 PRESERVATION OF RECORDS.

- 1. The superintendent may adopt rules regarding the preservation of records and files of a state credit union or any other person supervised or regulated by the superintendent. 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 that 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. 54. NEW SECTION. 533.323 PHOTOGRAPHIC RECORDS.

- 1. Any state credit union writing or record, or a photostatic or photographic reproduction of such writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, shall be admissible in evidence as proof of the act, transaction, occurrence, or event, if made in the regular course of business.
- 2. A printout or other tangible output, readable by sight, shown to accurately reflect data contained in a promissory note, negotiable instrument, or letter of credit, that contains a signature made or created by electronic or digital means such that it is stored by a computer or similar device, is deemed to be an original of such note, instrument, or letter for purposes of presenting such note, instrument, or letter for payment, acceptance, or honor, or for purposes of a judicial proceeding involving a claim based upon such note, instrument, or letter.

Sec. 55. NEW SECTION. 533.324 LIABILITY FOR DESTRUCTION.

- 1. With the exception of certain account records which shall not be destroyed pursuant to section 533.322, liability shall not accrue against a state credit union for destroying records if the records were maintained for the minimum time provided for in this chapter.
 - 2. In any cause or proceeding in which state credit union records or files may be called in

question or be demanded of the state credit union, or any officer or employee of the state credit union, a showing that such records or files have been destroyed in accordance with the provisions of this chapter or rules adopted pursuant to this chapter shall be a sufficient excuse for the failure to produce them.

Sec. 56. <u>NEW SECTION</u>. 533.325 CONFIDENTIALITY OF STATE CREDIT UNION INFORMATION.

- 1. The directors, officers, committee members, and employees of a state credit union shall hold in confidence all information regarding transactions of the state credit union, including information regarding transactions with its members and their personal affairs, except to the extent necessary in connection with making, extending, or collecting a loan or line of credit, guaranteeing of member share drafts by third parties, or complying with the examination of credit union records by regulatory authorities or compliance with an order from a court having jurisdiction over the state credit union.
- 2. The board of directors may authorize participation of a state credit union in a credit or consumer reporting agency if the board has determined that use of such an agency is essential in making and extending a loan or line of credit, or guaranteeing member share drafts, and that information supplied by the state credit union to such agency will be made available only to legitimate members of that agency having a legitimate business need for the information in connection with a business transaction involving the state credit union.

Sec. 57. <u>NEW SECTION</u>. 533.326 GOVERNMENTAL EMPLOYEES.

- 1. When a state credit union has been organized by the employees of the state or any political subdivision of the state, the officer who writes warrants for the state or other governmental body by which any public employee state credit union member is employed, may withhold from the salary or wages of the employee, and pay over to such state credit union, sums as may be designated by written authorization signed by the employee.
 - 2. The provisions of section 539.4 shall have no application to this section.

Sec. 58. NEW SECTION. 533.327 CHANGE IN PLACE OF BUSINESS.

A state credit union may change its place of business on written notice to the superintendent.

Sec. 59. NEW SECTION. 533.328 CONDUCTING BUSINESS OUTSIDE OF STATE.

If a state credit union has an office and conducts business in another state having laws or regulations allowing credit unions to exercise additional powers, the state credit union may request permission from the superintendent to exercise such additional powers while operating in the other state with only the resident members of that other state.

Sec. 60. NEW SECTION. 533.329 TAXATION.

- 1. A state credit union shall be deemed an institution for savings and is subject to taxation only as to its real estate and moneys and credits. The shares shall not be taxed.
- 2. a. The moneys and credits tax on state credit unions is imposed at a rate of one-half cent on each dollar of the legal and special reserves that are required to be maintained by the state credit union under section 533.303, and shall be levied by the board of supervisors and placed upon the tax list and collected by the county treasurer. However, an exemption shall be given to each state credit union in the amount of forty thousand dollars.
- b. The amount collected in each taxing district within a city shall be apportioned twenty percent to the county, thirty percent to the city general fund, and fifty percent to the general fund of the state, and the amount collected in each taxing district outside of cities shall be apportioned fifty percent to the county and fifty percent to the general fund of the state.
- c. The moneys and credits tax shall be collected at the location of the state credit union as shown in its articles of incorporation.
- d. 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.

- e. The moneys and credits tax imposed under this section shall be reduced by an investment tax credit authorized pursuant to section 15.333.
- f. The moneys and credits tax imposed under this section shall be reduced by an investment tax credit authorized pursuant to section 15E.43.
- g. The moneys and credits tax imposed under this section shall be reduced by an investment tax credit authorized pursuant to section 15E.51.
- h. The moneys and credits tax imposed under this section shall be reduced by an Iowa fund of funds tax credit authorized pursuant to section 15E.66.
- i. The moneys and credits tax imposed under this section shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.
- j. The moneys and credits tax imposed under this section shall be reduced by an endow Iowa tax credit authorized pursuant to section 15E.305.
- k. The moneys and credits tax imposed under this section shall be reduced by a wage-benefits tax credit authorized pursuant to section 15I.2.

Sec. 61. NEW SECTION. 533.330 REPORTS.

- 1. A state credit union shall report quarterly at a specified time to the superintendent in a format prescribed by the superintendent for that purpose.
- a. If any quarterly report is in arrears, a penalty of one hundred dollars for each day or fraction of a day such report is in arrears may be levied by the superintendent against the offending state credit union. This penalty shall be in addition to the penalty for failure to pay the annual fee pursuant to section 533.112.
- b. If a quarterly report is not provided to the superintendent within thirty days of the due date, the superintendent may, after written notice to the board of directors of the state credit union, suspend or revoke the certificate of approval, take possession of the business and property of the state credit union, and order its dissolution.
- 2. In addition to the quarterly report, the superintendent may, from time to time, require a state credit union to provide other supplemental reports at a specified time. Failure of a state credit union to provide supplemental reports when due may result in the superintendent levying a penalty of fifty dollars per day for each day or fraction of a day such report is late.

Sec. 62. NEW SECTION. 533.401 MERGER.

- 1. With the approval of the superintendent, a state credit union may merge with another credit union under the existing certificate of approval of the other credit union if the merger is pursuant to a plan agreed upon by a majority of the board of directors of each credit union joining in the merger and the merger is approved by the affirmative vote of a majority of the members of the merging credit union either by mail or in person at a meeting called for the purpose of voting on the merger.
- 2. A plan of merger, whether by act of consolidation, acquisition, or business combination, along with evidence that the plan has been approved by the members of the merging credit union in accordance with the provisions of this section, shall be submitted to the superintendent, along with any additional materials the superintendent may request.
- 3. The superintendent may approve a merger according to the plan agreed upon by the majority of the board of directors of each credit union if the superintendent receives a written and verified application filed by the board of directors of each credit union and finds all of the following:
- a. Notice of the meeting called to consider the merger was mailed to each member of the merging credit union entitled to vote upon the question at least twenty days prior to the date of the merger meeting.
- b. The notice disclosed the purpose of the meeting and properly informed the membership that approval of the merger would be sought pursuant to this section.
- c. At the meeting called to consider the merger, a majority of the votes received, by regular mail or in person, upon the question were in favor of the merger.

- d. Control of the merging credit union shall transfer to the board of directors of the continuing credit union upon approval of the merger by the superintendent and the favorable vote of a majority of the members as prescribed in paragraph "c". Upon transfer of control, the board of directors of the merging credit union may only do such things necessary to execute the merger.
- 4. The superintendent may disapprove a merger if the superintendent finds either of the following:
 - a. The merger would not result in a safe and sound credit union.
- b. The procedures required by this section, particularly those used to obtain member approval for the merger, were not followed or were irregular.
- 5. The superintendent may waive the membership merger vote if the superintendent finds that an emergency exists which justifies the waiver.
- 6. The certificate of merger and a copy of the agreed plan of merger shall be forwarded to the superintendent, certified by the superintendent, and returned to both credit unions within thirty days of the date of receipt by the superintendent.
- 7. a. Upon return of the certificate from the superintendent, all of the merging credit union's property, property rights, and members' interests shall vest in the continuing credit union without the legal need for deeds, endorsements or other instruments of transfer, and all debts, obligations, and liabilities of the merging credit union shall be assumed by the continuing credit union.
- b. The rights and privileges of the members of the merging credit union shall continue as provided in the plan.
- c. Credit union membership in the continuing credit union shall be available to persons within the common bond of the merging credit union.
- 8. This section shall be construed to permit a credit union organized under any other statute to merge with one organized under this chapter, or to permit one organized under this chapter to merge with one organized under any other statute.
- 9. As used in the section, the term "merger" or "merge" means the combination of assets and liabilities of one credit union with those of another credit union such that one credit union continues and the other credit union surrenders its charter to operate as a credit union.

Sec. 63. <u>NEW SECTION</u>. 533.402 CONVERSION OF FINANCIAL INSTITUTION TO STATE CREDIT UNION.

- 1. Any financial institution may convert to a state credit union by complying with the laws of the original chartered authority and upon the approval of the superintendent. As used in this section, "financial institution" means any credit union, bank, savings bank, or savings and loan association chartered under federal or state law.
- a. Application for approval of the conversion to a state credit union shall be submitted to the superintendent in the form prescribed by the superintendent, together with the articles of incorporation and bylaws as required for organization of a state credit union pursuant to this chapter.
- b. The superintendent may cause an examination to be made of any converting financial institution. The converting financial institution shall reimburse the superintendent for the division's costs related to the conversion.
- 2. a. If the superintendent approves the application of a financial institution for conversion to a state credit union, the superintendent shall cause the articles of incorporation of the resulting state credit union to be filed and recorded in the county in which the state credit union has its principal place of business and the superintendent shall issue a certificate of authority to do business under the laws of this state to the resulting state credit union. The financial institution shall then become a state credit union subject to the laws of this state.
- b. The superintendent shall furnish a copy of the certificate to the administrator of the national credit union administration.
 - 3. a. Upon conversion, the existence of the original financial institution shall cease.
- b. The state credit union resulting from the conversion shall have only the authority to engage in the business and exercise the powers of a state credit union.

- 4. a. A liability of the original financial institution or of its members, directors, or officers shall not be affected, and any lien on any property of the financial institution shall not be impaired by the conversion.
- b. Any claim existing or action pending by or against the original financial institution may be prosecuted to judgment as if the conversion had not taken place, or the resulting state credit union may be substituted in its place.

Sec. 64. <u>NEW SECTION</u>. 533.403 CONVERSION OF STATE CREDIT UNION INTO FEDERAL CREDIT UNION.

- 1. A state credit union may convert into a federal credit union with the approval of the administrator of the national credit union administration and by the affirmative vote of a majority of the credit union's members who vote on the proposal. This vote, if taken, shall be at a meeting called for that purpose and shall be in the manner prescribed by the bylaws.
- 2. The board of directors of the state credit union shall notify the superintendent of any proposed conversion and of any abandonment or disapproval of the conversion by the members or by the administrator of the national credit union administration. The board of directors of the state credit union shall file with the superintendent appropriate evidence of approval of the conversion by the administrator of the national credit union administration and shall notify the superintendent of the date on which the conversion is to be effective.
- 3. Upon receipt of satisfactory proof that the state credit union has complied with all applicable laws of this state and of the United States, the superintendent shall issue a certificate of conversion which shall be filed and recorded in the county in which the state credit union has its principal place of business and in the county in which its original articles of incorporation were filed and recorded.

Sec. 65. NEW SECTION. 533.404 DISSOLUTION GENERALLY.

The following shall apply to dissolution of a state credit union under this chapter, whether voluntary or involuntary:

- 1. Distribution of the assets of the state credit union shall be made in the following order:
- a. The payment of costs and expense of the administrator of dissolution.
- b. The payment of claims for public funds deposited pursuant to chapter 12C and the payment of claims which are given priority by applicable statutes. If the assets are insufficient for payment of the claims in full, priority shall be determined by the statutes or, in the absence of conflicting provisions, on a pro rata basis.
- c. The payment of deposits, including accrued interest, up to the date of the special meeting of the members at which voluntary dissolution was authorized, or in the case of involuntary dissolution, the date of appointment of a receiver.
- d. The pro rata apportionment of the balance among the members of record on the date of the special meeting of the members at which voluntary dissolution was authorized, or in the case of involuntary dissolution, the members of record on the date of appointment of a receiver.
- 2. All amounts due members who are unknown, or who are under a disability and no person is legally competent to receive the amounts, or who cannot be found after the exercise of reasonable diligence, shall be transmitted to the treasurer of state who shall hold the amounts in the manner prescribed by chapter 556. All amounts due creditors as described in section 490.1440 shall be transmitted to the treasurer of state in accordance with that section and shall be retained by the treasurer of state and subject to claim as provided for in that section.
- 3. The superintendent shall assume custody of the records of a state credit union dissolved pursuant to this chapter and shall retain the records which, in the superintendent's discretion, are deemed necessary, in accordance with the provisions of section 533.322. The superintendent may cause film, photographic, photostatic, or other copies of the records to be made and the superintendent shall retain the copies in lieu of the original records.
- 4. a. The dissolution of a state credit union shall not remove or impair any remedy available to or against such state credit union, its directors, officers, or members for any right or claim

existing or any liability incurred prior to such dissolution if an action or other proceeding to enforce the right or claim is commenced within two years after the date of filing of a certificate or decree of dissolution with the county recorder in the county in which the state credit union has its principal place of business.

- b. Any such action or proceeding by or against the state credit union may be prosecuted or defended by the state credit union in its corporate name.
- c. The members, directors, and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right, or claim.

Sec. 66. NEW SECTION. 533.405 VOLUNTARY DISSOLUTION.

The process of voluntary dissolution shall be as follows:

- 1. At a special meeting called for that purpose, a state credit union may dissolve upon the affirmative vote of a majority of its members eligible to vote at the special meeting.
 - a. Notice of the meeting's purpose shall be contained in the meeting's notice.
- b. Any member eligible to vote and not present at the meeting may, within twenty days after the date on which the meeting was held, vote in favor of dissolution by signing a statement in a form approved by the superintendent. This vote shall have the same force and effect as if cast at the meeting.
- 2. a. The state credit union shall cease to do business except for the purposes of liquidation immediately upon giving notice of the special meeting called for the members' vote on dissolution.
- b. The board of directors shall immediately notify the superintendent of the intention of the state credit union to dissolve.
- c. The state credit union shall not resume its regular business unless the dissolution fails to receive the required vote of the members or unless the members have revoked prior affirmative action to dissolve as provided for in subsection 6.
- 3. a. The board of directors shall have power to terminate and settle the affairs of a state credit union in voluntary dissolution.
- b. The state credit union shall continue in existence for the purpose of discharging its liabilities, collecting and distributing its assets, and doing all acts required in order to terminate its affairs.
- c. The state credit union may sue and be sued for the purpose of enforcing such liabilities and for the purpose of collecting its assets until its affairs are fully settled.
- d. During the course of dissolution proceedings, the state credit union shall make such reports and shall be subject to such examinations as the superintendent may require.
- e. If at any time after the affirmative vote of a majority of the members of a state credit union to dissolve the state credit union, the superintendent finds that the state credit union is not making reasonable progress toward terminating its affairs, the superintendent may apply to the district court for appointment of a receiver to terminate the affairs of the state credit union.
- f. If the superintendent finds that a dissolving state credit union is insolvent, the superintendent may proceed as otherwise provided in this chapter.
- 4. a. The board of directors may appoint by resolution any responsible person as defined in section 4.1, whose appointment has been approved by the superintendent, to exercise its powers to terminate and settle the affairs of the state credit union pursuant to this section.
- b. The superintendent may adopt rules establishing the qualifications that must be met by such appointees, including but not limited to filing a surety bond with the superintendent.
- 5. a. Upon such proof as is satisfactory to the superintendent that all assets have been liquidated from which there is a reasonable expectance of realization, that the liabilities of the state credit union have been discharged and distribution made to its members, and that the liquidation has been completed, the superintendent shall issue a certificate of dissolution, which certificate shall be filed and recorded in the county in which the state credit union has its principal place of business and in the county in which its original articles of incorporation were filed and recorded.
- b. Upon the issuance of a certificate of dissolution, the existence of the state credit union shall cease.

- 6. a. At any time prior to any distribution of its assets, a state credit union may revoke the voluntary dissolution proceedings by the affirmative vote of a majority of its members eligible to vote. This vote, if taken, shall be at a special meeting called for that purpose in the manner prescribed by the bylaws.
- b. The board of directors shall immediately notify the superintendent of any such action to revoke voluntary dissolution proceedings.

Sec. 67. <u>NEW SECTION</u>. 533.406 STATE CREDIT UNION MERGER, CONVERSION, OR DISSOLUTION.

Notwithstanding section 533.301, subsection 25, a state credit union shall comply with the state law requirements for merger, conversion, or dissolution of a state credit union.

Sec. 68. NEW SECTION. 533.501 SUPERVISORY ACTION.

- 1. CEASE AND DESIST ORDER.
- a. (1) If the superintendent has reason to believe that an officer, director, employee, or committee member of a state credit union has violated any law, rule, or cease and desist order relating to a state credit union, or has engaged in an unsafe or unsound practice in conducting the business of a state credit union, the superintendent may cause notice to be served upon the officer, director, employee, or committee member to appear before the superintendent to show cause why the person should not be removed from office or employment. A copy of such notice shall be sent by certified mail or restricted certified mail to each director of the state credit union affected.
- (2) If the superintendent finds that the accused has violated a law, rule, or cease and desist order relating to a state credit union, or has engaged in an unsafe or unsound practice in conducting the business of a state credit union, after granting the accused a hearing before an independent administrative law judge, the superintendent in the superintendent's discretion may order that the accused be removed from office and from any position of employment with the state credit union. The superintendent may further order that the accused not accept employment in any state credit union under the superintendent's jurisdiction without the superintendent's prior approval.
- (3) A copy of the order shall be served upon the accused and upon the state credit union affected, at which time the accused shall cease to be an officer, director, employee, or committee member of the state credit union.
- b. (1) If the superintendent determines that a state credit union has violated any of the provisions of this chapter, after notice and opportunity for hearing, the superintendent shall order the state credit union to correct the violation, except when the state credit union is insolvent.
- (2) The superintendent may specify the manner in which the violation is to be corrected and grant the state credit union not more than sixty days within which to comply with the order.
- (3) The superintendent may revoke a state credit union's certificate of approval for failure to comply with the order.
- (4) If the certificate of approval has been revoked, the superintendent may apply to the district court of the county in which the state credit union is located for the appointment of a receiver for the state credit union.
 - 2. SUMMARY CEASE AND DESIST ORDER.
- a. (1) If it appears to the superintendent that a state credit union, or any director, officer, employee, or committee member of a state credit union, is engaging in or is about to engage in an unsafe or unsound practice or dishonest act in conducting the business of the state credit union that is likely to cause insolvency or substantial dissipation of assets or earnings of the state credit union, or is likely to seriously weaken the condition of the state credit union or otherwise seriously prejudice the interests of its members, the superintendent may issue an interim summary cease and desist order requiring the state credit union, or any director, officer, employee, or committee member, to cease and desist from any such practice or act, and may take affirmative action, including suspension of the director, officer, employee, or committee member to prevent such insolvency, dissipation, condition, or prejudice.

- (2) The interim order shall become effective upon personal service upon the state credit union, or upon the director, officer, employee, or committee member of the state credit union, and remain effective and enforceable pending the completion of administrative proceedings conducted pursuant to this section and issuance of a final order.
- b. (1) The interim order shall contain a concise statement of the facts constituting the alleged unsafe or unsound practice or alleged dishonest act, and shall fix a time and place at which a hearing will be held to determine whether a final order to cease and desist should issue against the state credit union, or any director, officer, employee, or committee member.
- (2) The hearing shall be fixed for a date not later than thirty days after service of the interim order unless a later date is set at the request of the party served.
- (3) If the state credit union, or the director, officer, employee, or committee member, fails to appear at the hearing, the state credit union, or the director, officer, employee, or committee member, is deemed to have consented to the issuance of a final cease and desist order.
- (4) In the event of such consent, or if upon the record made at the hearing the superintendent finds that any unsafe or unsound practice or dishonest act specified in the interim order has been established, the superintendent may issue and serve upon the state credit union, or the director, officer, employee, or committee member, a final order to cease and desist from any such practice or act. The order may require the state credit union, or the director, officer, employee, or committee member, to cease and desist from any such practice or act and direct affirmative action, including suspension of the director, officer, employee, or committee member.
- c. (1) A hearing provided for in this section shall be presided over by an administrative law judge appointed in accordance with section 17A.11.
- (2) The hearing shall be private, unless the superintendent determines after full consideration of the views of the party afforded the hearing, that a public hearing is necessary to protect the public interest.
- (3) After the hearing, and within thirty days after the case has been submitted for decision, the superintendent shall review the proposed order of the administrative law judge and render a final decision, including findings of fact upon which the decision is predicated, and issue and serve upon each party to the proceeding an order consistent with this section.
- (4) Records and information relating to the hearing shall be confidential and not subject to subpoena. Such records and information shall not constitute a public record subject to examination or copying under chapter 22.
- d. Any final order issued by the superintendent shall become effective upon service upon the state credit union, director, officer, employee, or committee member.
- e. In the case of violation or threatened violation of, or failure to obey, an order, the superintendent may apply to the district court of the county in which the state credit union has its principal place of business for the enforcement of the order and such court shall have jurisdiction and power to order and require compliance with the order.
- f. (1) Within ten days after a state credit union or any director, officer, employee, or committee member is served with a summary cease and desist order, the state credit union or director, officer, employee, or committee member affected may apply to the district court in the county in which the state credit union has its principal place of business for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the interim order pending the completion of administrative proceedings.
- (2) If serious prejudice to the interests of the superintendent, the state credit union, or the officer, director, employee, or committee member would result from a court hearing, the court may order the judicial proceeding to be conducted in camera.

Sec. 69. <u>NEW SECTION</u>. 533.502 GROUNDS FOR MANAGEMENT OF STATE CREDIT UNION BY SUPERINTENDENT.

1. Notwithstanding any other provision of this chapter, the superintendent may take over the management of the property and business of a state credit union when it appears to the superintendent that any of the following actions have occurred or conditions exist:

- a. The state credit union has violated any law of this state.
- b. The capital of the state credit union is impaired.
- c. The state credit union is conducting its business in an unsafe or unsound manner.
- d. The state credit union is in such condition that it is unsound, unsafe, or inexpedient for it to transact business.
- e. The state credit union has suspended or refused payment of its deposits or other liabilities.
- f. The state credit union refuses to make its records available to the superintendent for examination or otherwise refuses to make available, through an officer or employee having knowledge, information required by the superintendent for the proper discharge of the duties of the superintendent's office.
- g. The state credit union neglects or refuses to observe any order of the superintendent made pursuant to the provisions of this chapter, unless the enforcement of such order is stayed in a court proceeding brought by the state credit union.
- h. The state credit union has not transacted any business or performed any of the duties contemplated by its authorization to do business for a period of at least one hundred eighty days.
- 2. The superintendent shall thereafter manage the property and business of the state credit union until such time as the superintendent may relinquish to the state credit union the management, upon such conditions as the superintendent may prescribe, or until the affairs of the state credit union are finally dissolved as provided in this chapter.
- 3. Judicial review of the actions of the superintendent may be sought in accordance with chapter 17A. However, contested case provisions of chapter 17A, the Iowa administrative procedure Act, do not apply to an action by the superintendent to take over the management of or to manage a state credit union, as authorized by this section.

Sec. 70. NEW SECTION. 533.503 SUPERINTENDENT AS RECEIVER.

- 1. In all situations in which the superintendent has been appointed as receiver as provided in this chapter, the superintendent shall make a diligent effort to collect and realize on the assets of the state credit union, and shall make distribution of the proceeds from time to time to those entitled in the order provided for by law.
- a. The superintendent may execute as receiver, or after the receivership has terminated, assignments, releases, and satisfactions to effectuate sales and transfers.
- b. Upon the order of the court in which the receivership is pending, the superintendent may sell or compound all bad or doubtful debts.
- c. Upon the order of the court in which the receivership is pending, the superintendent may sell all the real and personal property of the state credit union, on such terms as the court shall direct
- 2. All expenses of the receivership and dissolution shall be determined by the superintendent, subject to the approval of the district court, and shall be paid out of the assets of the state credit union.
- 3. At the completion of the receivership, the superintendent shall file a final report which shall contain details of receivership activity and such additional facts as the court may require.
- 4. a. Upon the submission and approval of the final report, the court shall enter a decree dissolving the state credit union and discharging the receiver, at which time the existence of the state credit union shall cease.
- b. The clerk of the district court shall file and record certified copies of the decree with the county recorder of the county in which the state credit union has its principal place of business and with the county recorder of the county in which its original articles of incorporation were filed and recorded. A fee shall not be charged by the county recorder for the filing or recording of such decree.

Sec. 71. NEW SECTION. 533.504 TENDER OF RECEIVERSHIP TO INSURANCE PLAN.

1. a. The superintendent may tender to the administrator of an account insurance plan approved under this chapter the appointment as receiver for an insured state credit union.

- b. If the insurance plan administrator accepts the appointment as receiver, the rights of the members and other creditors of the insured state credit union shall be determined in accordance with the laws of this state and the insurance plan administrator shall comply with all applicable provisions of this chapter.
- 2. The administrator of an account insurance plan as receiver shall possess the powers, rights, and privileges given to the superintendent as provided by law.
- 3. If the administrator of an account insurance plan pays or makes available for payment the insured liabilities of a state credit union, the administrator shall be subrogated by operation of law to all rights of the members against the insured state credit union in the same manner and to the same extent as subrogation is provided for in applicable laws in the case of a closed federal credit union.

Sec. 72. NEW SECTION. 533.505 SUBPOENA — CONTEMPT.

- 1. The superintendent or the superintendent's designee may subpoena witnesses, compel their attendance, administer an oath, examine any person under oath, and require the production of any relevant record during the period of examination.
- 2. An examination may be conducted on any subject relating to the duties imposed upon or powers vested in the superintendent.
- 3. Whenever a person subpoenaed pursuant to subsection 1 fails to produce a record or to give testimony as required by the terms of the subpoena, the superintendent may apply to the district court of Polk county for the enforcement of the subpoena or the issuance of an order compelling compliance.
- 4. The refusal of any person to obey an order of the district court issued pursuant to subsection 1, without reasonable cause, shall be considered a contempt of court.

Sec. 73. NEW SECTION. 533.506 LIMITATION OF ACTIONS.

- 1. All causes of action against a state credit union based upon a claim or claims inconsistent with an entry or entries in a state credit union record or ledger, made in the regular course of business, shall be deemed to have accrued, and shall accrue, one year after the date of such entry or entries.
- 2. An action founded upon such a cause shall not be brought after the expiration of ten years from the date of such accrual.

Sec. 74. <u>NEW SECTION</u>. 533.507 FALSE STATEMENTS FOR CREDIT — FRAUD-ULENT PRACTICE.

A person who knowingly makes or causes to be made, directly or indirectly, any false statement in writing, or who procures, knowing that a false statement in writing has been made concerning the financial condition or means or ability to pay of such person or any other person in which such person is interested or for whom such person is acting with the intent that such statement shall be relied upon by a state credit union for the purpose of procuring the delivery of property, the payment of cash, or the receipt of credit in any form, for the benefit of such person or of any other person in which such person is interested or for whom such person is acting, is guilty of a fraudulent practice.

Sec. 75. NEW SECTION. 533.508 FALSE STATEMENTS — PENALTIES.

- 1. A director, officer, or employee of a state credit union shall not intentionally publish, disseminate, or distribute any advertising or notice containing any false, misleading, or deceptive statements concerning rates, terms, or conditions on which loans are made, or deposits or share installments are received, or concerning any charge which the state credit union is authorized to impose pursuant to this chapter, or concerning the financial condition of the state credit union. Any director, officer, or employee of a state credit union who violates the provisions of this section is guilty of a fraudulent practice.
- 2. Any person who maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false statement concerning any state credit union which imputes or tends to

impute insolvency, unsound financial condition or financial embarrassment, or which may tend to cause or provoke or aid in causing or provoking a general withdrawal of deposits from such state credit union, or which may otherwise injure or tend to injure the business or goodwill of such state credit union, is guilty of a simple misdemeanor.

Sec. 76. NEW SECTION. 533.509 PENALTY FOR FALSIFICATION.

A director, officer, agent, or employee of a state credit union, a credit union service organization, or any other person who knowingly signs, makes, or consents to another person making any false statement or false entry in the books of the state credit union or credit union service organization, or knowingly signs, makes, or consents to the making of any false report regarding a state credit union or credit union service organization, or knowingly diverts the funds of the state credit union, is guilty of a class "C" felony and is forever after barred from holding any office or position in a state credit union or credit union service organization.

DIVISION II

Sec. 77. Section 12C.13, Code 2007, is amended to read as follows: 12C.13 DEPOSIT NOT MEMBERSHIP.

Notwithstanding chapter 534, the deposit of public funds in an association a credit union defined in section $\frac{533.1}{533.102}$ or an association defined in $\frac{534.102}{533.102}$ does not constitute being a shareholder, stockholder, or owner of a corporation in violation of Article VIII of the Constitution of the State of Iowa or any other provision of law.

- Sec. 78. Section 12C.16, subsection 1, paragraph b, subparagraph (4), Code 2007, 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. United States central credit union, a corporate central credit union organized under section $533.38\,533.213$, or a corporate credit union organized under 12 C.F.R. § 704, and the rating of any one of such credit 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. 79. Section 12C.17, subsection 1, paragraph c, Code 2007, 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. <u>United States</u> central credit union, a corporate central credit union organized under section 533.38 533.213, or a corporate credit union organized under 12 C.F.R. § 704 pursuant to a bailment agreement or a pledge custody agreement.
 - Sec. 80. Section 12C.17, subsection 4, Code 2007, is amended to read as follows:
- 4. Upon written request from the appropriate public officer but not less than monthly, the federal reserve bank, the federal home loan bank of Des Moines, Iowa, the U.S. United States central credit union, a corporate central credit union organized under section 533.38 533.213, 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. 81. Section 12C.23, subsection 3, paragraph b, Code 2007, is amended to read as follows:
- b. The loss to public depositors shall be satisfied, first through any applicable deposit insurance and then through the sale of securities pledged by the defaulting credit union, and then the assets of the defaulting credit union. The priority of claims are those established pursuant to section 533.22 533.404, subsection 1, paragraph "b". To the extent permitted by federal law,

in the distribution of an insolvent federally chartered credit union's assets, the order of payment of liabilities if its assets are insufficient to pay in full all its liabilities for which claims are made shall be in the same order as for the equivalent type of state chartered credit union as provided in section 533.22 533.404, subsection 1, paragraph "b".

Sec. 82. Section 15.333, subsection 1, Code 2007, is amended to read as follows:

1. An eligible business may claim a tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business under the program. The tax credit shall be amortized equally over five calendar years. The tax credit shall be allowed against taxes imposed under chapter 422, division II, III, or V, and against the moneys and credits tax imposed in section 533.24 533.329. If the business is a partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust. The percentage shall be determined as provided in section 15.335A. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first.

Subject to prior approval by the department of economic development, in consultation with the department of revenue, an eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund of all or a portion of an unused tax credit. For purposes of this subsection, such an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return, and whose project primarily involves the production of ethanol. The refund may be applied against a tax liability imposed under chapter 422, division II, III, or V, and against the moneys and credits tax imposed in section 533.24 533.329. If the business is a partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust.

Sec. 83. Section 15E.43, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. For tax years beginning on or after January 1, 2002, a tax credit shall be allowed against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.24 533.329, for a portion of a taxpayer's equity investment, as provided in subsection 2, in a qualifying business or a community-based seed capital fund. An individual may claim a tax credit under this paragraph of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. 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.

Sec. 84. Section 15E.44, subsection 4, Code 2007, is amended to read as follows:

4. After verifying the eligibility of a qualifying business, the board shall issue a tax credit certificate to be attached to the equity investor's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of credit, the name of the qualifying business, and other information required by the department of revenue. The tax credit certificate, unless rescinded by the board, shall be accepted by the department of

revenue as payment for taxes imposed pursuant to chapter 422, divisions II, III, and V, and in chapter 432, and for the moneys and credits tax imposed in section 533.24 533.329, subject to any conditions or restrictions placed by the board upon the face of the tax credit certificate and subject to the limitations of section 15E.43.

Sec. 85. Section 15E.45, subsection 4, Code 2007, is amended to read as follows:

4. After verifying the eligibility of the community-based seed capital fund, the board shall issue a tax credit certificate to be attached to the taxpayer's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the tax credit, the name of the community-based seed capital fund, and other information required by the department of revenue. The tax credit certificate, unless rescinded by the board, shall be accepted by the department of revenue or a local taxing district, as applicable, as payment for taxes imposed pursuant to chapter 422, divisions II, III, and V, and chapter 432, and as payment for the moneys and credits tax imposed pursuant to section 533.24 533.329, subject to any conditions or restrictions placed by the board on the face of the tax credit certificate and subject to the limitations of section 15E.43.

Sec. 86. Section 15E.51, subsection 2, Code 2007, is amended to read as follows:

2. A tax credit shall be allowed against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.24 533.329, for a portion of a taxpayer's equity investment in a venture capital fund. 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.

Sec. 87. Section 15E.62, subsection 6, Code 2007, is amended to read as follows:

6. "Tax credit" means a contingent tax credit issued pursuant to section 15E.66 that is available against tax liabilities imposed by chapter 422, divisions II, III, and V, and by chapter 432 and against the moneys and credits tax imposed by section 533.24 533.329.

Sec. 88. Section 15E.232, subsection 2, paragraph a, Code 2007, is amended to read as follows:

a. A nongovernmental entity making a contribution to an economic development region revolving fund, except those described in paragraph "b", may claim a tax credit equal to twenty percent of the amount contributed to the revolving fund. The tax credit shall be allowed against taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.24 533.329. An individual may claim under this subsection the tax credit of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following ten years or until depleted, whichever occurs first. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit. A tax credit under this section is not transferable.

Sec. 89. Section 15E.305, subsection 1, Code 2007, is amended to read as follows:

1. For tax years beginning on or after January 1, 2003, a tax credit shall be allowed against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.24 533.329 equal to twenty percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation. An individual may claim a tax credit under this section of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the

partnership, limited liability company, S corporation, estate, or trust. A tax credit shall be allowed only for an endowment gift made to an endow Iowa qualified community foundation for a permanent endowment fund established to benefit a charitable cause in this state. Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever occurs first. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

Sec. 90. Section 15I.2, subsection 1, paragraph a, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Any nonretail, nonservice business may claim a tax credit equal to a percentage of the annual wages and benefits paid for a qualified new job created by the location or expansion of the business in the state. The tax credit shall be allowed against taxes imposed under chapter 422, division II, III, or V, and chapter 432 and against the moneys and credits tax imposed in section 533.24 533.329. The percentage shall be equal to the amount provided in subsection 2.

- Sec. 91. Section 252I.1, subsection 4, Code 2007, is amended to read as follows: 4. "Credit union" means "credit union" as defined in section 533.51 533.102.
- Sec. 92. Section 331.427, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Except as otherwise provided by state law, county revenues from taxes and other sources for general county services shall be credited to the general fund of the county, including revenues received under sections 9I.11, 101A.3, 101A.7, 123.36, 123.143, 142B.6, 176A.8, 321.105, 321.152, 321G.7, 321I.8, section 331.554, subsection 6, sections 341A.20, 364.3, 368.21, 423A.7, 428A.8, 430A.3, 433.15, 434.19, 445.57, 453A.35, 458A.21, 483A.12, 533.24 533.329, 556B.1, 583.6, 602.8108, 904.908, and 906.17, and the following:

- Sec. 93. Section 421.17A, subsection 1, paragraph c, Code 2007, is amended to read as follows:
 - c. "Credit union" means "credit union" as defined in section 533.51 533.102.
- Sec. 94. Section 535B.11, subsection 3, unnumbered paragraph 2, Code 2007, is amended to read as follows:

Compliance with sections 524.905, 533.16 533.315, 534.206, and 536A.20 shall constitute compliance with this subsection.

- Sec. 95. Section 537.2305, subsection 1, Code 2007, is amended to read as follows:
- 1. For the purpose of discovering violations of this chapter or securing information lawfully required, the licensing authority shall examine periodically at intervals the licensing authority deems appropriate, but not less frequently than is required for other examinations of the licensee by section 524.217, 533.6 533.113, 534.401, 536.10, or 536A.15, whichever is applicable, the loans, business, and records of every licensee, except a licensee which has no office physically located in this state and engages in no face-to-face solicitation in this state. In addition, the licensing authority may at any time investigate the loans, business, and records of any lender. For these purposes the licensing authority shall be given free and reasonable access to the offices, places of business, and records of the lender.
 - Sec. 96. Section 546.4, Code 2007, is amended to read as follows: 546.4 CREDIT UNION DIVISION.
- 1. The credit union division <u>created by section 533.103</u> shall regulate and supervise credit unions under chapter 533.
- $\underline{2}$. The division is headed by the superintendent of credit unions who shall be appointed pursuant to section 533.55 533.104.
- <u>3.</u> The credit union review board shall perform duties within the division as prescribed in chapter 533.

- Sec. 97. Section 602.8102, subsection 73, Code 2007, is amended to read as follows:
- 73. Certify copies of a decree dissolving a credit union as provided in section $\frac{533.21}{533.503}$, subsection 4.
 - Sec. 98. Chapter 533, Code 2007, is repealed.

Sec. 99. CODE EDITOR DIRECTIVE.

- 1. The Code editor shall establish the following divisions in chapter 533:
- a. Division I, entitled "administration of Act", shall be comprised of sections 533.101 through 533.117.
- b. Division II, entitled "organization of credit unions", shall be comprised of sections 533.201 through 533.214.
- c. Division III, entitled "credit union operations", shall be comprised of sections 533.301 through 533.330.
- d. Division IV, entitled "merger, conversion, and dissolution of credit unions", shall be comprised of sections 533.401 through 533.406.
- e. Division V, entitled "supervisory actions, limitations, and penalties", shall be comprised of sections 533.501 through 533.509.
- 2. The Code editor shall make such other revisions throughout the Code to update references to particular provisions of the Iowa credit union Act, and such other revisions consistent with this Act.

Approved May 24, 2007

CHAPTER 175

CEMETERIES, FUNERALS, AND RELATED SERVICES AND MERCHANDISE

S.F. 559

AN ACT relating to cemetery and funeral merchandise, funeral services, and cemeteries and providing fees and penalties.

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

DIVISION I CEMETERY AND FUNERAL MERCHANDISE, FUNERAL SERVICES, AND CEMETERIES — REGULATION

Section 1. Section 22.7, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 58. Information filed with the commissioner of insurance pursuant to sections 523A.204 and 523A.502A.

- Sec. 2. Section 523A.102, subsection 6, Code 2007, is amended to read as follows:
- 6. "Commissioner" means the commissioner of insurance or the deputy administrator authorized in section 523A.801 to the extent the commissioner delegates functions to the deputy administrator commissioner's designee.
 - Sec. 3. Section 523A.102, subsection 11, Code 2007, is amended by striking the subsection.

- Sec. 4. Section 523A.102, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 26A. "Sales agent" means a person, including an employee, who is authorized by a seller to sell cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, on behalf of the seller.
 - Sec. 5. Section 523A.102, subsection 27, Code 2007, is amended to read as follows:
- 27. "Seller" or "preneed seller" means a person doing business within this state, including a person doing business within this state who sells insurance, who advertises, sells, promotes, or offers to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following the initial payment on the account whether the transaction is completed or offered in person, through the mail, over the telephone, by the internet, or through any other means of commerce. "Seller" or "preneed seller" includes any person performing any term of a purchase agreement executed within this state, and any person identified under a burial account as the provider of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.
 - Sec. 6. Section 523A.201, subsection 3, Code 2007, is amended to read as follows:
- 3. If a purchase agreement for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof provides that payments are to be made in installments, the seller shall deposit eighty percent of each payment in the trust fund until the full amount required to be placed in trust has been deposited. If the purchase agreement is financed with or sold to a financial institution, the purchase agreement shall be considered paid in full and the trust requirements shall be satisfied within fifteen days after the close of the month in which the seller receives funds from the financial institution.
- Sec. 7. Section 523A.201, subsection 5, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
- 5. Unless a seller deposits all of each payment in a trust fund that meets the requirements of this section and section 523A.202, the seller shall have a fidelity bond or similar insurance in an amount of not less than fifty thousand dollars to protect against the loss of purchaser payments not placed in trust within the time period required by this section and section 523A.202. The commissioner may require a greater amount as the commissioner determines is necessary. If the seller changes ownership, the fidelity bond or similar insurance shall continue in force for at least one year after the transfer of ownership.
- Sec. 8. Section 523A.201, subsections 8 and 10, Code 2007, are amended to read as follows: 8. Interest or income earned on amounts deposited in trust shall remain in trust under the same terms and conditions as payments made under the purchase agreement, except that the seller a limited liability corporation that was formed in 2002 for the purpose of purchasing a cemetery from a foreign entity reorganizing under bankruptcy and such corporation is comprised of six establishments all located within the same county may withdraw so much of the interest or income as represents the difference between the amount needed to adjust the trust funds for inflation as set by the commissioner based on the consumer price index and the interest or income earned during the preceding year not to exceed fifty percent of the total interest or income on a calendar-year basis. The early withdrawal of interest or income under this provision does not affect the purchaser's right to a credit of such interest or income in the event of a nonguaranteed price agreement, cancellation, or nonperformance by the seller such limited liability corporation.
- 10. If a seller voluntarily or involuntarily ceases doing business and the seller's obligation to provide merchandise or services has not been assumed by another establishment seller holding a current establishment permit preneed seller's license, all trust funds, including accrued interest or income, shall be repaid to the purchaser within one hundred twenty thirty days following the seller's cessation of business or, in the event of circumstances where a payment is not possible within one hundred twenty days, as soon as is reasonably practicable. A

seller may petition the commissioner, upon a showing of good cause, for a longer period of time for repayment. A seller shall notify the commissioner at least thirty days prior to ceasing business.

- Sec. 9. Section 523A.202, subsection 4, Code 2007, is amended to read as follows:
- 4. This section does not prohibit moving trust funds from one financial institution to another if the commissioner is notified of the change within thirty days of the transfer of the trust funds.
- Sec. 10. Section 523A.203, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 7. Unless proceeding under section 523A.403, investment and management decisions for all trust funds shall be made in accordance with the provisions of section 633A.4302.
- Sec. 11. Section 523A.204, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

523A.204 PRENEED SELLER ANNUAL REPORTING REQUIREMENTS.

- 1. A preneed seller shall file with the commissioner not later than April 1 of each year an annual report on a form prescribed by the commissioner.
- 2. A preneed seller filing an annual report shall pay a filing fee of ten dollars per purchase agreement sold during the year covered by the report. Duplicate fees are not required for the same purchase agreement. If a purchase agreement has multiple sellers, the fee shall be paid by the preneed seller actually providing the merchandise and services.
- 3. All records maintained by the commissioner under this section shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection or copying except upon the approval of the commissioner or the attorney general.
- 4. The commissioner shall levy an administrative penalty in the amount of five hundred dollars against a preneed seller that fails to file the annual report when due, payable to the state for deposit in the general fund of the state.
- 5. A preneed seller that fails to file the annual report when due shall immediately cease soliciting or executing purchase agreements until the annual report is filed and any administrative penalty assessed has been paid.
- Sec. 12. Section 523A.206, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

523A.206 EXAMINATIONS — AUTHORITY AND SCOPE.

- 1. The commissioner may conduct an examination under this chapter of any seller as often as the commissioner deems appropriate. If a seller has a trust arrangement, the commissioner shall conduct an examination of such seller doing business in this state not less than once every three years unless the seller has provided to the commissioner, on an annual basis, a certified copy of an audit conducted by an independent certified public accountant verifying compliance with this chapter. The commissioner may require an audit of a seller, or other person by a certified public accountant to verify compliance with the requirements of this chapter, including rules adopted and orders issued pursuant to this chapter.
- 2. A seller shall reimburse the division for the expense of conducting the examination, including an audit conducted by a certified public accountant, unless the commissioner waives this requirement, or the seller has previously provided to the commissioner a certified copy of an audit conducted by an independent certified public accountant verifying compliance with this chapter for each year in question and the examination conducted by the commissioner does not disclose that the seller has not complied with this chapter for the years in question. The expense of an examination involving multiple sellers or other persons shall be prorated among them upon any reasonable basis as determined by the commissioner.
- 3. For purposes of completing an examination under this chapter, the commissioner may examine or investigate any person, or the business of any person, if the examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the seller.

- 4. Upon determining that an examination should be conducted, the commissioner may appoint one or more examiners to perform the examination and instruct those examiners as to the scope of the examination.
- 5. A seller, or other person from whom information is sought, and its officers, directors, employees, and agents shall provide to the examiners appointed under subsection 4, timely, convenient, and free access at their offices, at all reasonable hours, to all books, records, accounts, papers, documents, and all electronic or other recordings related to the property, assets, business, and affairs of the seller being examined and shall facilitate the examination as much as possible.
- a. The refusal of a seller, by its officers, directors, employees, or agents, to submit to an examination or to comply with a reasonable written request of an examiner shall constitute grounds for the suspension, revocation, or nonrenewal of any license held by the seller to engage in business subject to the commissioner's jurisdiction.
- b. If a seller declines or refuses to submit to an examination as provided in this chapter, the commissioner shall immediately suspend, revoke, or nonrenew¹ any license held by the seller or business to engage in business subject to the commissioner's jurisdiction, and shall report the commissioner's action to the attorney general, who shall immediately apply to the district court for the appointment of a receiver to administer the final affairs of the seller.
- 6. The commissioner shall not make information obtained in the course of an examination public, except when a duty under this chapter requires the commissioner to take action against a seller or to cooperate with another law enforcement agency, or when the commissioner is called as a witness in a civil or criminal proceeding.
- 7. This section shall not be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory actions pursuant to this chapter. Findings of fact and conclusions made pursuant to an examination are deemed to be prima facie evidence in any legal or regulatory action.
- Sec. 13. <u>NEW SECTION</u>. 523A.207 AUDITS BY CERTIFIED PUBLIC ACCOUNTANTS. A purchase agreement shall not be sold or transferred, as part of the sale of a business or the assets of a business, until an audit has been performed by a certified public accountant and filed with the commissioner that expresses the auditor's opinion of the adequacy of funding related to the purchase agreements to be sold or transferred.
- Sec. 14. Section 523A.404, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Trust requirements do not apply to payments <u>made pursuant to a purchase agreement executed prior to July 1, 2007</u>, for outer burial containers made of either polystyrene or polypropylene or cemetery merchandise delivered to the purchaser or stored in an independent third-party storage facility not owned or controlled by the seller when approved by the commissioner. The seller or the storage facility must demonstrate that they will do all of the following:

- Sec. 15. Section 523A.404, subsection 1, paragraphs f and h, Code 2007, are amended to read as follows:
 - f. Use a method of storage that allows for visual audits examinations of the merchandise.
 - h. File a consent to be audited examined and inspected by the commissioner.
 - Sec. 16. Section 523A.501, Code 2007, is amended to read as follows: 523A.501 ESTABLISHMENT PERMITS PRENEED SELLERS LICENSES.
- 1. A person shall not advertise, sell, promote, or offer to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following the initial payment on the account without an establishment permit a preneed seller's license. Each establishment must have an establishment permit.

¹ According to enrolled Act

- 2. An application for an establishment permit a preneed seller's license shall be filed on a form prescribed by the commissioner, and be accompanied by a fifty dollar filing fee, and include a copy of each purchase agreement the person will use for sales of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.
 - 3. The application shall contain:
 - a. The name and address of the establishment.
- b. The name and address of any additional provider of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.
- c. The name and address of each owner, officer, or other official of the establishment, including when relevant the chief executive officer and the members of the board of directors.
 - d. A description of any common business enterprise or parent company.
- e. The types of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof to be sold.
- f. The types of trust or trust alternatives utilized by the establishment and a list of the financial institutions, storage facilities, surety companies, and insurance companies utilized by the establishment on a regular basis.
- 4. A permit holder shall inform the commissioner of changes in the information required to be provided by subsection 3 within thirty days of the change.
- 3. a. The commissioner shall request and obtain, notwithstanding section 692.2, subsection 5, criminal history data for any applicant for an initial license issued pursuant to this section, any applicant for reinstatement of a license issued pursuant to this section, or any licensee who is being monitored as a result of a commission order² or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's or licensee's eligibility for licensure or suitability for continued practice as a preneed seller. The commissioner shall adopt rules pursuant to chapter 17A to implement this section. The commissioner shall inform the applicant or licensee of the criminal history requirement and obtain a signed waiver from the applicant or licensee prior to submitting a criminal history data request.
- b. A request for criminal history data shall be submitted to the department of public safety, division of criminal investigation, pursuant to section 692.2, subsection 1. The commissioner may also require such applicants or licensees to provide a full set of fingerprints, in a form and manner prescribed by the commission.³ Such fingerprints may be submitted to the federal bureau of investigation through the state criminal history repository for a national criminal history check. The commissioner may authorize alternate methods or sources for obtaining criminal history record information. The commissioner may, in addition to any other fees, charge and collect such amounts as may be incurred by the commissioner, the department of public safety, or the federal bureau of investigation in obtaining criminal history information. Amounts collected shall be considered repayment receipts as defined in section 8.2.
- c. Criminal history information relating to an applicant or licensee obtained by the commissioner pursuant to this section is confidential. The commissioner may, however, use such information in a license denial proceeding.
- 4. The commissioner shall request and obtain a financial history for any applicant for an initial license issued pursuant to this section, any applicant for reinstatement of a license issued pursuant to this section, or any licensee who is being monitored as a result of a commission order⁴ or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's or licensee's eligibility for licensure or suitability for continued practice as a preneed seller. "Financial history" means the record of a person's current loans, the date of a person's loans, the amount of the loans, the person's payment record on the loans, current liens against the person's property, and the person's most recent financial statement setting forth the assets, liabilities, and the net worth of the person.
- 5. An establishment permit A preneed seller's license is not assignable or transferable. A permit holder licensee selling all or part of an establishment a business entity that has a preneed seller's license shall cancel the permit license, and the purchaser shall apply for a new permit license in the purchaser's name within thirty days of the sale.

 $^{^{2}\,}$ According to enrolled Act; the phrase "an order of the commissioner" probably intended

³ According to enrolled Act; the word "commissioner" probably intended

⁴ According to enrolled Act; the phrase "an order of the commissioner" probably intended

- 6. If no denial order is in effect and no proceeding is pending under section 523A.503, the application becomes effective at noon of the thirtieth day after a completed application or an amendment completing the application is filed, unless waived by the applicant. The commissioner may specify an earlier effective date. Automatic effectiveness under this subsection shall not be deemed approval of the application. If the commissioner does not grant the permit license, the commissioner shall notify the person in writing of the reasons for the denial.
- 7. An initial permit is valid for two years from the date the application is filed. A permit may preneed seller's license shall be renewed for two every four years by filing the form prescribed by the commissioner under subsection 2, accompanied by a ten dollar renewal fee in an amount set by the commissioner by rule. Submission of purchase agreements is not required for renewals unless the purchase agreements have been modified since the last filing.
- 8. The commissioner may by rule create or accept a multijurisdiction establishment permit preneed seller's license. If the establishment permit preneed seller's license is issued by another jurisdiction, the rules shall require the filing of an application or notice form and payment of the applicable filing fee of fifty dollars for an initial application and ten dollars for a renewal application. The application or notice form utilized and the effective dates and terms of the permit license may vary from the provisions set forth in subsections 2, 3, and 7 this section.

Sec. 17. Section 523A.502, Code 2007, is amended to read as follows: 523A.502 SALES PERMITS <u>AGENTS</u>—<u>LICENSES</u>.

- 1. A person shall not advertise, sell, promote, or offer to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following initial payment on the account without unless the person has a sales permit. A permit holder must be an employee or license and is a sales agent of a person holding an establishment permit who can deliver the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof being sold a prened seller's license. A person must have a sales permit for each establishment at which the person works. However, a person may apply for a sales permit covering multiple establishments, if the establishments have common ownership. The establishment permit holder prened seller licensee is liable for the acts of its employees and sales agents performed in advertising, selling, promoting, or offering to furnish, upon the future death of a person named or implied in a purchase agreement, cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.
- 2. This chapter does not permit a person to practice mortuary science without a license. A person holding a current sales permit license may advertise, sell, promote, or offer to furnish a funeral director's services as an employee or agent of a funeral establishment furnishing the funeral services under chapter 156.
- 3. An application for a sales <u>permit license</u> shall be filed on a form prescribed by the commissioner and be accompanied by a <u>five dollar</u> filing fee <u>in an amount set by the commissioner by rule</u>.
 - 4. The application shall contain:
 - a. The name and address of the person.
- b. The name and address of the person's employer and each establishment on whose behalf the person will be advertising, selling, promoting, or offering to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.
- c. The name and address of the provider who will provide the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof if different from the person's employer.
- 4. a. The commissioner shall request and obtain, notwithstanding section 692.2, subsection 5, criminal history data for any applicant for an initial license issued pursuant to this section, any applicant for reinstatement of a license issued pursuant to this section, or any licensee who is being monitored as a result of a commission order⁵ or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's or licensee's eligibility for licensure or suitability for continued practice as a sales agent. The commissioner shall adopt rules pursuant to chapter 17A to implement this section. The commissioner shall inform the

 $^{^{5}}$ According to enrolled Act; the phrase "an order of the commissioner" probably intended

applicant or licensee of the criminal history requirement and obtain a signed waiver from the applicant or licensee prior to submitting a criminal history data request.

- b. A request for criminal history data shall be submitted to the department of public safety, division of criminal investigation, pursuant to section 692.2, subsection 1. The commissioner may also require such applicants or licensees, to provide a full set of fingerprints, in a form and manner prescribed by the commission. Such fingerprints may be submitted to the federal bureau of investigation through the state criminal history repository for a national criminal history check. The commissioner may authorize alternate methods or sources for obtaining criminal history record information. The commissioner may, in addition to any other fees, charge and collect such amounts as may be incurred by the commissioner, the department of public safety, or the federal bureau of investigation in obtaining criminal history information. Amounts collected shall be considered repayment receipts as defined in section 8.2.
- c. Criminal history information relating to an applicant or licensee obtained by the commissioner pursuant to this section is confidential. The commissioner may, however, use such information in a license denial proceeding.
- 5. An initial permit expires one year from the date the application is filed. The permit may sales license shall be renewed for every four years by filing the form prescribed by the commissioner under subsection 3, accompanied by a twenty dollar filing renewal fee in an amount set by the commissioner by rule.
- 6. A sales agent licensed pursuant to this section shall satisfactorily fulfill continuing education requirements for the license as prescribed by the commissioner by rule.
- 6. 7. A permit holder sales licensee shall inform the commissioner of changes in the information required to be provided by subsection 4 in the application within thirty days of the change.
- 7. 8. A sales permit <u>license</u> is not assignable or transferable. An establishment selling all or part of its business to a purchaser shall cancel the establishment's sales permit. The purchaser shall apply for a new sales permit in the purchaser's name within thirty days of the sale.
- 8. 9. If no denial order is in effect and no proceeding is pending under section 523A.503, the application becomes effective at noon of the thirtieth day after a completed application or an amendment completing the application is filed, unless waived by the applicant. The commissioner may specify an earlier effective date. Automatic effectiveness under this subsection shall not be deemed approval of the application. If the commissioner does not grant the permit license, the commissioner shall notify the applicant in writing of the reasons for the denial.
- 9. 10. The commissioner may by rule create or accept a multijurisdiction sales permit <u>license</u>. If the sales permit <u>license</u> is issued by another jurisdiction, the rules shall require the filing of an application or notice form and payment of the applicable filing fee of five dollars for each year. The application or notice form utilized and the effective dates and terms of the permit <u>license</u> may vary from the provisions set forth in subsections 3 and 5.

Sec. 18. <u>NEW SECTION</u>. 523A.502A SALES AGENT ANNUAL REPORTING REQUIREMENTS.

- 1. A sales agent shall file with the commissioner not later than April 1 of each year an annual report on a form prescribed by the commissioner describing each purchase agreement sold by the sales agent during the year.
- 2. All records maintained by the commissioner under this section shall be confidential pursuant to section 22.7, subsection 58, and shall not be made available for inspection or copying except upon the approval of the commissioner or the attorney general.
- 3. The commissioner shall levy an administrative penalty in the amount of five hundred dollars against a sales agent who fails to file an annual report when due, payable to the state for deposit in the general fund.
- 4. A sales agent who fails to file the annual report when due shall immediately cease soliciting or executing purchase agreements until the annual report is filed and any administrative penalty assessed has been paid.

 $^{^{\}rm 6}$ According to enrolled Act; the word "commissioner" probably intended

Sec. 19. Section 523A.503, Code 2007, is amended to read as follows:

523A.503 DENIAL, SUSPENSION, REVOCATION, AND SURRENDER OF PERMITS LICENSES.

- 1. The commissioner may, pursuant to chapter 17A, deny any permit <u>license</u> application, or immediately suspend, revoke, or otherwise impose disciplinary action related to any <u>permit license</u> issued under <u>this chapter section 523A.501 or 523A.502</u> for several reasons, including but not limited to:
- a. Committing a fraudulent act, engaging in a fraudulent practice, or violating any provision of this chapter or any implementing rule or order issued under this chapter.
- b. Violating any other state or federal law applicable to the conduct of the applicant's or permit holder's licensee's business.
 - c. Insolvency or financial condition.
- d. The permit holder <u>licensee</u>, for the purpose of avoiding the trust requirement for funeral services, attributes amounts paid under the purchase agreement to cemetery merchandise or funeral merchandise that is delivered under section 523A.404 rather than to funeral services sold to the purchaser. The sale of funeral services at a lower price when the sale is made in conjunction with the sale of cemetery merchandise or funeral merchandise to be delivered under section 523A.404 than the services are regularly and customarily sold for when not sold in conjunction with cemetery merchandise or funeral merchandise is evidence that the <u>permitholder licensee</u> is acting with the purpose of avoiding the trust requirement for funeral services under section 523A.201.
- e. Engaging in a deceptive act or practice or deliberately misrepresenting or omitting a material fact regarding the sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof under this chapter.
- f. Conviction of a criminal offense involving dishonesty or a false statement <u>including but</u> <u>not limited to fraud, theft, misappropriation of funds, falsification of documents, deceptive acts or practices, or other related offenses.</u>
- g. Inability to provide the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof which the applicant or permit holder licensee purports to sell.
- h. The applicant or <u>permit holder licensee</u> sells the business without filing a prior notice of sale with the commissioner. The <u>permit license</u> shall be revoked thirty days following such sale.
- i. Selling by a person who is not an employee or agent of the applicant or permit holder a licensed sales agent.
- j. The applicant or licensee is named in an order issued pursuant to section 523A.807, subsection 3, paragraph "b".
- 2. The commissioner may, for good cause shown, suspend any permit <u>license</u> for a period not exceeding thirty days, pending investigation.
- 3. Except as provided in subsection 2, a permit <u>license</u> shall not be revoked, suspended, or otherwise be the subject of disciplinary action except after notice and hearing under chapter 17A
- 4. Any permit holder <u>licensee</u> may surrender a <u>permit licensee</u> by delivering to the commissioner written notice that the <u>permit holder licensee</u> surrenders the <u>permit licensee</u>, but the surrender shall not affect the <u>permit holder's licensee's</u> civil or criminal liability for acts committed before the surrender.
- 5. Denial, revocation, suspension, or surrender of a permit <u>license</u> does not impair or affect the obligation of any preexisting lawful agreement between the <u>permit holder licensee</u> and any person.
- 6. The commissioner may impose a civil penalty in an amount not exceeding ten thousand dollars per violation against any person violating this chapter. Each day of a continuing violation constitutes a separate offense.

Sec. 20. NEW SECTION. 523A.504 APPOINTMENT OF SALES AGENTS.

1. A person shall not sell or offer to furnish cemetery merchandise, funeral merchandise,

funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following initial payment on the account except through a sales agent who holds a sales license issued pursuant to section 523A.502. If a person holding a preneed seller's license appoints a sales agent to act on behalf of the preneed seller, the person shall file a notice of such appointment with the commissioner within thirty days of the appointment, in a format approved by the commissioner, and annually thereafter.

2. A preneed seller shall pay an annual fee of five dollars for each sales agent appointed by the preneed seller, which fee shall be submitted with the annual report.

Sec. 21. Section 523A.601, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. Identify the seller preneed seller by name and license number, the salesperson's permit and establishment sales agent by name and permit license number, the expiration date of the salesperson's permit, the purchaser, and the person for whom the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof is purchased, if other than the purchaser.

Sec. 22. Section 523A.601, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 6. a. A purchase agreement that is funded by a trust shall include a conspicuous statement in language substantially similar to the following language:

"For your prearranged funeral agreement, we will deposit not less than eighty percent of your payments in trust at (name of financial institution), (street address), (city), (state) (zip code) within fifteen days following receipt of the funds. For your protection, you have the right to contact the financial institution directly to confirm that the deposit of these funds occurred as required by law. If you are unable to confirm the deposit of these funds in trust, you may contact the Iowa insurance division for assistance by calling the insurance division at (telephone number) or by mail at (street address), (city), Iowa (zip code)."

b. A purchase agreement that is funded with an insurance policy or an annuity shall include a conspicuous statement in language substantially similar to the following language:

"An (insurance policy or annuity) will be purchased from (name of issuer of the policy or annuity), (street address), (city), (state) (zip code). You should receive confirmation of the purchase of an insurance policy or certificate, or an annuity within sixty days of making payment. Delivery of the actual insurance policy or certificate or annuity shall also constitute confirmation. For your protection, you have the right to confirm that the insurance policy or annuity is issued as required by law. If you do not receive confirmation that an insurance policy or certificate or an annuity has been purchased or receive the insurance policy or certificate or the annuity, you should report this fact to the Iowa insurance division, by calling the insurance division at (telephone number). Written reports should be mailed to the Iowa insurance division at (street address), (city), Iowa (zip code)."

c. A purchase agreement that is funded with a surety bond shall include a conspicuous statement in language substantially similar to the following language:

"Coverage under a surety bond in the amount of \$(amount) will be purchased from (name of issuer of surety bond), (street address), (city), (state) (zip code) to fund your purchase. If you pay pursuant to your purchase agreement with a single payment, you should receive confirmation of the purchase of a surety bond within sixty days of making the payment. If you pay pursuant to your purchase agreement with multiple, periodic payments, you should receive confirmation of the purchase of a surety bond within sixty days of making the first payment and within sixty days of making the last payment pursuant to the agreement. For your protection, you have the right to confirm that the surety bond is issued as required by law. If you do not receive confirmation of coverage under a surety bond within sixty days of making the first payment and within sixty days of making the last payment, you should report this fact to the Iowa insurance division, by calling the insurance division at (telephone number). Written reports should be mailed to the Iowa insurance division at (street address), (city), Iowa (zip code)."

Sec. 23. NEW SECTION. 523A.603 SECURITY AND NOTICE REQUIREMENTS.

- 1. If a purchase agreement is funded with an insurance policy or an annuity, the purchaser shall receive a notice thereof from the insurance company within sixty days of making payment. The notice shall include the name and address of the insurance company, the policy number of the insurance policy that secures the agreement, the name of the insured under the insurance policy or annuity, and the amount of the accumulated death benefit. Delivery of the insurance policy or certificate or annuity shall satisfy this notice requirement.
- 2. If a purchase agreement is funded by a surety bond, the purchaser shall receive a notice from the surety company that evidences coverage under the bond, the name of the purchaser or beneficiary, and the amount of coverage. If the purchase agreement is paid with a single payment, the purchaser shall receive notice of the surety bond within sixty days of making the payment. If the purchase agreement is being paid with multiple, periodic payments, the purchaser shall receive notice of the surety bond within sixty days of making the last payment. Compliance with this notice requirement does not require a seller to purchase individual surety bonds for each purchaser and beneficiary. A seller may file a single bond with the commissioner.

Sec. 24. <u>NEW SECTION</u>. 523A.604 PURCHASE AGREEMENTS — NUMBERING.

Purchase agreements for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof shall be sequentially numbered by each seller in compliance with procedures specified by the commissioner by rules adopted under chapter 17A.

Sec. 25. Section 523A.703, Code 2007, is amended to read as follows: 523A.703 FRAUDULENT PRACTICES.

- A Except as otherwise provided in section 523A.704, a person who willfully commits any of the following acts commits a fraudulent practice and is punishable as provided in chapter 714:
- 1. Knowingly fails Fails to comply with any requirement of this chapter, or any rule adopted or order issued under this chapter.
- 2. Knowingly makes Makes, causes to be made, or subscribes to a false statement or representation in a report or other document required under this chapter, implementing rules, or orders, or renders such a report or document misleading through the deliberate omission of information properly belonging in the report or document.
- 3. Conspires to defraud in <u>In</u> connection with the sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof <u>under this chapter</u>, <u>directly or indirectly makes an untrue statement of a material fact or omits to state a material fact that is necessary to make the statements made, in light of the circumstances under which they were made, not misleading.</u>
- 4. Fails to deposit funds under sections 523A.201 and 523A.202 or withdraws any funds in a manner inconsistent with this chapter. Unless the purchase agreement expressly provides otherwise, excludes in the sale of cemetery merchandise, funeral merchandise, or a combination thereof, funeral services that are necessary for the delivery, use, or installation of the cemetery merchandise or funeral merchandise at the time of the burial or funeral.
- 5. Knowingly sells or offers cemetery merchandise, funeral merchandise, funeral services, or a combination thereof without an establishment permit.
- 6. Deliberately misrepresents or omits a material fact relative to the sale of cemetery merchandise, funeral services, or a combination thereof under this chapter. When selling cemetery merchandise or funeral merchandise, a seller shall not exclude the funeral services necessary for the delivery, use, or installation of the cemetery merchandise or funeral merchandise at the time of the funeral or burial unless the purchase agreement expressly provides otherwise.

Sec. 26. NEW SECTION. 523A.704 VIOLATIONS.

A person who willfully violates section 523A.501, subsection 1, or section 523A.502, subsection 1, is guilty of a class "D" felony.

- Sec. 27. Section 523A.801, subsection 1, Code 2007, is amended to read as follows:
- 1. This chapter shall be administered by the commissioner. The deputy administrator appointed pursuant to section 502.601 shall be the principal operations officer responsible to the commissioner for the routine administration of this chapter and management of the administrative staff. In the absence of the commissioner, whether because of vacancy in the office 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. 28. Section 523A.801, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 3. The commissioner shall submit an annual report to the legislative oversight committee by October 1 of each year reporting on the administration of this chapter. The report shall set forth any recommendations for changes in the law that the commissioner deems necessary or desirable to prevent abuses or evasions of this chapter or rules implementing this chapter or to rectify undesirable conditions in connection with the administration of this chapter or rules implementing this chapter.
- Sec. 29. Section 523A.807, Code 2007, is amended by adding the following new subsections:
- <u>NEW SUBSECTION</u>. 3. If the commissioner finds that a person has violated section 523A.201, 523A.202, 523A.401, 523A.402, 523A.403, 523A.404, 523A.405, 523A.501, or 523A.502 or any rule adopted pursuant thereto, the commissioner may order any or all of the following:
- a. Payment of a civil penalty of not more than one thousand dollars for each violation, but not exceeding an aggregate of ten thousand dollars during any six-month period, except that if the commissioner finds that the person knew or reasonably should have known that the person was in violation of such provisions or rules adopted thereto, the penalty shall be not more than five thousand dollars for each violation, but not exceeding an aggregate of fifty thousand dollars during any six-month period. The commissioner shall assess the penalty on the employer of an individual and not on the individual, if the commissioner finds that the violations committed by the individual were directed, encouraged, condoned, ignored, or ratified by the individual's employer.
- b. Issuance of an order prohibiting the person committing a violation from selling funeral merchandise, cemetery merchandise, funeral services, or a combination thereof, and from managing, operating, or otherwise exercising control over any business entity that is subject to regulation under this chapter or chapter 523I. A person who has been named in such an order may contest the order by filing a request for a contested case proceeding as provided in chapter 17A and in accordance with rules adopted by the commissioner. The commissioner may, pursuant to chapter 17A, deny any application filed under section 523A.501 or 523A.502 if the applicant, or an officer, director, or owner of the applicant is named in a final order issued pursuant to this subsection.

<u>NEW SUBSECTION</u>. 4. The commissioner shall post on the website of the division of insurance of the department of commerce a list of all persons licensed under chapter 523A and an index of orders issued by the commissioner pertaining to such persons.

Sec. 30. Section 523A.811, subsection 1, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. f. A receivership has been established for a cemetery subject to chapter 523I that is owned or operated by a seller who is subject to this chapter.

Sec. 31. Section 523A.811, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 3. If a seller who is subject to this chapter owns or operates a ceme-

tery subject to chapter 523I, for which a receivership has been established, the receivership provisions of section 523I.212 shall apply to any receivership established under this section.

Sec. 32. Section 523A.812, Code 2007, is amended to read as follows: 523A.812 INSURANCE DIVISION REGULATORY FUND.

The insurance division may authorize the creation of a special revenue fund in the state treasury, to be known as the insurance division regulatory fund. The commissioner shall allocate annually from the fees paid pursuant to section 523A.204, two dollars for each purchase agreement reported on an establishment permit holder's a preneed seller's annual report filed pursuant to section 523A.204 for deposit to the regulatory fund. The remainder of the fees collected pursuant to section 523A.204 shall be deposited into the general fund of the state. The commissioner shall also allocate annually the audit examination fees paid pursuant to section 523A.814 and any examination expense reimbursement for deposit to the regulatory fund. The moneys in the regulatory fund shall be retained in the fund. The moneys are appropriated and, subject to authorization by the commissioner, may be used to pay auditors, audit examiners, examination expenses, investigative expenses, the expenses of mediation ordered by the commissioner, consumer education expenses, the expenses of a toll-free telephone line to receive consumer complaints, and the expenses of receiverships established under section 523A.811. If the commissioner determines that funding is not otherwise available to reimburse the expenses of a person who receives title to a cemetery subject to chapter 523I, pursuant to such a receivership, the commissioner shall use moneys in the regulatory fund as necessary to preserve, protect, restore, and maintain the physical integrity of that cemetery and to satisfy claims or demands for cemetery merchandise, funeral merchandise, and funeral services based on purchase agreements which the commissioner determines are just and outstanding. An annual allocation to the regulatory fund shall not be imposed if the current balance of the fund exceeds two five hundred thousand dollars.

Sec. 33. Section 523A.814, Code 2007, is amended to read as follows: 523A.814 AUDIT EXAMINATION FEE.

In addition to the filing fee paid pursuant to section 523A.204, subsection 5 <u>2</u>, an establishment <u>a seller</u> filing an annual report shall pay an <u>audit examination</u> fee in the amount of five dollars for each purchase agreement subject to a filing fee that is sold between July 1, 2005, and December 31, 2007, and in the amount of ten dollars for each purchase agreement subject to a filing fee that is sold after December 31, 2007.

- Sec. 34. Section 523I.102, subsections 3 and 8, Code 2007, are amended to read as follows: 3. "Capital gains" means appreciation in the value of trust assets for which a market value may be determined with reasonable certainty after deduction of investment losses, taxes, expenses incurred in the sale of trust assets, any costs of the operation of the trust, examination expenses, and any annual audit fees expenses.
- 8. "Commissioner" means the commissioner of insurance or the deputy administrator authorized in section 523A.801 to the extent the commissioner delegates functions to the deputy administrator commissioner's designee authorized in section 523A.801.
- Sec. 35. Section 523I.102, subsection 17, unnumbered paragraph 1, Code 2007, is amended to read as follows:

"Income" means the return in money or property derived from the use of trust principal after deduction of investment losses, taxes, and expenses incurred in the sale of trust assets, any cost of the operation of the trust, examination expenses or fees, and any annual audit fees expenses. "Income" includes but is not limited to:

- Sec. 36. Section 523I.201, subsection 1, Code 2007, is amended to read as follows:
- 1. This chapter shall be administered by the commissioner. The deputy administrator appointed pursuant to section 502.601 shall be the principal operations officer responsible to the commissioner for the routine administration of this chapter and management of the administration.

trative 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. 37. Section 523I.201, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 3. The commissioner shall submit an annual report to the legislative oversight committee by October 1 of each year reporting on the administration of this chapter. The report shall set forth any recommendations for changes in the law that the commissioner deems necessary or desirable to prevent abuses or evasions of this chapter or rules implementing this chapter or to rectify undesirable conditions in connection with the administration of this chapter or rules implementing this chapter.
- Sec. 38. Section 523I.212, subsection 1, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. d. A receivership has been established for a seller subject to chapter 523A who owns or operates a cemetery that is subject to this chapter.

- Sec. 39. Section 523I.212, subsection 2, Code 2007, is amended to read as follows:
- 2. The commissioner or attorney general may apply to the district court in any county of the state for the establishment of a receivership. Upon proof that any of the conditions described in this section have occurred, the court may grant a receivership. The commissioner may request that the insurance division be named as a receiver or that the court appoint a third party as a receiver. If the division is appointed as a receiver, the division shall not be subject to the requirements concerning an oath and surety bond contained in section 680.3.
- Sec. 40. Section 523I.212, Code 2007, is amended by adding the following new subsections: NEW SUBSECTION. 3. In addition to the powers granted to receivers under chapter 680, a receiver appointed under this section shall be granted all powers necessary to locate and to temporarily preserve and protect perpetual care trust funds, consumer and business assets, interment records, records of consumer purchases of interment rights, and records of consumer purchases of funeral services and funeral or cemetery merchandise as defined in chapter 523A. The receiver shall also be granted such powers as are necessary in the course of the receivership to temporarily preserve and protect a cemetery or burial site and to temporarily restore or sustain cemetery operations, including interments, as operating funds or trust funds become available.

<u>NEW SUBSECTION</u>. 4. The commissioner may petition the court to terminate a receivership at any time and to enter such orders as are necessary to transfer the duty to preserve and protect the physical integrity of the cemetery or burial site, the interment records, and other records documenting consumer purchases of interment rights to the applicable governmental subdivision, as provided in section 523I.316, subsection 3. The court shall grant the petition if following the first one hundred twenty days of the receivership such duty to preserve and protect cannot be reasonably assumed by a private entity, association, or by other means.

Sec. 41. Section 523I.213, Code 2007, is amended to read as follows:

523I.213 INSURANCE DIVISION'S ENFORCEMENT FUND.

A special revenue fund in the state treasury, to be known as the insurance division's enforcement fund, is created under the authority of the commissioner. The commissioner shall allocate annually from the <u>audit examination</u> fees paid pursuant to section 523I.808, an amount not exceeding fifty thousand dollars, for deposit to the insurance division's enforcement fund. The moneys in the enforcement fund shall be retained in the fund. The moneys are appropriated and, subject to authorization by the commissioner, shall be used to pay <u>auditors</u>, <u>audit examiners</u>, <u>examination</u> expenses, investigative expenses, the expenses of consumer education,

compliance, and education programs for filers and other regulated persons, and educational or compliance program materials, the expenses of a toll-free telephone line for consumer complaints, and the expenses of receiverships of perpetual care cemeteries established under section 523I.212.

Sec. 42. NEW SECTION. 523I.213A EXAMINATIONS — AUTHORITY AND SCOPE.

- 1. The commissioner or the commissioner's designee may conduct an examination under this chapter of any cemetery as often as the commissioner deems appropriate. If a cemetery has a trust arrangement, the commissioner shall conduct an examination not less than once every three years.
- 2. A cemetery shall reimburse the division for the expense of conducting the examination unless the commissioner waives this requirement or the seller has previously provided to the commissioner a certified copy of an audit conducted by an independent certified public accountant verifying compliance with this chapter for each year in question and the examination conducted by the commissioner does not disclose that the seller has not complied with this chapter for the years in question. The expense of an examination involving multiple cemeteries or other persons shall be prorated among them upon any reasonable basis as determined by the commissioner.
- 3. For purposes of completing an examination pursuant to this chapter, the commissioner may examine or investigate any person, or the business of any person, if the examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the cemetery.
- 4. Upon determining that an examination should be conducted, the commissioner or the commissioner's designee may appoint one or more examiners to perform the examination and instruct them as to the scope of the examination.
- 5. A cemetery or person from whom information is sought, and its officers, directors, and agents shall provide to the examiners appointed under subsection 4, timely, convenient, and free access at their offices, at all reasonable hours, to all books, records, accounts, papers, documents, and all electronic or other recordings related to the property, assets, business, and affairs of the cemetery being examined and shall facilitate the examination as much as possible. If a cemetery, by its officers, directors, employees, or agents, refuses to submit to an examination as provided in this chapter, the commissioner shall immediately report the refusal to the attorney general, who shall then immediately apply to district court for the appointment of a receiver to administer the final affairs of the cemetery.
- 6. This section shall not be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory actions pursuant to this chapter. Findings of fact and conclusions made pursuant to an examination are deemed to be prima facie evidence in any legal or regulatory action.

Sec. 43. NEW SECTION. 523I.213B VENUE.

All actions relating to the enforcement of this chapter shall be governed by the laws of the state of Iowa. Venue of any action relating to enforcement of this chapter may be in a court of competent jurisdiction in Polk county, at the discretion of the commissioner.

- Sec. 44. Section 523I.304, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 7. A cemetery owned and controlled by a governmental subdivision shall adopt and enforce a rule allowing any veteran who is a landowner or who lives within the governmental subdivision to purchase an interment space and to be interred within the cemetery. For the purposes of this section, "veteran" means the same as defined in section 35.1 or a resident of this state who served in the armed forces of the United States, completed a minimum aggregate of ninety days of active federal service, and was discharged under honorable conditions.
 - Sec. 45. Section 523I.305, subsection 3, Code 2007, is amended to read as follows:
 - 3. SPECIFICATIONS. Upon request, a cemetery shall provide reasonable written specifi-

cations and instructions governing installation of memorials, which shall apply to all installations whether performed by the cemetery or another person. The written specifications shall include provisions governing hours of installation or any other relevant administrative requirements of the cemetery. A copy of these specifications and instructions shall be provided upon request, without charge, to the owner of the interment space, next of kin, or a personal representative or agent of the owner, including the person installing the memorial. The person installing the memorial shall comply with the cemetery's written installation specifications and instructions. In order to verify that a memorial is installed on the proper interment space in accordance with cemetery rules and regulations, the cemetery shall mark the place on the interment space where the memorial is to be installed and shall inspect the installation when completed. This subsection shall not be construed to require that a cemetery lay out or engineer an interment space for the installation of a memorial. A cemetery shall not adopt or enforce any rule prohibiting the installation of a memorial by a memorial dealer or independent third party, unless the rule is adopted applicable to all memorials from whatever source obtained and enforced uniformly for all memorials installed in the cemetery.

Sec. 46. NEW SECTION. 523I.314A STANDARDS FOR INTERMENT SPACES.

- 1. A standard interment space for full body interment developed on or after July 1, 2007, shall measure at least forty inches in width and ninety-six inches in length.
- 2. Prior to the sale of interment rights in an undeveloped area of a cemetery, internal reference markers shall be installed and maintained no more than one hundred feet apart. The internal reference markers shall be established with reference to survey markers that are no more than two hundred feet apart, have been set by a surveyor and mapper, and have been documented in a land survey. Both the map and the land survey shall be maintained by the cemetery and made available upon request to the commissioner and to members of the public.

Sec. 47. Section 523I.808, Code 2007, is amended to read as follows: 523I.808 AUDIT EXAMINATION FEE.

An <u>audit examination</u> fee shall be submitted with the cemetery's annual report in an amount equal to five dollars for each certificate of interment rights issued during the fiscal year covered by the report. The cemetery may charge the <u>audit examination</u> fee directly to the purchaser of the interment rights.

- Sec. 48. Section 523I.810, subsection 9, Code 2007, is amended to read as follows:
- 9. A cemetery may, by resolution adopted by a vote of at least two-thirds of the members of its board at any authorized meeting of the board, authorize the withdrawal and use of not more than twenty percent of the principal of the care fund to acquire additional land for cemetery purposes, to repair a mausoleum or other building or structure intended for cemetery purposes, or to build, improve, or repair roads and walkways in the cemetery, or to purchase recordkeeping software used to maintain ownership records or interment records. The resolution shall establish a reasonable repayment schedule, not to exceed five years, and provide for interest in an amount comparable to the care fund's current rate of return on its investments. However, the care fund shall not be diminished below an amount equal to the greater of twenty-five thousand dollars or five thousand dollars per acre of land in the cemetery. The resolution, and either a bond or proof of insurance to guarantee replenishment of the care fund, shall be filed with the commissioner thirty days prior to the withdrawal of funds.
- Sec. 49. Section 523I.813, subsection 1, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
- 1. A perpetual care cemetery shall file an annual report at the end of each fiscal year of the cemetery.
 - Sec. 50. Section 523I.813, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 3. The commissioner shall levy an administrative penalty in the

amount of five hundred dollars against a cemetery that fails to file the annual report when due, payable to the state for deposit in the general fund of the state.

DIVISION II COORDINATING AMENDMENTS

- Sec. 51. Section 523A.102, subsection 9, paragraphs b and c, Code 2007, are amended to read as follows:
- b. If authorized by a purchaser under a purchase agreement, cemetery merchandise has been permanently identified with the name of the purchaser or the beneficiary and delivered to a bonded warehouse or storage facility approved by the commissioner and both title to the merchandise and a warehouse receipt have been delivered to the purchaser or beneficiary and a copy of the warehouse receipt has been delivered to the establishment seller for retention in its files.
- c. If authorized by a purchaser under a purchase agreement, a polystyrene or polypropylene outer burial container has been permanently identified with the name of the purchaser or the beneficiary and delivered to a bonded warehouse or storage facility approved by the commissioner and both title to the merchandise and a warehouse receipt have been delivered to the purchaser or beneficiary and a copy of the warehouse receipt has been delivered to the establishment seller for retention in its files.
 - Sec. 52. Section 523A.102, subsection 21, Code 2007, is amended to read as follows:
- 21. "Parent company" means a corporation that has a controlling interest in an establishment a seller.
 - Sec. 53. Section 523A.205, subsection 1, Code 2007, is amended to read as follows:
- 1. A financial institution shall file with the commissioner not later than March 1 of each year an annual report on a form prescribed by the commissioner showing all funds deposited by an establishment a seller under a trust agreement during the previous year. Each report shall contain all information requested.
- Sec. 54. Section 523A.401, subsection 5, paragraphs a and b, Code 2007, are amended to read as follows:
- a. Except as necessary and appropriate to satisfy the requirements regarding burial trust funds under Title XIX of the federal Social Security Act, the policy shall not be owned by the establishment seller, the policy shall not be irrevocably assigned to the establishment seller, and the assignment of proceeds from the insurance policy to the establishment seller shall be limited to the establishment's seller's interests as they appear in the purchase agreement, and conditioned on the establishment's seller's delivery of cemetery merchandise, funeral merchandise, and funeral services pursuant to a purchase agreement.
- b. The policy shall provide that any assignment of benefits is contingent upon the establishment's seller's delivery of cemetery merchandise, funeral merchandise, and funeral services pursuant to a purchase agreement.
- Sec. 55. Section 523A.401, subsection 6, unnumbered paragraph 1, Code 2007, is amended to read as follows:

With the written consent of the purchaser, an existing prepaid purchase agreement with trust-funded benefits may be converted to a prepaid purchase agreement with insurance-funded benefits provided the establishment seller and the insurance benefits comply with the following provisions:

- Sec. 56. Section 523A.401, subsection 6, paragraph d, Code 2007, is amended to read as follows:
- d. The establishment seller shall maintain a copy of any prepaid trust-funded purchase agreement that was converted to a prepaid insurance-funded purchase agreement and retain

the payment history records for each converted purchase agreement prior to conversion until the cemetery merchandise, funeral merchandise, and funeral services have been delivered.

- Sec. 57. Section 523A.401, subsection 8, Code 2007, is amended to read as follows:
- 8. An insurance company issuing policies funding purchase agreements subject to this chapter shall file an annual report with the commissioner on a form prescribed by the commissioner. The report shall list the applicable insurance policies outstanding for each establishment seller. Computer printouts may be submitted so long as each legibly provides the same information required in the prescribed form.
- Sec. 58. Section 523A.402, subsection 5, paragraphs a and b, Code 2007, are amended to read as follows:
- a. Except as necessary and appropriate to satisfy the requirements regarding burial trust funds under Title XIX of the federal Social Security Act, the annuity shall not be owned by the establishment seller or irrevocably assigned to the establishment seller and any designation of the establishment seller as a beneficiary shall not be made irrevocable.
- b. The annuity shall provide that any assignment of benefits is contingent upon the establishment's seller's delivery of cemetery merchandise, funeral merchandise, and funeral services pursuant to a purchase agreement.
- Sec. 59. Section 523A.402, subsection 6, unnumbered paragraph 1, Code 2007, is amended to read as follows:

With the written consent of the purchaser, an existing prepaid purchase agreement with trust-funded benefits may be converted to a prepaid purchase agreement with annuity-funded benefits provided the establishment seller and the annuity benefits comply with the following provisions:

- Sec. 60. Section 523A.402, subsection 6, paragraph d, Code 2007, is amended to read as follows:
- d. The <u>establishment seller</u> shall maintain a copy of any prepaid trust-funded purchase agreement that was converted to a prepaid annuity-funded purchase agreement and retain the payment history records for each converted purchase agreement prior to conversion until the cemetery merchandise, funeral merchandise, and funeral services have been delivered.
 - Sec. 61. Section 523A.402, subsection 8, Code 2007, is amended to read as follows:
- 8. An insurance company issuing annuities funding purchase agreements subject to this chapter shall file an annual report with the commissioner on a form prescribed by the commissioner. The report shall list the applicable annuities outstanding for each establishment seller. Computer printouts may be submitted so long as each legibly provides the same information required in the prescribed form.
 - Sec. 62. Section 523A.404, subsection 4, Code 2007, is amended to read as follows:
 - 4. An establishment A seller is prohibited from requiring delivery as a condition of the sale.
- Sec. 63. Section 523A.405, subsection 9, unnumbered paragraph 1, Code 2007, is amended to read as follows:

With the consent of the purchaser, an existing prepaid purchase agreement with trustfunded benefits may be converted to a prepaid purchase agreement funded by a surety bond provided the establishment seller and the surety bond comply with the following provisions:

- Sec. 64. Section 523A.405, subsection 9, paragraph c, Code 2007, is amended to read as follows:
- c. The establishment seller shall maintain a copy of any prepaid trust-funded agreement that was converted to a prepaid purchase agreement funded by a surety bond and retain the payment history records for each converted purchase agreement prior to conversion until the cemetery merchandise, funeral merchandise, and funeral services have been delivered.

- Sec. 65. Section 523A.601, subsection 2, paragraph e, Code 2007, is amended to read as follows:
- e. State clearly that the purchaser is entitled to transfer the trust funding, insurance funding, or other trust assets or select another <u>establishment seller</u> to receive the trust funding, insurance funding, or any other trust assets.
- Sec. 66. Section 523A.601, subsection 5, paragraph h, Code 2007, is amended to read as follows:
- h. If the funding is being transferred from another establishment <u>seller</u>, any material facts related to the revocation of the prior purchase agreement and the transfer of the existing trust funds.
- Sec. 67. Section 523A.602, subsection 2, paragraph b, subparagraphs (1) and (2), Code 2007, are amended to read as follows:
- (1) If a purchase agreement is canceled, a purchaser requests a transfer of the trust assets upon cancellation of a purchase agreement, or another establishment seller provides merchandise or services designated in a purchase agreement, the seller shall refund or transfer within thirty days of receiving a written demand no less than the purchase price of the applicable cemetery merchandise, funeral merchandise, and funeral services adjusted for inflation, using the consumer price index amounts announced by the commissioner annually, less any 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 purchase price of the applicable cemetery merchandise, funeral merchandise, and funeral services. The seller may also deduct the value of the cemetery merchandise, funeral merchandise, and funeral services already received by, delivered to, or warehoused for the purchaser.
- (2) 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 seller provides 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. 68. Section 523A.602, subsection 2, paragraph b, subparagraph (3), unnumbered paragraph 1, Code 2007, is amended to read as follows:

For the purposes of this paragraph "b", "actual expenses" means all reasonable business expenses of an establishment a seller that are associated with the sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof. "Actual expenses" includes but is not limited to the following:

- Sec. 69. Section 523A.602, subsection 2, paragraph b, subparagraph (3), subparagraph subdivisions (d) and (g), Code 2007, are amended to read as follows:
 - (d) Licensing fees of the establishment seller.
- (g) Expenses related to employees of the <u>establishment seller</u> such as licensing fees, continuing education, and salaries and commissions.
 - Sec. 70. Section 523A.802, subsection 1, Code 2007, is amended to read as follows:
 - 1. This chapter applies to any advertisement, sale, promotion, or offer made by a person to

furnish, upon the future death of a person named or implied in a purchase agreement, cemetery merchandise, funeral merchandise, funeral services, or a combination thereof. Burial accounts and insurance policies are included if the account records or related documents identify the establishment seller that will provide the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

- Sec. 71. Section 523A.803, subsection 1, paragraph d, Code 2007, is amended to read as follows:
- d. Investigate the <u>establishment seller</u> and examine the books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records used by every applicant and <u>permit holder licensee</u> under this chapter.
- Sec. 72. Section 523A.804, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The commissioner may order an establishment a seller to participate in mediation in any dispute regarding a purchase agreement. Mediation performed under this section shall be conducted by a mediator appointed by the commissioner and shall comply with the provisions of chapter 679C.

- Sec. 73. Section 523A.806, subsection 2, Code 2007, is amended to read as follows:
- 2. Revocation or suspension of any permit <u>license</u> issued under this chapter.
- Sec. 74. Section 523A.901, subsection 1, Code 2007, is amended to read as follows:
- 1. GROUNDS FOR LIQUIDATION. The commissioner may petition the district court for an order directing the commissioner to liquidate an establishment the business of a seller on either of the following grounds:
- a. The establishment seller did not deposit funds pursuant to section 523A.201 or withdrew funds in a manner inconsistent with this chapter and is insolvent.
- b. The establishment seller did not deposit funds pursuant to section 523A.201 or withdrew funds in a manner inconsistent with this chapter and the condition of the establishment seller is such that further transaction of business would be hazardous, financially or otherwise, to purchasers or the public.
- Sec. 75. Section 523A.901, subsection 2, paragraphs a, b, c, and e, Code 2007, are amended to read as follows:
- a. An order to liquidate the business of an establishment a seller shall appoint the commissioner as liquidator and shall direct the liquidator to immediately take possession of the assets of the establishment seller and to administer them under the general supervision of the court. The liquidator is vested with the title to the property, contracts, and rights of action and the books and records of the establishment seller ordered liquidated, wherever located, as of the entry of the final order of liquidation. The filing or recording of the order with the clerk of court and the recorder of deeds of the county in which its principal office or place of business is located, or in the case of real estate, with the recorder of deeds of the county where the property is located, is notice as a deed, bill of sale, or other evidence of title duly filed or recorded with the recorder of deeds.
- b. Upon issuance of an order, the rights and liabilities of an establishment <u>a seller</u> and of the establishment's <u>seller's</u> creditors, purchasers, owners, and other persons interested in the <u>establishment's seller's</u> estate shall become fixed as of the date of the entry of the order of liquidation, except as provided in subsection 14.
- c. At the time of petitioning for an order of liquidation, or at any time after the time of petitioning, the commissioner, after making appropriate findings of an establishment's a seller's insolvency, may petition the court for a declaration of insolvency. After providing notice and hearing as it deems proper, the court may make the declaration.
- e. Within five days after the initiation of an appeal of an order of liquidation, which order has not been stayed, the commissioner shall present for the court's approval a plan for the con-

tinued performance of the establishment's seller's obligations during the pendency of an appeal. The plan shall provide for the continued performance of purchase agreements in the normal course of events, notwithstanding the grounds alleged in support of the order of liquidation including the ground of insolvency. If the defendant establishment's seller's financial condition, in the judgment of the commissioner, will not support the full performance of all obligations during the appeal pendency period, the plan may prefer the claims of certain purchasers and claimants over creditors and interested parties as well as other purchasers and claimants, as the commissioner finds to be fair and equitable considering the relative circumstances of such purchasers and claimants. The court shall examine the plan submitted by the commissioner and if it finds the plan to be in the best interests of the parties, the court shall approve the plan. An action shall not lie against the commissioner or any of the commissioner's deputies, agents, clerks, assistants, or attorneys by any party based on preference in an appeal pendency plan approved by the court.

- Sec. 76. Section 523A.901, subsection 3, paragraph a, subparagraphs (4), (6), (7), (8), (9), (10), (11), (12), (13), (14), (17), and (18), Code 2007, are amended to read as follows:
- (4) Pay reasonable compensation to persons appointed and defray from the funds or assets of the establishment seller all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the establishment seller. If the property of the establishment seller does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of the insurance division regulatory fund. Amounts so advanced for expenses of administration shall be repaid to the insurance division regulatory fund for the use of the division out of the first available moneys of the establishment seller.
- (6) Collect debts and moneys due and claims belonging to the establishment seller, wherever located. Pursuant to this subparagraph, the liquidator may do any of the following:
- (a) Institute timely action in other jurisdictions to forestall garnishment and attachment proceedings against debts.
- (b) Perform acts as are necessary or expedient to collect, conserve, or protect its assets or property, including the power to sell, compound, compromise, or assign debts for purposes of collection upon terms and conditions as the liquidator deems best.
 - (c) Pursue any creditor's remedies available to enforce claims.
 - (7) Conduct public and private sales of the property of the establishment seller.
- (8) Use assets of the establishment <u>seller</u> under a liquidation order to transfer obligations of purchase agreements to a solvent establishment <u>seller</u>, if the transfer can be accomplished without prejudice to the applicable priorities under subsection 18.
- (9) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with property of the establishment seller at its market value or upon terms and conditions as are fair and reasonable. The liquidator shall also have power to execute, acknowledge, and deliver deeds, assignments, releases, and other instruments necessary to effectuate a sale of property or other transaction in connection with the liquidation.
- (10) Borrow money on the security of the establishment's seller's assets or without security and execute and deliver documents necessary to that transaction for the purpose of facilitating the liquidation. Money borrowed pursuant to this subparagraph shall be repaid as an administrative expense and shall have priority over any other class 1 claims under the priority of distribution established in subsection 18.
- (11) Enter into contracts as necessary to carry out the order to liquidate and affirm or disavow contracts to which the establishment seller is a party.
- (12) Continue to prosecute and to institute in the name of the establishment seller or in the liquidator's own name any and all suits and other legal proceedings, in this state or elsewhere, and to abandon the prosecution of claims the liquidator deems unprofitable to pursue further.
- (13) Prosecute an action on behalf of the creditors, purchasers, or owners against an officer of the establishment seller or any other person.

- (14) Remove records and property of the establishment <u>seller</u> to the offices of the commissioner or to other places as may be convenient for the purposes of efficient and orderly execution of the liquidation.
- (17) File necessary documents for recording in the office of the recorder of deeds or record office in this state or elsewhere where property of the establishment seller is located.
- (18) Assert defenses available to the <u>establishment seller</u> against third persons including statutes of limitations, statutes of fraud, and the defense of usury. A waiver of a defense by the <u>establishment seller</u> after a petition in liquidation has been filed shall not bind the liquidator.
- Sec. 77. Section 523A.901, subsection 4, paragraph a, subparagraphs (1) and (2), Code 2007, are amended to read as follows:
- (1) Mailing notice, by first-class mail, to all persons known or reasonably expected to have claims against the establishment <u>seller</u>, including purchasers, at their last known address as indicated by the records of the establishment <u>seller</u>.
- (2) Publication of notice in a newspaper of general circulation in the county in which the establishment seller has its principal place of business and in other locations as the liquidator deems appropriate.
- Sec. 78. Section 523A.901, subsection 4, paragraph c, Code 2007, is amended to read as follows:
- c. If notice is given pursuant to this subsection, the distribution of assets of the establishment seller under this chapter shall be conclusive with respect to claimants, whether or not a claimant actually received notice.
 - Sec. 79. Section 523A.901, subsection 5, Code 2007, is amended to read as follows:
 - 5. ACTIONS BY AND AGAINST LIQUIDATOR.
- a. After issuance of an order appointing a liquidator of an establishment the business of a seller, an action at law or equity shall not be brought against the establishment seller within this state or elsewhere, and existing actions shall not be maintained or further presented after issuance of the order. Whenever in the liquidator's judgment, protection of the estate of the establishment seller necessitates intervention in an action against the establishment seller that is pending outside this state, the liquidator may intervene in the action. The liquidator may defend, at the expense of the estate of the establishment seller, an action in which the liquidator intervenes under this section.
- b. Within two years or such additional time as applicable law may permit, the liquidator, after the issuance of an order for liquidation, may institute an action or proceeding on behalf of the estate of the establishment seller upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of the petition upon which the order is entered. If a period of limitation is fixed by agreement for instituting a suit or proceeding upon a claim, or for filing a claim, proof of claim, proof of loss, demand, notice, or the like, or if in a proceeding, judicial or otherwise, a period of limitation is fixed in the proceeding or pursuant to applicable law for taking an action, filing a claim or pleading, or doing an act, and if the period has not expired at the date of the filing of the petition, the liquidator may, for the benefit of the estate, take any action or do any act, required of or permitted to the establishment seller, within a period of one hundred eighty days subsequent to the entry of an order for liquidation, or within a further period as is shown to the satisfaction of the court not to be unfairly prejudicial to the other party.
- c. A statute of limitations or defense of laches shall not run with respect to an action against an establishment a seller between the filing of a petition for liquidation against the establishment business of a seller and the denial of the petition. An action against the establishment seller that might have been commenced when the petition was filed may be commenced within sixty days after the petition is denied.

- Sec. 80. Section 523A.901, subsection 6, paragraph a, Code 2007, is amended to read as follows:
- a. As soon as practicable after the liquidation order but not later than one hundred twenty days after such order, the liquidator shall prepare in duplicate a list of the establishment's seller's assets. The list shall be amended or supplemented as the liquidator may determine. One copy shall be filed in the office of the clerk of court, and one copy shall be retained for the liquidator's files. Amendments and supplements shall be similarly filed.
- Sec. 81. Section 523A.901, subsection 7, paragraph a, Code 2007, is amended to read as follows:
- a. A transfer made and an obligation incurred by an establishment a seller whose business is within one year prior to the filing of a successful petition for liquidation under this chapter is fraudulent as to then existing and future creditors if made or incurred without fair consideration, or with actual intent to hinder, delay, or defraud either existing or future creditors. A fraudulent transfer made or an obligation incurred by an establishment a seller whose business is ordered to be liquidated under this chapter may be avoided by the liquidator, except as to a person who in good faith is a purchaser, lienor, or obligee for a present fair equivalent value. A purchaser, lienor, or obligee, who in good faith has given a consideration less than present fair equivalent value for such transfer, lien, or obligation, may retain the property, lien, or obligation as security for repayment. The court may, on due notice, order any such transfer, lien, or obligation to be preserved for the benefit of the estate, and in that event, the receiver shall succeed to and may enforce the rights of the purchaser, lienor, or obligee.
- Sec. 82. Section 523A.901, subsection 7, paragraph b, subparagraph (2), Code 2007, is amended to read as follows:
- (2) A transfer of real property is made when it becomes perfected so that a subsequent bona fide purchaser from the establishment seller could not obtain rights superior to the rights of the transferee.
- Sec. 83. Section 523A.901, subsection 8, paragraphs a, b, and c, Code 2007, are amended to read as follows:
- a. After a petition for liquidation has been filed, a transfer of real property of the establishment seller made to a person acting in good faith is valid against the liquidator if made for a present fair equivalent value. If the transfer is not made for a present fair equivalent value, then the transfer is valid to the extent of the present consideration actually paid for which amount the transferee shall have a lien on the property transferred. The commencement of a proceeding in liquidation is constructive notice upon the recording of a copy of the petition for or order of liquidation with the recorder of deeds in the county where any real property in question is located. The exercise by a court of the United States or a state or jurisdiction to authorize a judicial sale of real property of the establishment seller within a county in a state shall not be impaired by the pendency of a proceeding unless the copy is recorded in the county prior to the consummation of the judicial sale.
- b. After a petition for liquidation has been filed and before either the liquidator takes possession of the property of the establishment seller or an order of liquidation is granted:
- (1) A transfer of the property, other than real property, of the <u>establishment seller</u> made to a person acting in good faith is valid against the liquidator if made for a present fair equivalent value. If the transfer was not made for a present fair equivalent value, then the transfer is valid to the extent of the present consideration actually paid for which amount the transferee shall have a lien on the property transferred.
- (2) If acting in good faith, a person indebted to the establishment seller or holding property of the establishment seller may pay the debt or deliver the property, or any part of the property, to the establishment seller or upon the establishment's seller's order as if the petition were not pending.
 - (3) A person having actual knowledge of the pending liquidation is not acting in good faith.

- (4) A person asserting the validity of a transfer under this subsection has the burden of proof. Except as provided in this subsection, a transfer by or on behalf of the establishment seller after the date of the petition for liquidation by any person other than the liquidator is not valid against the liquidator.
- c. A person receiving any property from the <u>establishment seller</u> or any benefit of the property of the <u>establishment seller</u> which is a fraudulent transfer under paragraph "a" is personally liable for the property or benefit and shall account to the liquidator.
- Sec. 84. Section 523A.901, subsection 9, paragraph a, subparagraphs (1) and (2), Code 2007, are amended to read as follows:
- (1) A preference is a transfer of the property of an establishment a seller to or for the benefit of a creditor for an antecedent debt made or suffered by the establishment seller within one year before the filing of a successful petition for liquidation under this chapter, the effect of which transfer may be to enable the creditor to obtain a greater percentage of this debt than another creditor of the same class would receive. If a liquidation order is entered while the establishment seller is already subject to a receivership, then the transfers are preferences if made or suffered within one year before the filing of the successful petition for the receivership, or within two years before the filing of the successful petition for liquidation, whichever time is shorter.
 - (2) A preference may be avoided by the liquidator if any of the following exist:
 - (a) The establishment seller was insolvent at the time of the transfer.
 - (b) The transfer was made within four months before the filing of the petition.
- (c) At the time the transfer was made, the creditor receiving it or to be benefited by the transfer or the creditor's agent acting with reference to the transfer had reasonable cause to believe that the establishment seller was insolvent or was about to become insolvent.
- (d) The creditor receiving the transfer was an officer, or an employee, attorney, or other person who was in fact in a position of comparable influence in the establishment seller to an officer whether or not the person held the position of an officer, owner, or other person, firm, corporation, association, or aggregation of persons with whom the establishment seller did not deal at arm's length.
- Sec. 85. Section 523A.901, subsection 9, paragraph b, subparagraph (2), Code 2007, is amended to read as follows:
- (2) A transfer of real property is made when it becomes perfected so that a subsequent bona fide purchaser from the establishment <u>seller</u> could not obtain rights superior to the rights of the transferee.
- Sec. 86. Section 523A.901, subsection 9, paragraphs e, i, and j, Code 2007, are amended to read as follows:
- e. If a lien which is voidable under paragraph "a", subparagraph (2), has been dissolved by the furnishing of a bond or other obligation, the surety of which has been indemnified directly or indirectly by the transfer or the creation of a lien upon property of an establishment a seller before the filing of a petition under this chapter which results in the liquidation order, the indemnifying transfer or lien is also voidable.
- i. If a creditor has been preferred for property which becomes a part of the <u>establishment's seller's</u> estate, and afterward in good faith gives the <u>establishment seller</u> further credit without security of any kind, the amount of the new credit remaining unpaid at the time of the petition may be set off against the preference which would otherwise be recoverable from the creditor.
- j. If within four months before the filing of a successful petition for liquidation under this chapter, or at any time in contemplation of a proceeding to liquidate, an establishment a seller, directly or indirectly, pays money or transfers property to an attorney for services rendered or to be rendered, the transaction may be examined by the court on its own motion or shall be examined by the court on petition of the liquidator. The payment or transfer shall be held valid only to the extent of a reasonable amount to be determined by the court. The excess may be

recovered by the liquidator for the benefit of the estate. However, where the attorney is in a position of influence in the establishment business of the seller or an affiliate, payment of any money or the transfer of any property to the attorney for services rendered or to be rendered shall be governed by the provisions of paragraph "a", subparagraph (2), subparagraph subdivision (d).

- Sec. 87. Section 523A.901, subsection 9, paragraph k, subparagraphs (1) and (2), Code 2007, are amended to read as follows:
- (1) An officer, manager, employee, shareholder, subscriber, attorney, or other person acting on behalf of the <u>establishment seller</u> who knowingly participates in giving any preference when the person has reasonable cause to believe the <u>establishment seller</u> is or is about to become insolvent at the time of the preference is personally liable to the liquidator for the amount of the preference. There is an inference that reasonable cause exists if the transfer was made within four months before the date of filing of this successful petition for liquidation.
- (2) A person receiving property from the establishment <u>seller</u> or the benefit of the property of the establishment <u>seller</u> as a preference voidable under paragraph "a" is personally liable for the property and shall account to the liquidator.
- Sec. 88. Section 523A.901, subsection 13, paragraph d, Code 2007, is amended to read as follows:
- d. A judgment or order against <u>an establishment a seller</u> entered after the date of filing of a successful petition for liquidation, or a judgment or order against the <u>establishment seller</u> entered at any time by default or by collusion need not be considered as evidence of liability or of the amount of damages. A judgment or order against <u>an establishment a seller</u> before the filing of the petition need not be considered as evidence of liability or of the amount of damages.
 - Sec. 89. Section 523A.901, subsection 16, Code 2007, is amended to read as follows:
- 16. CLAIMS OF OTHER PERSON. If a creditor, whose claim against an establishment a seller is secured in whole or in part by the undertaking of another person, fails to prove and file that claim, then the other person may do so in the creditor's name and shall be subrogated to the rights of the creditor, whether the claim has been filed by the creditor or by the other person in the creditor's name to the extent that the other person discharges the undertaking. However, in the absence of an agreement with the creditor to the contrary, the other person is not entitled to any distribution until the amount paid to the creditor on the undertaking plus the distributions paid on the claim from the establishment's seller's estate to the creditor equal the amount of the entire claim of the creditor. An excess received by the creditor shall be held by the creditor in trust for the other person.
- Sec. 90. Section 523A.901, subsection 18, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The priority of distribution of claims from the <u>establishment's seller's</u> 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. The order of distribution of claims is as follows:

- Sec. 91. Section 523A.901, subsection 18, paragraph a, subparagraph (1), Code 2007, is amended to read as follows:
- (1) Actual and necessary costs of preserving or recovering the assets of the establishment seller.
- Sec. 92. Section 523A.901, subsection 19, paragraph a, Code 2007, is amended to read as follows:
 - a. The liquidator shall review claims duly filed in the liquidation and shall make further in-

vestigation as necessary. The liquidator may compound, compromise, or in any other manner negotiate the amount for which claims will be recommended to the court except where the liquidator is required by law to accept claims as settled by a person or organization. Unresolved disputes shall be determined under subsection 15. As soon as practicable, the liquidator shall present to the court a report of the claims against the establishment seller with the liquidator's recommendations. The report shall include the name and address of each claimant and the amount of the claim finally recommended.

- Sec. 93. Section 523A.901, subsection 21, paragraph b, Code 2007, is amended to read as follows:
- b. Funds withheld under subsection 14 and not distributed shall upon discharge of the liquidator be deposited with the treasurer of state and paid pursuant to subsection 18. Sums remaining which under subsection 18 would revert to the undistributed assets of the establishment seller shall be transferred to the insurance division regulatory fund and become the property of the state as provided under paragraph "a", unless the commissioner in the commissioner's discretion petitions the court to reopen the liquidation pursuant to subsection 23.
- Sec. 94. Section 523A.901, subsection 24, Code 2007, is amended to read as follows: 24. DISPOSITION OF RECORDS DURING AND AFTER TERMINATION OF LIQUIDATION. If it appears to the commissioner that the records of an establishment the business of a seller in the process of liquidation or completely liquidated are no longer useful, the commissioner may recommend to the court and the court shall direct what records shall be retained for future reference and what records shall be destroyed.

Approved May 24, 2007

CHAPTER 176

VETERANS — VIETNAM SERVICE BONUS COMPENSATION S.F. 578

AN ACT creating a Vietnam Conflict veterans bonus for a certain period of active duty military service, making an appropriation, providing a tax exemption and a penalty, and including a retroactive applicability provision.

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

- Section 1. Section 35A.8, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 5. a. The executive director shall provide for the administration of the bonus authorized in this subsection. The commission shall adopt rules, pursuant to chapter 17A, as necessary to administer this subsection including but not limited to application procedures, investigation, approval or disapproval, and payment of claims.
- b. (1) A person who served on active duty for not less than one hundred twenty days in the armed forces of the United States at any time between July 1, 1973, and May 31, 1975, both dates inclusive, and who at the time of entering into active duty service was a legal resident of the state of Iowa, and who had maintained the person's residence in this state for a period of at least six months immediately before entering into active duty service, and was honorably discharged or separated from active duty service, or is still in active service in an honorable status, or has been retired, or has been furloughed to a reserve, or has been placed on inactive

status is entitled to receive from moneys appropriated for that purpose the sum of seventeen dollars and fifty cents for each month that the person was on active duty service in the Vietnam service area, within the dates specified in this subparagraph, if the veteran earned either a Vietnam service medal or an armed forces expeditionary medal-Vietnam or can otherwise establish service in the Vietnam service area during that period. Compensation under this subparagraph shall not exceed a total sum of five hundred dollars. Compensation for a fraction of a month shall not be considered unless the fraction is sixteen days or more, in which case the fraction shall be computed as a full month.

- (2) A person otherwise qualified under this paragraph "b" except that the person did not earn either a Vietnam service medal or an armed forces expeditionary medal-Vietnam, and did not serve in the Vietnam service area during the period between July 1, 1973, and May 31, 1975, both dates inclusive, is entitled to receive from moneys appropriated for that purpose the sum of twelve dollars and fifty cents for each month that the person was on active duty service, within the dates specified in subparagraph (1). Compensation under this subparagraph shall not exceed a total sum of three hundred dollars. Compensation for a fraction of a month shall not be considered unless the fraction is sixteen days or more, in which case the fraction shall be computed as a full month.
- (3) A person is not entitled to compensation pursuant to this subsection if the person received a bonus or compensation similar to that provided in this subsection from another state.
- (4) A person is not entitled to compensation pursuant to this subsection if the person was on active duty service after July 1, 1973, and the person refused on conscientious, political, religious, or other grounds, to be subject to military discipline.
- (5) The surviving unremarried widow or widower, child or children, mother, father, or person standing in loco parentis, in the order named and none other, of any deceased person shall be paid the compensation that the deceased person would be entitled to pursuant to this subsection, if living. However, if any person has died or shall die, or is disabled, from service-connected causes incurred during the period and in the area from which the person is entitled to receive compensation pursuant to this subsection, the person or the first survivor as designated by this subparagraph, and in the order named, shall be paid five hundred dollars or three hundred dollars, whichever maximum amount would have applied pursuant to subparagraph (1) or (2), regardless of the length of service.
- (6) The maximum compensation a person may receive pursuant to this subsection shall be reduced by the amount of any Vietnam veterans bonus received from the state by that person for service prior to July 1, 1973.
- c. A person who knowingly makes a false statement relating to a material fact in supporting an application under this subsection is guilty of a serious misdemeanor. A person convicted pursuant to this subsection shall forfeit all benefits to which the person may have been entitled under this subsection.
- d. All payments and allowances made under this subsection shall be exempt from taxation, levy, and sale on execution.
- e. The bonus compensation authorized under this subsection shall be paid from moneys appropriated for that purpose.
- f. A Vietnam Conflict veterans bonus fund is created in the state treasury. The Vietnam Conflict veterans bonus fund shall consist of all moneys appropriated to the fund to pay the bonus compensation authorized in this subsection. Notwithstanding section 12C.7, interest or earnings on investments or time deposits of the moneys in the Vietnam Conflict veterans bonus fund shall be credited to the bonus fund. Section 8.33 does not apply to moneys appropriated to the Vietnam Conflict veterans bonus fund.
- Sec. 2. Section 422.7, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 50. Subtract, to the extent included, the amount of any Vietnam Conflict veterans bonus provided pursuant to section 35A.8, subsection 5.
 - Sec. 3. VIETNAM CONFLICT VETERANS BONUS FUND APPROPRIATION. Notwith-

standing any provision of section 35A.13 to the contrary, there is appropriated from the veterans trust fund created in section 35A.13 to the department of veterans affairs 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 deposit in the Vietnam Conflict veterans bonus fund:

.....\$ 500,000

Sec. 4. RETROACTIVE APPLICABILITY. The section of this Act amending section 422.7, is retroactively applicable to January 1, 2007, and is applicable for tax years beginning on and after that date.

Approved May 24, 2007

CHAPTER 177

2007 TAX AMNESTY PROGRAM

S.F. 580

AN ACT relating to a tax amnesty program, making appropriations, and including an effective date provision.

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

Section 1. TITLE. This Act may be cited as the "Iowa Tax Amnesty Act of 2007".

- Sec. 2. DEFINITIONS. When used in this Act, unless the context otherwise requires:
- 1. "Department" means the department of revenue.
- 2. "Director" means the director of revenue.
- 3. "Taxpayer" means a person, a corporation, or other entity subject to any tax imposed by a law of this state, payable to this state, and administered by the department pursuant to chapters 422, 423, 423A, 423B, 423C, 423D, 423E, 424, 450, 450A, 450B, 451, 452A, 453A, and 453B.

Sec. 3. TAX AMNESTY PROGRAM.

- 1. The director shall establish a tax amnesty program. The tax amnesty program shall apply to taxpayers that have tax liabilities delinquent as of December 31, 2006, including tax due on returns not filed, tax liabilities owed to the department as of December 31, 2006, or tax liabilities not reported nor established but delinquent as of December 31, 2006.
- 2. The tax amnesty program shall be for a period from September 4, 2007, through October 31, 2007, for any tax liabilities described in subsection 1.
- 3. The tax amnesty program shall provide that upon written application by a taxpayer and payment in full by the taxpayer of amounts due from the taxpayer to this state for a tax covered by the tax amnesty program plus interest equal to fifty percent of the interest that is due, the department shall not seek to collect any other interest or penalties which may be applicable. The department shall not seek civil or criminal prosecution for a taxpayer for the period of time for which amnesty has been granted to the taxpayer. Failure to pay all tax liabilities due the state and delinquent as of December 31, 2006, shall invalidate the amnesty. Amnesty shall be granted for only the periods specified in the application and only if all amnesty conditions are satisfied by the taxpayer.

- 4. A taxpayer who participates in the tax amnesty program shall relinquish all administrative and judicial rights to challenge the imposition of the tax and its amount, except for adjustments made pursuant to a federal audit completed after the effective date of this Act.
- 5. Amnesty shall not be granted to a taxpayer who is the subject of an active criminal investigation or who is a party to a criminal proceeding that is pending in a district court, the court of appeals, or the supreme court of this state if such investigation or proceeding involves non-payment or fraud in relation to any state tax imposed by a law of this state.
- 6. The director shall prepare and make available tax amnesty application forms which contain requirements for approval of an application. The director may deny any application that is inconsistent with this Act.
- 7. In promoting and marketing the tax amnesty program, the director and the Iowa lottery shall collaborate in the use of television, print, and radio advertising.
- Sec. 4. RULEMAKING. The provisions of this Act are exempt from the rulemaking process of chapter 17A, the Iowa administrative procedure Act.

Sec. 5. APPROPRIATION.

- 1. There is appropriated from the general fund of the state to the department of revenue for the fiscal period beginning July 1, 2006, and ending June 30, 2008, the sum of \$710,000, or so much thereof as necessary, to be used to administer this Act.
- 2. There is appropriated to the department of revenue for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the sum of \$150,000 for the purpose of increasing the auditing and enforcement activities of the department.
- 3. If new full-time equivalent positions are hired by the department as a result of the appropriation made in subsection 1 or 2, the department shall eliminate such full-time equivalent positions by June 30, 2008, and these full-time equivalent positions are not authorized for employment by the department after that date.
- Sec. 6. REPORTING. The department shall report the gross revenue collected under each tax pursuant to the tax amnesty program as soon as practicable after the close of the amnesty period but prior to March 1, 2008.
- Sec. 7. LEGISLATIVE INTENT. It is the intent of the general assembly in enacting the Iowa tax amnesty Act of 2007 that the general assembly and the state shall not conduct another tax amnesty program prior to January 1, 2025.
- Sec. 8. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 24, 2007

GOLD STAR MOTOR VEHICLE REGISTRATION PLATES S.F. 586

AN ACT creating a special gold star motor vehicle registration plate and providing fees and an effective date.

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

Section 1. Section 35A.11, Code 2007, is amended to read as follows: 35A.11 VETERANS LICENSE FEE FUND.

A veterans license fee fund is created in the state treasury under the control of the commission. The fund shall include the fees credited by the treasurer of state from the sale of special veteran license plates pursuant to section 321.34, subsection 13, paragraph "d". Notwithstanding section 12C.7, interest or earnings on moneys in the veterans license fee fund shall be credited to the veterans license fee fund. Moneys in the fund are appropriated to the commission to be used to fulfill the responsibilities of the commission. The fund shall include the fees credited by the treasurer of state from the sale of the following special motor vehicle registration plates:

- 1. Veteran special plates issued pursuant to section 321.34, subsection 13, paragraph "d".
 2. Gold star special plates issued pursuant to section 321.34, subsection 24.
- Sec. 2. Section 321.34, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 24. GOLD STAR PLATES. An owner referred to in subsection 12 who is the surviving spouse, parent, child, or sibling of a deceased member of the United States armed forces who died while serving on active duty during a time of military conflict may order special registration plates bearing a gold star emblem upon written application to the department accompanied by satisfactory supporting documentation as determined by the department. The gold star emblem shall be designed by the department in cooperation with the commission of veterans affairs. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized gold star plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for gold star plates.
 - Sec. 3. EFFECTIVE DATE. This Act takes effect January 1, 2008.

Approved May 24, 2007

SALES AND USE TAXES — MISCELLANEOUS CHANGES S.F. 592

AN ACT relating to the streamlined sales and use tax agreement and administration of the tax and related laws by the department of revenue, including administration of sales and use taxes, and providing an effective date.

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

- Section 1. Section 423.1, subsection 52, Code 2007, is amended to read as follows: 52. "State" means any state of the United States, and the District of Columbia, and Puerto Rico.
 - Sec. 2. Section 423.16, subsection 3, Code 2007, is amended by striking the subsection.
 - Sec. 3. Section 423.33, subsection 1, Code 2007, is amended to read as follows:
- 1. LIABILITY OF PURCHASER FOR SALES TAX. If a purchaser fails to pay sales tax to the retailer required to collect the tax, then in addition to all of the rights, obligations, and remedies provided, the tax is payable by the purchaser directly to the department, and sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42 apply to the purchaser. For failure to pay, the retailer and purchaser are liable, unless the circumstances described in section 421.60, subsection 2, paragraph "m", section 423.34A, or section 423.45, subsection 4, paragraph "b" or "e", or subsection 5, paragraph "c" or "e", are applicable.

Sec. 4. NEW SECTION. 423.34A EXCLUSION FROM LIABILITY FOR PURCHASERS.

A purchaser is relieved of liability for payment of state sales or use tax, for payment of any local option sales tax, for payment of interest, or for payment of any penalty for nonpayment of tax which nonpayment is not fraudulent, willful, or intentional, under the following circumstances:

- 1. The purchaser, the purchaser's seller or certified service provider, or the purchaser holding a direct pay permit relied on erroneous data contained in this state's taxability matrix completed pursuant to the agreement.
- 2. The purchaser, the purchaser's seller or certified service provider, or the purchaser holding a direct pay permit relied on erroneous data provided by the state with regard to tax rates, boundaries, or taxing jurisdiction assignments.
- 3. The purchaser used a database described in section 423.52, subsection 1, or section 423.55 and relied on erroneous data about tax rates, boundaries, or taxing jurisdiction assignments contained in that database.
 - Sec. 5. Section 423.57, Code 2007, is amended to read as follows: 423.57 STATUTES APPLICABLE.

The director shall administer this subchapter as it relates to the taxes imposed in this chapter in the same manner and subject to all the provisions of, and all of the powers, duties, authority, and restrictions contained in sections 423.14, 423.15, 423.16, 423.17, 423.18, 423.19, 423.20, 423.21, 423.22, 423.23, 423.24, 423.25, 423.28, 423.29, 423.31, 423.32, 423.33, 423.34, 423.35, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42, section 423.43, subsection 3, and sections 423.45, 423.46, and 423.47.

Sec. 6. Section 423.57, Code 2007, as amended by this Act, is amended to read as follows: 423.57 STATUTES APPLICABLE.

The director shall administer this subchapter as it relates to the taxes imposed in this chapter in the same manner and subject to all the provisions of, and all of the powers, duties, authority, and restrictions contained in sections 423.14, 423.15, 423.16, 423.17, 423.19, 423.20, 423.21,

- 423.22, 423.23, 423.24, 423.25, 423.28, 423.29, 423.31, 423.32, 423.33, 423.34, <u>423.34A</u>, 423.35, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42, section 423.43, subsection 3, and sections 423.45, 423.46, and 423.47.
- Sec. 7. Section 423.51, subsection 2, paragraph d, as enacted by 2006 Iowa Acts, chapter 1158, section 77, is amended by striking the paragraph.
 - Sec. 8. 2006 Iowa Acts, chapter 1158, section 71, is repealed.
 - Sec. 9. Section 423.18, Code 2007, is repealed.
- Sec. 10. EFFECTIVE DATE. The sections of this Act amending section 423.33 and section 423.57, as amended by this Act, and enacting section 423.34A take effect on January 1, 2009.

Approved May 24, 2007

CHAPTER 180

MISCELLANEOUS COURT PROCEDURES AND PROCEEDINGS

S.F. 593

AN ACT relating to court procedures including conciliation proceedings and civil and criminal fees, penalties, and protective orders.

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

- Section 1. Section 598.16, Code 2007, is amended to read as follows: 598.16 CONCILIATION DOMESTIC RELATIONS DIVISIONS.
- 1. A majority of the judges in any judicial district, with the cooperation of any county board of supervisors in the district, may establish a domestic relations division of the district court of the county where the board is located. The division shall offer counseling and related services to persons before the court.
- <u>2. Upon Except as provided in subsection 7, upon</u> the application of the petitioner in the petition or by the respondent in the responsive pleading thereto or, within twenty days of appointment, of an attorney appointed under section 598.12, the court shall require the parties to participate in conciliation efforts for a period of sixty days from the issuance of an order setting forth the conciliation procedure and the conciliator.
- 3. At any time upon its own motion or upon the application of a party the court may require the parties to participate in conciliation efforts for sixty days or less following the issuance of such an order.
- <u>4.</u> Every order for conciliation shall require the conciliator to file a written report by a date certain which shall state the conciliation procedures undertaken and such other matters as may have been required by the court. The report shall be a part of the record unless otherwise ordered by the court. Such conciliation procedure may include, but is not limited to, referrals to the domestic relations division of the court, if established, public or private marriage counselors, family service agencies, community health centers, physicians and clergy.
- <u>5.</u> The costs of conciliation procedures shall be paid in full or in part by the parties and taxed as court costs; however, if the court determines that the parties will be unable to pay the costs

without prejudicing their financial ability to provide themselves and any minor children with economic necessities, the costs may be paid in full or in part by the county.

- <u>6.</u> Persons providing counseling and other services pursuant to this section are not court employees, but are subject to court supervision.
- 7. Upon application, the court shall grant a waiver from the requirements of this section if a party demonstrates that 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 a party 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 party in contempt pursuant to section 664A.7, the response of a peace officer to the scene of alleged domestic abuse or the arrest of a party following response to a report of alleged domestic abuse, or a conviction for domestic abuse assault pursuant to section 708.2A.
- Sec. 2. Section 602.8106, subsection 1, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. h. For a probation revocation, the fee shall be the same amount as the fee for filing and docketing a complaint, information, or citation for the underlying case from which the revocation arises.

Sec. 3. Section 633.31, subsection 2, paragraph c, Code 2007, is amended to read as follows:

- Sec. 4. Section 664A.1, subsection 2, Code 2007, is amended to read as follows:
- 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 or 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, or a civil injunction issued pursuant to section 915.22.
 - Sec. 5. Section 664A.2, subsection 2, Code 2007, is amended to read as follows:
- 2. A protective order issued in a civil proceeding shall be issued pursuant to chapter 232, 236, er 598, or 915. Punishment for a violation of a protective order shall be imposed pursuant to section 664A.7.
- Sec. 6. Section 664A.3, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 1A. Notwithstanding chapters 804 and 805, a person taken into custody pursuant to section 236.11 or arrested pursuant to section 236.12 may be released on bail or otherwise only after initial appearance before a magistrate as provided in chapter 804 and the rules of criminal procedure or section 236.11, whichever is applicable.
 - Sec. 7. Section 664A.5, Code 2007, is amended to read as follows: 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, or 915, the court shall either terminate or modify the temporary no-contact order issued by the magistrate. The court may enter a no-contact order or continue the no-contact order already 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. 8. Section 664A.6, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 3. A peace officer shall not be held civilly or criminally liable for acting pursuant to this section provided the peace officer acts in good faith and on reasonable grounds and the peace officer's acts do not constitute a willful or wanton disregard for the rights or safety of another.
- Sec. 9. Section 664A.7, subsections 3 and 4, Code 2007, are amended to read as follows: 3. If <u>convicted of or</u> 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, or protective 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, or 915 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.
- Sec. 10. Section 664A.7, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 3A. If convicted or held in contempt for a violation of a civil protective order referred to in section 664A.2, the person shall serve a jail sentence. A jail sentence imposed pursuant to this subsection shall be served on consecutive days. A person who is convicted of or held in contempt for a violation of a protective order referred to in section 664A.2 may be ordered by the court to pay the plaintiff's attorney's fees and court costs.
 - Sec. 11. Section 664A.8, Code 2007, is amended to read as follows: 664A.8 EXTENSION OF NO-CONTACT ORDER.

Upon the filing of an application by the state <u>or by the victim of any public offense referred to in section 664A.2</u>, <u>subsection 1</u> 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. 12. Section 908.11, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 5. Notwithstanding any other provision of law to the contrary, if the court revokes the probation of a defendant who received a deferred judgment and imposes a fine, the court shall reduce the amount of the fine by an amount equal to the amount of the civil penalty previously assessed against the defendant pursuant to section 907.14. However, the court shall assess any required surcharge, court cost, or fee upon the total amount of the fine prior to reduction pursuant to this subsection.

COMMUNITY EMPOWERMENT INITIATIVE APPROPRIATION — SCOPE OF PRESCHOOL SERVICES

H.F. 396

AN ACT expanding the scope of services under an existing appropriation for the community empowerment initiative involving preschool services and providing effective date and applicability provisions.

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

Section 1. 2006 Iowa Acts, chapter 1157, section 17, subsection 2, is amended to read as follows:

- 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 and other supportive services for children ages three, 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.
- Sec. 2. EFFECTIVE DATE RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment, is retroactively applicable to July 1, 2006, and is applicable on and after that date.

Approved May 24, 2007

CHAPTER 182

PROPANE EDUCATION AND RESEARCH COUNCIL

H.F. 556

AN ACT establishing the Iowa propane education and research council, providing for the development of programs and projects related to propane, providing for an assessment on the sale of odorized propane, providing criminal penalties, and providing for a future repeal and for effective dates.

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

Section 1. NEW SECTION. 101B.1 SHORT TITLE.

This chapter shall be known as and may be cited as the "Iowa Propane Education and Research Act".

Sec. 2. NEW SECTION. 101B.2 DEFINITIONS.

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

1. "Council" means the Iowa propane education and research council established pursuant to section 101B.3.

- 2. "Education" means any activity designed to provide information regarding propane, propane equipment, mechanical and technical practices, and uses of propane, to consumers and members of the propane industry.
 - 3. "Fire marshal" means the state fire marshal as provided in section 100.1.
 - 4. "Odorized propane" means propane to which an odorant has been added.
- 5. "Propane" means a hydrocarbon with a chemical composition that is predominately C3H8, whether recovered from natural gas or crude oil, and includes liquefied petroleum gases and mixtures.
- 6. "Propane industry" means those persons involved in the production, transportation, and sale of propane, and in the manufacture and distribution of propane utilization equipment.
- 7. "Propane industry trade association" means an organization exempt from tax under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, that represents the propane industry.
- 8. "Public member" means a member of the council, other than a representative of a retail propane marketer, who represents a significant user of propane, a public safety official, a state regulatory official, or another group knowledgeable about propane.
- 9. "Qualified propane industry organization" means the Iowa propane gas association or any other similarly constituted industry trade association that represents at least thirty-five percent of the total volume of odorized propane sold at retail in this state.
- 10. "Research" means any type of study, investigation, program, or other activity designed to advance the image, desirability, usage, marketability, efficiency, or safety of propane or to further the development of information related to such activities.
- 11. "Retail propane dispenser" means a person who sells odorized propane to the ultimate consumer but is not engaged primarily in the business of such sales.
- 12. "Retail propane marketer" means a person engaged primarily in the sale of odorized propane to the ultimate consumer or to a retail propane dispenser.

Sec. 3. <u>NEW SECTION</u>. 101B.3 IOWA PROPANE EDUCATION AND RESEARCH COUNCIL ESTABLISHED.

- 1. The Iowa propane education and research council is established. Members of the council shall be appointed by the governor from a list of nominees submitted by qualified propane industry organizations within thirty days after the effective date of this Act and by December 15 of each year thereafter. The council shall consist of ten voting members, nine of whom represent retail propane marketers and one of whom shall be a public member. Qualified propane industry organizations shall together nominate all members of the council. A vacancy in the unfinished term of a council member shall be filled for the remainder of the term in the same manner as the original appointment was made. Other than the public member, council members shall be full-time employees or owners of a propane industry business or representatives of an agricultural cooperative actively engaged in the propane industry. An employee of a qualified propane industry organization shall not serve as a member of the council. An officer of the board of directors of a qualified propane industry organization or propane industry trade association shall not serve concurrently as a member of the council. The fire marshal or a designee may serve as an ex officio, nonvoting member of the council.
- 2. In nominating members of the council, qualified propane industry organizations shall give due consideration to nominating council members who are representative of the propane industry, including representation of all of the following:
 - a. Interstate and intrastate retail propane marketers.
 - b. Large and small retail propane marketers, including agricultural cooperatives.
 - c. Diverse geographic regions of the state.
- 3. The following persons shall be ex officio, nonvoting members of the council designated for three-year terms as follows:
 - a. A professional fire fighter designated by the Iowa association of professional fire chiefs.
 - b. A volunteer fire fighter designated by the Iowa firemen's association.
- c. An experienced plumber involved in plumbing training programs designated by the Iowa state building and construction trades council.

- d. A heating, ventilation, and air conditioning professional involved in heating, ventilation, and air conditioning training programs designated by the Iowa state building and construction trades council.
- e. A community college instructor with experience in conducting fire safety programs designated by the Iowa association of community college presidents.
- f. A representative of a property and casualty insurance company with experience in insuring sellers of propane gas designated by the Iowa insurance institute.
- 4. A council member, other than the public member, shall not receive compensation for the council member's service and shall not be reimbursed for expenses relating to the council member's service. The public member shall receive a per diem as specified in section 7E.6 and shall be reimbursed for actual expenses incurred in performing official duties of the council not to exceed forty days per year. A member of the council shall not be a salaried employee of the council or of any organization or agency which receives funds from the council.
- 5. A council member shall serve a term of three years and shall not serve more than two full consecutive terms. A council member filling an unexpired term may serve not more than a total of seven consecutive years. A former council member may be appointed to the council if the former member has not been a member of the council for a period of at least two years.
- 6. Initial appointments to the council shall be for terms of one, two, and three years that are staggered to provide for the future appointment of at least two members each year.
- 7. The voting members of the council shall select a chairperson and other officers as necessary from the voting members and shall adopt rules and bylaws for the conduct of business and the implementation of this chapter. The council may establish committees and subcommittees comprised of members of the council and may establish advisory committees comprised of persons other than council members. The council shall establish procedures for the solicitation of propane industry comments and recommendations regarding any significant plans, programs, or projects to be funded by the council.
- 8. The council shall develop programs and projects and enter into agreements for administering such programs and projects as provided in this chapter, including programs to enhance consumer and employee safety and training, provide for research and development of clean and efficient propane utilization equipment, inform and educate the public about safety and other issues associated with the use of propane, and develop programs and projects that provide assistance to persons who are eligible for the low-income home energy assistance program. The programs and projects shall be developed to attain equitable geographic distribution of their benefits to the fullest extent practicable. The costs of the programs and projects shall be paid with funds collected pursuant to section 101B.4. The council shall coordinate its programs and projects with propane industry trade associations and others as the council deems appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities. Issues concerning propane that are related to research and development, safety, education, and training shall be given priority by the council in the development of programs and projects.
- 9. At the beginning of each fiscal year, the council shall prepare a budget plan for the next fiscal year, including the probable cost of all programs, projects, and contracts to be undertaken. The council shall submit the proposed budget to the fire marshal for review and comment. The fire marshal may recommend appropriate programs, projects, and activities to be undertaken by the council.
- 10. The council shall keep minutes, books, and records that clearly reflect all of the acts and transactions of the council which are public records open to public inspection. The books and records shall indicate the geographic areas where benefits were conferred by each individual program or project in detail sufficient to reflect the degree to which each program or project attained equitable geographic distribution of its benefits. The books of the council shall be audited by a certified public accountant at least once each fiscal year and at such other times as the council may designate. The cost of the audit shall be paid by the council. Copies of the audit shall be provided to all council members, all qualified propane industry organizations, and to other members of the propane industry upon request. In addition, a copy of the audit

and a report detailing the programs and projects conducted by the council and containing information reflecting the degree to which equitable geographic distribution of the benefits of each program or project was attained shall be submitted each fiscal year to the chief clerk of the house of representatives and the secretary of the senate.

- 11. The council is subject to the open meeting requirements of chapter 21.
- 12. The council shall promulgate administrative rules pursuant to chapter 17A which shall have the same force and effect as if adopted by a state agency. Initial rules shall be promulgated on an emergency basis.
- 13. The council shall also perform the functions required of a state organization under the federal Propane Education and Research Act of 1996, be the repository of funds received under that Act, and separately account for those funds. The council shall coordinate the operation of the program with the federal council as contemplated by 15 U.S.C. § 6405.

Sec. 4. <u>NEW SECTION</u>. 101B.4 FUNDING — ASSESSMENTS.

- 1. The council and its activities shall be funded by an annual assessment. Upon establishment of the council and each year thereafter the annual assessment shall be made at a rate of one-tenth of one cent on each gallon of odorized propane sold.
- 2. The owner of odorized propane at the time of odorization or at the time of import shall calculate the amount of the assessment based on the volume of odorized propane sold for use in this state. The assessment, when made, shall be listed as a separate line item on the bill of sale for the odorized propane and titled "Iowa propane education and research assessment". Assessments shall be collected by the owner from purchasers of the odorized propane and shall be paid by the owner to the council on a monthly basis by the twenty-fifth day of the month following the month the assessment was collected. If payment is not made to the council by the due date as required by this subsection, an interest penalty of one percent of any amount unpaid shall be imposed against the owner for each month or fraction of a month after the due date, until final payment is made.
- 3. Notwithstanding subsection 2, the council may establish an alternative means of collecting such assessments if the council determines that another method would be more efficient or effective and may establish an alternative late payment charge or interest penalty to be imposed on a person who fails to timely pay any amount due under this chapter to the council.
- 4. Pending the disbursement of assessments collected, the council shall invest moneys collected through assessments and any other monies received by the council in any of the following:
 - a. Obligations of the United States or any agency of the United States.
 - b. General obligations of any state or political subdivision of any state.
- c. Any interest-bearing account or certificate of deposit of a bank that is a member of the federal reserve system.
 - d. Obligations that are fully guaranteed as to principal and interest by the United States.

Sec. 5. NEW SECTION. 101B.5 REFERENDUM FOR TERMINATION OF COUNCIL.

On the council's own initiative or on petition to the council by retail propane marketers representing thirty-five percent of the volume of odorized propane sold in this state, the council shall, at its own expense, arrange for a referendum to be conducted by an independent auditing firm agreed upon by the retail propane marketers, to determine whether the council should be terminated or suspended. Voting rights in the referendum shall be based on the volume of odorized propane sold in this state by each retail propane marketer during the previous calendar year. Each retail propane marketer voting in the referendum shall certify to the independent auditing firm the volume of odorized propane sold by that person as represented by that person's vote. Upon the approval of those retail propane marketers representing more than one-half of the total volume of odorized propane sold in this state, the council shall be terminated or suspended and the general assembly shall consider the repeal of this chapter during its next regular session.

Sec. 6. <u>NEW SECTION</u>. 101B.6 COMPLIANCE.

The district court is vested with the jurisdiction specifically to enforce this chapter and to prevent or restrain any person from violating this chapter. A successful action for compliance brought under this section may also require payment by the defendant of the costs incurred by the council in bringing the action.

Sec. 7. NEW SECTION. 101B.7 LOBBYING RESTRICTIONS.

Moneys collected by the council shall not be used in any manner for influencing legislation or elections, except that the council may recommend changes in this chapter or other statutes that would further the purposes of this chapter to the general assembly.

Sec. 8. NEW SECTION. 101B.8 PRICING.

In all cases, the price of propane shall be determined by market forces. Consistent with antitrust laws, the council shall not take any action regarding, and this chapter shall not be interpreted as establishing, an agreement to pass along to consumers the cost of the assessment provided for in section 101B.4.

Sec. 9. NEW SECTION. 101B.9 RELATION TO OTHER PROGRAMS.

This chapter shall not be construed to preempt or supersede any other program relating to propane education and research organized and operated under the laws of this state. This chapter shall be administered and construed as complementary to the federal Propane Education and Research Act of 1996, 15 U.S.C. § 6401 et seq.

Sec. 10. NEW SECTION. 101B.10 BOND.

Any person occupying a position of trust under any provision of this chapter shall provide a bond in an amount required by the council. The costs of obtaining the bond shall be paid out of council funds.

Sec. 11. NEW SECTION. 101B.11 REPORT.

The council shall prepare and submit an annual report to the fire marshal and the auditor of state summarizing the activities of the council conducted pursuant to this chapter. The report shall show all income, expenses, and other relevant information concerning assessments collected and expended under this chapter.

Sec. 12. NEW SECTION. 101B.12 NOT A STATE AGENCY.

The Iowa propane education and research council is not a state agency.

Sec. 13. NEW SECTION. 101B.13 PENALTY.

A person who willfully violates the provisions of this chapter or willfully renders or furnishes a false or fraudulent report, statement, or record required by the fire marshal pursuant to this chapter is guilty of a simple misdemeanor.

Sec. 14. NEW SECTION. 101B.14 FUTURE REPEAL.

This chapter is repealed December 31, 2014.

Sec. 15. EFFECTIVE DATES.

- 1. This Act, except section 4, being deemed of immediate importance, takes effect upon enactment
- 2. Section 4 of this Act takes effect January 1, 2008, or upon adoption of administrative rules implementing section 4, whichever occurs first.

ENTERPRISE ZONE DISTRESS CRITERIA H.F. 648

AN ACT relating to distress criteria for enterprise zones.

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

Section 1. Section 15E.194, subsection 5, paragraph a, Code 2007, is amended to read as follows:

a. A city of any size or any county may designate an enterprise zone at any time prior to July 1, 2010, when a business closure or permanent layoff occurs involving. The business closure or permanent layoff must involve the loss of full-time employees, not including retail employees, at one place of business totaling at least one thousand employees or four percent or more of the county's resident labor force based on the most recent annual resident labor force statistics from the department of workforce development, whichever is lower. A permanent layoff does not include a layoff of seasonal employees or a layoff that is seasonal in nature. For purposes of this paragraph, "permanent layoff" means the loss of jobs to an out-of-state location, the cessation of one or more production lines, the removal of manufacturing machinery and equipment, or similar actions determined to be equivalent in nature by the department. A permanent layoff must occur on or after February 1, 2007. The enterprise zone may be established on the property of the place of business that has closed or imposed a permanent layoff and the enterprise zone may include an area up to an additional three miles adjacent to the property. The area meeting the requirements for enterprise zone eligibility under this subsection shall not be included for the purpose of determining the area limitation pursuant to section 15E.192, subsection 4. The closing business or business creating a permanent layoff shall not be eligible to receive incentives or assistance under this division. 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.

Approved May 24, 2007

CHAPTER 184

SPECIAL MOTOR VEHICLE REGISTRATION PLATES — MILITARY SERVICE AND EMERGENCY MEDICAL SERVICES

H.F. 749

AN ACT concerning existing and new special motor vehicle registration plates associated with military service, crediting fees from the sale of certain special motor vehicle registration plates to the emergency medical services fund and the veterans license fee fund, and providing effective dates.

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

Section 1. Section 35A.11, Code 2007, is amended to read as follows: 35A.11 VETERANS LICENSE FEE FUND.

A veterans license fee fund is created in the state treasury under the control of the commission. The fund shall include the fees credited by the treasurer of state from the sale of special veteran license plates pursuant to section 321.34, subsection 13, paragraph "d". Notwithstand-

ing section 12C.7, interest or earnings on moneys in the veterans license fee fund shall be credited to the veterans license fee fund. Moneys in the fund are appropriated to the commission to be used to fulfill the responsibilities of the commission. The fund shall include the fees credited by the treasurer of state from the sale of the following special motor vehicle registration plates:

- 1. Veteran special plates issued pursuant to section 321.34, subsection 13, paragraph "d".
- 2. National guard special plates issued pursuant to section 321.34, subsection 16.
- 3. Pearl Harbor special plates issued pursuant to section 321.34, subsection 17.
- 4. Purple heart special plates issued pursuant to section 321.34, subsection 18.
- 5. United States armed forces retired special plates issued pursuant to section 321.34, subsection 19.
- 6. Silver star and bronze star special plates issued pursuant to section 321.34, subsection 20.
- 7. Distinguished service cross, navy cross, and air force cross special plates issued pursuant to section 321.34, subsection 20A.
- 8. Soldier's medal, navy and marine corps medal, and airman's medal special plates issued pursuant to section 321.34, subsection 20B.
 - Sec. 2. Section 321.34, subsection 8, Code 2007, is amended to read as follows:
- 8. CONGRESSIONAL MEDAL OF HONOR PLATES. The owner of a motor vehicle subject to registration under section 321.109, subsection 1, motorcycle, trailer, or motor truck who has been awarded the congressional medal of honor may, upon written application to the department, order special registration plates which shall be red, white, and blue in color and shall bear an emblem of the congressional medal of honor and an identifying number. Each applicant applying for special registration plates under this subsection may purchase only one set of registration plates under this subsection. The application is subject to approval by the department and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The special plates are subject to an annual registration fee of fifteen dollars. The department shall validate the special plates in the same manner as regular registration plates are validated under this section. The department shall not issue special registration plates until service organizations in the state have furnished the department either the special dies or the cost of the special dies necessary for the manufacture of the special registration plate.

The surviving spouse of a person who was issued special plates under this subsection may continue to use the special plates subject to registration of the special plates in the surviving spouse's name and upon payment of the fifteen dollar annual registration fee. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.¹

Sec. 3. Section 321.34, subsection 10A, Code 2007, is amended to read as follows: 10A. EMERGENCY MEDICAL SERVICES PLATES.

<u>a.</u> The owner of a motor vehicle subject to registration pursuant to section 321.109, subsection 1, motor truck, motor home, multipurpose vehicle, motorcycle, trailer, or travel trailer referred to in subsection 12 who is a current member of a paid or volunteer emergency medical services agency may, upon written application to the department, order special registration plates, designed by the department in cooperation with representatives designated by the Iowa emergency medical services association, which plates signify that the applicant is a current member of a paid or volunteer emergency medical services agency. The application shall be approved by the department, in consultation with representatives designated by the Iowa emergency medical services association, and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The fee for the special plates shall be \underline{i} s twenty-five dollars which shall be \underline{i} s in addition to the regular annual registration fee. The department shall validate the special plates in the same manner as regular registration plates are validated under this section at the regular annual registration fee.

¹ See chapter 215, §106 herein

- b. The special fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the emergency medical services fund created in section 135.25 the amount of the special fees collected in the previous month for issuance of emergency medical services plates.
- Sec. 4. Section 321.34, subsections 12A, 16, 17, 18, 19, and 20, Code 2007, are amended to read as follows:
 - 12A. SPECIAL REGISTRATION PLATES ARMED FORCES SERVICES.
- <u>a.</u> An owner of a vehicle referred to in subsection 12 who applies for any type of special registration plates associated with service in the United States armed forces shall be issued one set of the special registration plates at no charge, but shall be subject to the annual registration fee of fifteen dollars, if all of the following conditions are met:
- a. (1) The owner is eligible for, but has relinquished to the department or the county treasurer or has not been issued, congressional medal of honor, ex-prisoner of war, or legion of merit special registration plates under this section, or disabled veteran registration plates under section 321.105.
- b. (2) The owner provides the appropriate information regarding the owner's eligibility for any of the special registration plates described in paragraph "a", and regarding the owner's eligibility for the special registration plates for which the owner has applied, as required by the department.
- <u>b.</u> A disabled veteran shall be exempt from payment of the fifteen dollar annual registration fee as provided in section 321.105.

Upon the death of the vehicle owner entitled to the special registration plates, the special registration plates shall be surrendered to the department or the county treasurer.

- c. The surviving spouse of a person who was issued special plates under this subsection may continue to use the special plates subject to registration of the special plates in the surviving spouse's name and upon payment of the same annual registration fee. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.²
- 16. NATIONAL GUARD SPECIAL PLATES. An owner referred to in subsection 12 who is a member of the national guard, as defined in chapter 29A, may, upon written application to the department, order special registration plates with a national guard processed emblem with the emblem designed by the department in cooperation with the adjutant general which emblem signifies that the applicant is a member of the national guard. The application shall be approved by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized national guard plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for national guard plates. Special registration plates with a national guard processed emblem shall be surrendered, as provided in subsection 12, in exchange for regular registration plates upon termination of the owner's membership in the active national guard.

The surviving spouse of a person who was issued special plates under this subsection may continue to use or apply for and use the special plates subject to registration of the special plates in the surviving spouse's name and upon payment of the annual five-dollar special plate fee and the regular annual registration fee for the vehicle. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.

17. PEARL HARBOR SPECIAL PLATES. An owner referred to in subsection 12 who was

² See chapter 215, §107 herein

at Pearl Harbor, Hawaii, as a member of the armed services of the United States on December 7, 1941, may, upon written application to the department, order special registration plates with a Pearl Harbor processed emblem. The emblem shall be designed by the department in consultation with service organizations. The application is subject to approval by the department. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized Pearl Harbor plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for Pearl Harbor plates.

The surviving spouse of a person who was issued special plates under this subsection may continue to use or apply for and use the special plates subject to registration of the special plates in the surviving spouse's name and upon payment of the annual five-dollar special plate fee and the regular annual registration fee for the vehicle. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.

18. PURPLE HEART SPECIAL PLATES. An owner referred to in subsection 12 who was awarded a purple heart medal by the United States government for wounds received in military or naval combat against an armed enemy of the United States may, upon written application to the department and presentation of satisfactory proof of the award of the purple heart medal, order special registration plates with a purple heart processed emblem. The design of the emblem shall include a representation of a purple heart medal and ribbon. The application is subject to approval by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized purple heart plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for purple heart plates.

The surviving spouse of a person who was issued special plates under this subsection may continue to use or apply for and use the special plates subject to registration of the special plates in the surviving spouse's name and upon payment of the annual five-dollar special plate fee and the regular annual registration fee for the vehicle. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.

19. UNITED STATES ARMED FORCES RETIRED SPECIAL PLATES. An owner referred to in subsection 12 who is a retired member of the United States armed forces may, upon written application to the department and upon presentation of satisfactory proof of membership, order special registration plates with a United States armed forces retired processed emblem. The emblem shall be designed by the department in consultation with service organizations. The application is subject to approval by the department. For purposes of this subsection, a person is considered to be retired if the person is recognized by the United States armed forces as retired from the United States armed forces. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized armed forces retired plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for armed forces retired plates.

The surviving spouse of a person who was issued special plates under this subsection may continue to use or apply for and use the special plates subject to registration of the special

plates in the surviving spouse's name and upon payment of the annual five-dollar special plate fee and the regular annual registration fee for the vehicle. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.

20. SILVER OR BRONZE STAR PLATES. An owner referred to in subsection 12 who was awarded a silver or a bronze star by the United States government, may, upon written application to the department and presentation of satisfactory proof of the award of the silver or bronze star, order special registration plates with a silver or bronze star processed emblem. The emblem shall be designed by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized silver star and bronze star plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for silver star and bronze star plates.

The surviving spouse of a person who was issued special plates under this subsection may continue to use or apply for and use the special plates subject to registration of the special plates in the surviving spouse's name and upon payment of the annual five-dollar special plate fee and the regular annual registration fee for the vehicle. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.

Sec. 5. Section 321.34, Code 2007, is amended by adding the following new subsections: NEW SUBSECTION. 20A. DISTINGUISHED SERVICE, NAVY, OR AIR FORCE CROSS PLATES. An owner referred to in subsection 12 who was awarded a distinguished service cross, a navy cross, or an air force cross by the United States government may, upon written application to the department and presentation of satisfactory proof of the award, order special registration plates with a distinguished service cross, navy cross, or air force cross processed emblem. The emblem shall be designed by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized distinguished service cross, navy cross, and air force cross plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for distinguished service cross, navy cross, and air force cross plates.

The surviving spouse of a person who was issued special plates under this subsection may continue to use or apply for and use the special plates subject to registration of the special plates in the surviving spouse's name and upon payment of the annual five-dollar special plate fee and the regular annual registration fee for the vehicle. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.

NEW SUBSECTION. 20B. SOLDIER'S, NAVY AND MARINE CORPS, OR AIRMAN'S MEDAL PLATES. An owner referred to in subsection 12 who was awarded a soldier's medal, a navy and marine corps medal, or an airman's medal by the United States government may, upon written application to the department and presentation of satisfactory proof of the award, order special registration plates with a soldier's medal, navy and marine corps medal, or airman's medal processed emblem. The emblem shall be designed by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized soldier's medal, navy and marine corps medal, and airman's medal

plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for soldier's medal, navy and marine corps medal, and airman's medal plates.

The surviving spouse of a person who was issued special plates under this subsection may continue to use or apply for and use the special plates subject to registration of the special plates in the surviving spouse's name and upon payment of the annual five-dollar special plate fee and the regular annual registration fee for the vehicle. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.

- Sec. 6. Section 321.166, subsections 2 and 9, Code 2007, are amended to read as follows:
- 2. Every registration plate or pair of plates shall display a registration plate number which shall consist of alphabetical or numerical characters or a combination thereof and the name of this state, which may be abbreviated. Every registration plate issued by the county treasurer shall display the name of the county, including any plate issued pursuant to section 321.34, except Pearl Harbor and purple heart registration plates issued prior to January 1, 1997, and collegiate, fire fighter, and congressional medal of honor registration plates. Special truck registration plates shall display the word "special".
- 9. Special registration plates issued pursuant to section 321.34 beginning January 1, 1997, other than congressional medal of honor, collegiate, fire fighter, and natural resources registration plates, shall be consistent with the design and color of regular registration plates but shall provide a space on a portion of the plate for the purpose of allowing the placement of a distinguishing processed emblem. Special registration plates shall also comply with the requirements for regular registration plates as provided in this section to the extent the requirements are consistent with the section authorizing a particular special vehicle registration plate.

Sec. 7. EFFECTIVE DATES.

- 1. The following provisions of this Act take effect January 1, 2008:
- a. The portion of the section of this Act amending section 35A.11 that enacts new subsections 7 and 8.
 - b. The section of this Act amending section 321.34 by adding new subsections 20A and 20B.
- 2. The remaining sections of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 24, 2007

TAXATION — INDIVIDUAL INCOME WITHHOLDING — LOAN AGENCIES TAX

H.F. 904

AN ACT relating to withholding tax and the repeal of the loan agencies tax.

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

Section 1. Section 331.401, subsection 1, paragraph k, Code 2007, is amended to read as follows:

k. Levy taxes as certified to it by tax-certifying bodies in the county, in accordance with the statutes authorizing the levies and in accordance with chapter 24 and sections 444.1 to 444.8, and levy taxes as required in chapters 430A, 433, 434, 437, and 438.

Sec. 2. Section 331.427, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Except as otherwise provided by state law, county revenues from taxes and other sources for general county services shall be credited to the general fund of the county, including revenues received under sections 9I.11, 101A.3, 101A.7, 123.36, 123.143, 142B.6, 176A.8, 321.105, 321.152, 321G.7, 321I.8, section 331.554, subsection 6, sections 341A.20, 364.3, 368.21, 423A.7, 428A.8, 430A.3, 433.15, 434.19, 445.57, 453A.35, 458A.21, 483A.12, 533.24, 556B.1, 583.6, 602.8108, 904.908, and 906.17, and the following:

Sec. 3. Section 422.16, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Every withholding agent and every employer as defined in this chapter and further defined in the Internal Revenue Code, with respect to income tax collected at source, making payment of wages to a nonresident employee working in Iowa, or to a resident employee, shall deduct and withhold from the wages an amount which will approximate the employee's annual tax liability on a calendar year basis, calculated on the basis of tables to be prepared by the department and schedules or percentage rates, based on the wages, to be prescribed by the department. Every employee or other person shall declare to the employer or withholding agent the number of the employee's or other person's personal exemptions and dependency exemptions or credits to be used in applying the tables and schedules or percentage rates. However, no greater number of personal or dependency exemptions or credits may be declared by the employee or other person than the number to which the employee or other person is entitled except as allowed under section sections 3402(m)(1) and 3402(m)(3) of the Internal Revenue Code and as allowed for the child and dependent care credit provided in section 422.12C. The claiming of exemptions or credits in excess of entitlement is a serious misdemeanor.

- Sec. 4. Section 441.73, subsection 1, Code 2007, is amended to read as follows:
- 1. A litigation expense fund is created in the state treasury. The litigation expense fund shall be used for the payment of litigation expenses incurred by the state to defend property valuations established by the director of revenue pursuant to section 428.24 and chapters 430A, 433, 434, 437, 437A, and 438, and for the payment of litigation expenses incurred by the state to defend the imposition of replacement taxes and statewide property taxes under chapter 437A.
- Sec. 5. Section 445.3, unnumbered paragraph 2, Code 2007, is amended to read as follows: The commencement of actions for ad valorem taxes authorized under this section shall not begin until the issuance of a tax sale certificate under the requirements of section 446.19. The commencement of actions for all other taxes authorized under this section shall not begin until ten days after the publication of tax sale under the requirements of section 446.9, subsection 2. This paragraph does not apply to the collection of ad valorem taxes under section 445.32,

and grain handling taxes under section 428.35, and moneys and credits taxes under chapter 430A.

Sec. 6. Chapter 430A, Code 2007, is repealed.

Approved May 24, 2007

CHAPTER 186

TAXES, TAX POLICY, AND ADMINISTRATION H.F. 923

AN ACT relating to the policy and technical administration of the tax and related laws by the department of revenue, including administration of income, sales, use, cigarette, and to-bacco taxes, providing an effective date, and providing retroactive applicability date provisions

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

DIVISION I TAX ADMINISTRATION

Section 1. Section 15E.44, subsection 1, Code 2007, is amended to read as follows:

- 1. In order for an equity investment to qualify for a tax credit, the business in which the equity investment is made shall, within one hundred twenty days of the date of the first investment, notify the board of the names, addresses, taxpayer identification numbers, shares issued, consideration paid for the shares, and the amount of any tax credits, of all shareholders who may initially qualify for the tax credits, and the earliest year in which the tax credits may be redeemed. The list of shareholders who may qualify for the tax credits shall be amended as new equity investments are sold or as any information on the list shall change.
- Sec. 2. Section 15E.45, subsection 3, paragraph a, subparagraph (1), Code 2007, is amended to read as follows:
- (1) The names, addresses, taxpayer identification numbers, equity interests issued, consideration paid for the interests, and the amount of any tax credits.
 - Sec. 3. Section 331.434, subsection 1, Code 2007, is amended to read as follows:
- 1. The budget shall show the amount required for each class of proposed expenditures, a comparison of the amounts proposed to be expended with the amounts expended for like purposes for the two preceding years, the revenues from sources other than property taxation, and the amount to be raised by property taxation, in the detail and form prescribed by the director of the department of management. For each county that has established an urban renewal area, the budget shall include estimated and actual tax increment financing revenues and all estimated and actual expenditures of the revenues, proceeds from debt and all estimated and actual expenditures of the debt proceeds, and identification of any entity receiving a direct payment of taxes funded by tax increment financing revenues and shall include the total amount of loans, advances, indebtedness, or bonds outstanding at the close of the most recently ended fiscal year, which qualify for payment from the special fund created in section 403.19, including interest negotiated on such loans, advances, indebtedness, or bonds. For purposes

of this subsection, "indebtedness" includes written agreements whereby the county agrees to suspend, abate, exempt, rebate, refund, or reimburse property taxes, provide a grant for property taxes paid, or make a direct payment of taxes, with moneys in the special fund. The amount of loans, advances, indebtedness, or bonds shall be listed in the aggregate for each county reporting. The county finance committee, in consultation with the department of management and the legislative services agency, shall determine reporting criteria and shall prepare a form for reports filed with the department pursuant to this section. The department shall make the information available by electronic means.

Sec. 4. Section 384.16, subsection 1, unnumbered paragraph 2, Code 2007, is amended to read as follows:

A budget must show comparisons between the estimated expenditures in each program in the following year, the latest estimated expenditures in each program in the current year, and the actual expenditures in each program from the annual report as provided in section 384.22, or as corrected by a subsequent audit report. Wherever practicable, as provided in rules of the committee, a budget must show comparisons between the levels of service provided by each program as estimated for the following year, and actual levels of service provided by each program during the two preceding years. For each city that has established an urban renewal area, the budget shall include estimated and actual tax increment financing revenues and all estimated and actual expenditures of the revenues, proceeds from debt and all estimated and actual expenditures of the debt proceeds, and identification of any entity receiving a direct payment of taxes funded by tax increment financing revenues and shall include the total amount of loans, advances, indebtedness, or bonds outstanding at the close of the most recently ended fiscal year, which qualify for payment from the special fund created in section 403.19, including interest negotiated on such loans, advances, indebtedness, or bonds. For purposes of this subsection, "indebtedness" includes written agreements whereby the city agrees to suspend, abate, exempt, rebate, refund, or reimburse property taxes, provide a grant for property taxes paid, or make a direct payment of taxes, with moneys in the special fund. The amount of loans, advances, indebtedness, or bonds shall be listed in the aggregate for each city reporting. The city finance committee, in consultation with the department of management and the legislative services agency, shall determine reporting criteria and shall prepare a form for reports filed with the department pursuant to this section. The department shall make the information available by electronic means.

Sec. 5. Section 421.26, Code 2007, is amended to read as follows: 421.26 PERSONAL LIABILITY FOR TAX DUE.

If a licensee or other person under section 452A.65, a retailer or purchaser under chapter 423A, or 423B, or 423E, or section 423.31 or 423.33, or a retailer or purchaser under section 423.32, or a user under section 423.34, or permit holder or licensee under section 453A.13, 453A.16, or 453A.44 fails to pay a tax under those sections when due, an officer of a corporation or association, notwithstanding sections 490A.601 and 490A.602, a member or manager of a limited liability company, or a partner of a partnership, having control or supervision of or the authority for remitting the tax payments and having a substantial legal or equitable interest in the ownership of the corporation, association, limited liability company, or partnership, who has intentionally failed to pay the tax is personally liable for the payment of the tax, interest, and penalty due and unpaid. However, this section shall not apply to taxes on accounts receivable. The dissolution of a corporation, association, limited liability company, or partnership shall not discharge a person's liability for failure to remit the tax due.

Sec. 6. Section 421.27, subsection 1, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. m. That an Iowa inheritance tax return is filed for an estate within the later of nine months from the date of death or sixty days from the filing of a disclaimer by the beneficiary of the estate refusing to take the property or right or interest in the property.

Sec. 7. Section 421.27, subsection 2, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. i. That an Iowa inheritance tax return is filed for an estate within the later of nine months from the date of death or sixty days from the filing of a disclaimer by the beneficiary of the estate refusing to take the property or right or interest in the property.

Sec. 8. Section 422.7, subsection 32, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. c. Add the amount resulting from a withdrawal made by a taxpayer from the Iowa educational savings plan trust for purposes other than the payment of qualified education expenses to the extent previously deducted as a contribution to the trust.

- Sec. 9. Section 422.11S, subsection 1, Code 2007, is amended to read as follows:
- 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 <u>or noncash</u> 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.
- Sec. 10. Section 422.11S, subsection 2, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. c. The value of a noncash contribution shall be appraised pursuant to rules of the director.

- Sec. 11. Section 422.11S, subsection 6, paragraph d, Code 2007, is amended to read as follows:
- d. Each school that is served by a school tuition organization shall submit a participation form annually to the department by October 15 November 1 providing the following information:
- (1) Certified enrollment as of the third Friday of September October 1, or the first Monday in October 1 falls on a Saturday or Sunday.
- (2) The school tuition organization that represents the school. A school shall only be represented by one school tuition organization.
- Sec. 12. Section 422.11S, subsection 7, paragraph b, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Each year by November 15 December 1, 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:

Sec. 13. Section 422.11S, subsection 8, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A school tuition organization that receives a voluntary cash <u>or noncash</u> 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:

Sec. 14. Section 422.12E, unnumbered paragraph 2, Code 2007, is amended to read as follows:

If more checkoffs are enacted in the same session of the general assembly than there is space

for inclusion on the individual tax return form, the earliest enacted checkoffs for which there is space for inclusion on the return form shall be included on the return form, and all other checkoffs enacted during that session of the general assembly are repealed. If more checkoffs are enacted in the same session of the general assembly than there is space for inclusion on the individual income tax form and the additional checkoffs are enacted on the same day, the director shall determine which checkoffs shall be included on the return form.

Sec. 15. Section 422.13, subsection 5, Code 2007, is amended to read as follows:

5. Notwithstanding subsections 1 through 4 and sections 422.15 and 422.36, a partnership, a limited liability company whose members are taxed on the company's income under provisions of the Internal Revenue Code, trust, or corporation whose stockholders are taxed on the corporation's income under the provisions of the Internal Revenue Code may, not later than the due date for filing its return for the taxable year, including any extension thereof, elect to file a composite return for the nonresident partners, members, beneficiaries, or shareholders. Nonresident trusts or estates which are partners, members, beneficiaries, or shareholders in partnerships, limited liability companies, trusts, or S corporations may also be included on a composite return. The director may require that a composite return be filed under the conditions deemed appropriate by the director. A partnership, limited liability company, trust, or corporation filing a composite return is liable for tax required to be shown due on the return. All powers of the director and requirements of the director apply to returns filed under this subsection including, but not limited to, the provisions of this division and division VI of this chapter.

Sec. 16. Section 422.16, subsection 12, Code 2007, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. Notwithstanding this subsection, withholding agents are not required to withhold state income tax from a partner's pro rata share of income from a publicly traded partnership, as defined in section 7704(b) of the Internal Revenue Code, provided that the publicly traded partnership files with the department an information return that reports the name, address, taxpayer identification number, and any other information requested by the department for each unit holder with an income in this state from the publicly traded partnership in excess of five hundred dollars.

- Sec. 17. Section 422.35, subsection 17, Code 2007, is amended to read as follows:
- 17. Subtract the amount of the employer social security credit allowable for the tax year under section 45B of the Internal Revenue Code to the extent that the credit increases federal adjusted gross taxable income.
 - Sec. 18. Section 422.73, subsection 3, Code 2007, is amended by striking the subsection.
 - Sec. 19. Section 422.75, Code 2007, 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 4, paragraph "e"; section 421.17, subsection 13; section 421.17, subsection 27, paragraph "h"; and section 421.60, subsection 2, paragraphs "i" and "l"; and 1997 Iowa Acts, ch. 211, section 22, subsection 5, paragraph "a".

Sec. 20. Section 423.2, subsection 6, unnumbered paragraph 2, Code 2007, is amended to read as follows:

For the purposes of this subsection, "financial institutions" means all national banks, federally chartered savings and loan associations, federally chartered savings banks, federally chartered credit unions, banks organized under chapter 524, savings and loan associations

and savings banks organized under chapter 534, and credit unions organized under chapter 533, and all banks, savings banks, credit unions, and savings and loan associations chartered or otherwise created under the laws of any state and doing business in Iowa.

- Sec. 21. Section 423.3, subsection 65, Code 2007, is amended to read as follows:
- 65. The sales price from charges paid to a provider for access to on-line computer services. For purposes of this subsection, "on-line computer service" means a service that provides or enables computer access by multiple users to the internet or to other information made available through a computer server or other device.
- Sec. 22. Section 423.3, subsection 80, paragraph b, Code 2007, is amended to read as follows:

b. If a contractor, subcontractor, or builder is to use building materials, supplies, and equipment in the performance of a construction contract with a designated exempt entity, the person shall purchase such items of tangible personal property without liability for the tax if such property will be used in the performance of the construction contract and a purchasing agent authorization letter and an exemption certificate, issued by the designated exempt entity, are presented to the retailer. The sales price of building materials, supplies, or equipment are completely consumed in the performance of the construction contract with the designated exempt entity.

Sec. 23. Section 423.41, Code 2007, is amended to read as follows: 423.41 BOOKS — EXAMINATION.

Every retailer required or authorized to collect taxes imposed by this chapter and every person using in this state tangible personal property, services, or the product of services shall keep records, receipts, invoices, and other pertinent papers as the director shall require, in the form that the director shall require, for as long as the director has the authority to examine and determine tax due. The director or any duly authorized agent of the department may examine the books, papers, records, and equipment of any person either selling tangible personal property or services or liable for the tax imposed by this chapter, and investigate the character of the business of any person in order to verify the accuracy of any return made, or if a return was not made by the person, ascertain and determine the amount due under this chapter. These books, papers, and records shall be made available within this state for examination upon reasonable notice when the director deems it advisable and so orders. If the taxpayer maintains any records in an electronic format, the taxpayer shall comply with reasonable requests by the director or the director's authorized agents to provide those electronic records in a standard record format. The preceding requirements shall likewise apply to users and persons furnishing services enumerated in section 423.2.

Sec. 24. Section 423A.4, unnumbered paragraph 3, Code 2007, is amended to read as follows:

A local hotel and motel tax shall be imposed on January 1 or July 1, following the notification of the director of revenue. Once imposed, the tax shall remain in effect at the rate imposed for a minimum of one year. A local hotel and motel tax shall terminate only on June 30 or December 31. At least forty-five days prior to the tax being effective or prior to a revision in the tax rate, or prior to the repeal of the tax, a city or county shall provide notice by mail of such action to the director of revenue. The director shall have the authority to waive the notice requirement.

Sec. 25. Section 423B.1, subsection 6, paragraph b, Code 2007, is amended to read as follows:

b. Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of a local option tax, the county auditor shall give written notice of the result of the election by sending a copy of the abstract of the votes from the favorable election to the director of revenue or, in the case of a local vehicle tax, to the director

tor of the department of transportation. <u>The appropriate director shall have the authority to waive the notice requirement.</u>

- Sec. 26. Section 423E.2, subsection 5, paragraph b, Code 2007, is amended to read as follows:
- b. Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, extension, or change in the rate of the tax, the county auditor shall give written notice of the result of the election by sending a copy of the abstract of the votes from the favorable election to the director of revenue. Election costs shall be apportioned among school districts within the county on a pro rata basis in proportion to the number of registered voters in each school district who reside within the county and the total number of registered voters within the county. The director shall have the authority to waive the notice requirement.
 - Sec. 27. Section 427.3, Code 2007, is amended to read as follows:
 - 427.3 ABATEMENT OF TAXES OF CERTAIN EXEMPT ENTITIES.

The board of supervisors may abate the taxes levied against property acquired by gift <u>or purchase</u> by a person or entity if the property acquired by gift <u>or purchase</u> was transferred to the person or entity after the deadline for filing for property tax exemption in the year in which the property was transferred and the property acquired by gift <u>or purchase</u> would have been exempt under section 427.1, subsection 7, 8, or 9, if the person or entity had been able to file for exemption in a timely manner.

- Sec. 28. Section 403.23, Code 2007, is repealed.
- Sec. 29. REFUND OF PROPERTY TAXES. Notwithstanding the deadline for filing a claim for property tax exemption for property described in section 427.1, subsection 8 or 9, and notwithstanding any other provision to the contrary, the board of supervisors of a county having a population based upon the latest federal decennial census of more than eighty-eight thousand but not more than ninety-five thousand shall refund the property taxes paid, with all interest, penalties, fees, and costs which were due and payable in the fiscal year beginning July 1, 2002, and in the fiscal year beginning July 1, 2005, on the land and buildings of an institution that purchased property and that did not receive a property tax exemption for the property due to the inability or failure to file for the exemption. To receive the refund provided for in this section, the institution shall apply to the county board of supervisors by October 1, 2007, and provide appropriate information establishing that the land and buildings for which the refund is sought were used by the institution for its appropriate objectives during the fiscal year beginning July 1, 2002, and during the fiscal year beginning July 1, 2005. The refund allowed under this section only applies to property taxes, with all interest, penalties, fees, and costs, due and payable in the fiscal year beginning July 1, 2002, and in the fiscal year beginning July 1, 2005.
- Sec. 30. IMMEDIATE EFFECTIVE DATE. The section of this division of this Act, amending section 427.3, being deemed of immediate importance, takes effect upon enactment and applies retroactively to property taxes due and payable in the fiscal year beginning July 1, 2002, and in the fiscal year beginning July 1, 2005.
- Sec. 31. RETROACTIVE APPLICABILITY DATE. The sections of this division of this Act amending section 422.11S, subsections 1, 2, and 8, apply retroactively to January 1, 2007, for tax years beginning on or after that date.

DIVISION II CIGARETTES AND TOBACCO

- Sec. 32. Section 421B.3, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 3. a. The following civil penalties shall be imposed for a violation of this section:
 - (1) A two hundred dollar penalty for the first violation.

- (2) A five hundred dollar penalty for a second violation within three years of the first violation.
- (3) A thousand dollar penalty for a third or subsequent violation within three years of the first violation.

Each day the violation occurs counts as a new violation for purposes of this subsection.

- b. The civil penalty imposed under this subsection is in addition to the penalty imposed under subsection 1. Penalties collected under this subsection shall be deposited into the general fund of the state.
- Sec. 33. Section 453A.7, unnumbered paragraph 2, Code 2007, is amended to read as follows:

There is appropriated annually from the general fund of the state the sum of one hundred fifteen thousand dollars state treasury from funds not otherwise appropriated an amount sufficient to carry out the provisions of this section.

- Sec. 34. Section 453A.13, subsections 5 and 9, Code 2007, are amended to read as follows:
- 5. APPLICATION BOND. Said permits Permits shall be issued only upon applications accompanied by the fee indicated above, and by an adequate bond as provided in section 453A.14, and upon forms furnished by the department upon written request. The failure to furnish such forms shall be no excuse for the failure to file the same forms unless absolute refusal is shown. Said The forms shall set forth all of the following:
- a. The manner under which <u>such the</u> distributor, wholesaler, or retailer, transacts or intends to transact such business as <u>a</u> distributor, wholesaler, or retailer.
- b. The principal office, residence, and place of business, for which where the permit is to apply.
- c. If the applicant is not an individual, the principal officers or members thereof, not to exceed three, and their addresses.
 - d. Such Any other information as the director shall by rules prescribe.
- 9. PERMIT FORM AND CONTENTS. Each permit issued shall describe clearly the place of business for which it is issued, shall be nonassignable, consecutively numbered, designating the kind of permit, and shall authorize the sale of cigarettes in this state subject to the limitations and restrictions herein contained. The retail permits shall be upon forms furnished by the department or on forms made available or approved by the department.
- Sec. 35. Section 453A.13, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 10. PERMIT DISPLAYED. The permit shall, at all times, be publicly displayed by the distributor, wholesaler, or retailer at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business. The proprietor or keeper of any building or place where cigarettes and other tobacco products are kept for sale, or with intent to sell, shall upon request of any agent of the department or any peace officer exhibit the permit. A refusal or failure to exhibit the permit is prima facie evidence that the cigarettes or other tobacco products are kept for sale or with intent to sell in violation of this division.
 - Sec. 36. Section 453A.15, subsection 2, Code 2007, is amended to read as follows:
- 2. Where a state permit holder sells cigarettes at retail, the holder shall be required to issue an invoice to the holder's retail department for maintain detailed records for sales of cigarettes to be sold at retail and such the cigarette invoices sales records shall be kept separate and apart.
- Sec. 37. Section 453A.15, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 7. The director may require by rule that reports required to be made under this division be filed by electronic transmission.

Sec. 38. Section 453A.18, Code 2007, is amended to read as follows:

453A.18 FORMS FOR RECORDS AND REPORTS.

The department shall furnish <u>or make available in electronic form</u>, without charge, to holders of the various permits, forms in sufficient quantities to enable permit holders to make the reports required to be made under this division. The permit holders shall furnish at their own expense the books, records, and invoices, required to be used and kept, but the books, records, and invoices shall be in exact conformity to the forms prescribed for that purpose by the director, and shall be kept and used in the manner prescribed by the director. However, the director may, by express order in certain cases, authorize permit holders to keep their records in a manner and upon forms other than those so prescribed. The authorization may be revoked at any time.

- Sec. 39. Section 453A.24, Code 2007, is amended to read as follows: 453A.24 CARRIER TO PERMIT ACCESS TO RECORDS.
- 1. Every common carrier <u>or person</u> in this state having custody of books or records showing the transportation of cigarettes both interstate and intrastate shall give and allow the department free access to <u>such</u> those books and records.
- 2. The director may require by rule that common carriers or the appropriate persons provide monthly reports to the department detailing all information the department deems necessary on shipments into and out of Iowa of cigarettes and tobacco products as set forth in divisions I and II of this chapter. The director may require by rule that the reports be filed by electronic transmission.
 - Sec. 40. Section 453A.25, subsection 3, Code 2007, is amended to read as follows:
- 3. The director is hereby authorized to appoint an assistant, whose sole duty it shall be <u>may designate employees</u> to administer and enforce the provisions of this chapter, including the collection of all taxes provided for <u>herein in this chapter</u>. In <u>such the</u> enforcement, the director may request aid from the attorney general, the special agents of the state, any county attorney, or any peace officer. The director <u>is authorized to may</u> appoint <u>such</u> clerks and additional help as may be needed to <u>carry out the provisions of administer</u> this chapter.
 - Sec. 41. Section 453A.30, Code 2007, is amended to read as follows: 453A.30 ASSESSMENT OF COST OF AUDIT.

The department may employ auditors or other persons to audit and examine the books and records of any permit holder or other person dealing in cigarettes to ascertain whether such the permit holder or other person has paid the amount of the taxes required to be paid by the holder or person or filed all reports containing all required information as specified by the department under the provisions of this chapter. If such taxes have not been paid or such reports not filed, as required, the department shall assess against such the permit holder or other person, as additional penalty, the reasonable expenses and costs of such the investigation and audit

Sec. 42. Section 453A.31, Code 2007, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. If a cigarette distributor fails to file a return or to report timely, stamps shall not be provided to that cigarette distributor until all returns and reports are filed properly and all tax, penalties, and interest are paid.

- Sec. 43. Section 453A.32, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 6. The provisions of this section applying to cigarettes shall also apply to tobacco products taxed under division II of this chapter.
 - Sec. 44. Section 453A.36, subsection 6, Code 2007, is amended to read as follows: 6. Any sales of cigarettes or tobacco products made through a cigarette vending machine

are subject to rules and penalties relative to retail sales of cigarettes and tobacco products provided for in this chapter. No cigarettes shall Cigarettes shall not be sold through any cigarette vending machine unless the cigarettes have been properly stamped or metered as provided by this division, and in case of violation of this provision, the permit of the dealer authorizing retail sales of cigarettes shall be canceled revoked. Payment of the license permit fee as provided in section 453A.13 authorizes a cigarette vendor to sell cigarettes or tobacco products through vending machines. However, cigarettes or tobacco products shall not be sold through a vending machine unless the vending machine is located in a place where the retailer ensures that no person younger than eighteen years of age is present or permitted to enter at any time. Cigarettes or tobacco products shall not be sold through any cigarette vending machine if such products are placed together with any nontobacco product, other than matches, in the cigarette vending machine. This section does not require a retail licensee permit holder to buy a cigarette vendor's permit if the retail licensee permit holder is in fact the owner of the cigarette vending machines and the machines are operated in the location described in the retail permit.

- Sec. 45. Section 453A.36, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 7A. It shall be unlawful for a holder of a retail permit to sell or distribute any cigarettes or tobacco products, including but not limited to a single or loose cigarette, that are not contained within a sealed carton, pack, or package as provided by the manufacturer, which carton, pack, or package bears the health warning that is required by federal law.
- Sec. 46. Section 453A.43, subsections 1 and 2, Code 2007, as amended by 2007 Iowa Acts, Senate File 128, 1 are amended to read as follows:
- 1. a. A tax is imposed upon all tobacco products in this state and upon any person engaged in business as a distributor of tobacco products, at the rate of twenty-two percent of the wholesale sales price of the tobacco products, except little cigars and snuff as defined in section 453A.42.
- b. In addition to the tax imposed under paragraph "a", a tax is imposed upon all tobacco products in this state and upon any person engaged in business as a distributor of tobacco products, at the rate of twenty-eight percent of the wholesale sales price of the tobacco products, except little cigars and snuff as defined in section 453A.42, with the limitation that if the tobacco product is a cigar, the additional tax shall not exceed fifty cents per cigar.
- c. Notwithstanding the rate of tax imposed pursuant to paragraphs "a" and "b", if the tobacco product is a cigar, the total amount of the tax imposed pursuant to paragraphs "a" and "b" combined shall not exceed fifty cents per cigar.
- e. <u>d.</u> Little cigars shall be subject to the same rate of tax imposed upon cigarettes in section 453A.6, payable at the time and in the manner provided in section 453A.6; and stamps shall be affixed as provided in division I of this chapter. Snuff shall be subject to the tax as provided in subsections 3 and 4.
- d. e. The taxes on tobacco products, excluding little cigars and snuff, shall be imposed at the time the distributor does any of the following:
- (1) Brings, or causes to be brought, into this state from outside the state tobacco products for sale.
 - (2) Makes, manufactures, or fabricates tobacco products in this state for sale in this state.
- (3) Ships or transports tobacco products to retailers in this state, to be sold by those retailers
- 2. a. A tax is imposed upon the use or storage by consumers of tobacco products in this state, and upon the consumers, at the rate of twenty-two percent of the cost of the tobacco products.
- b. In addition to the tax imposed in paragraph "a", a tax is imposed upon the use or storage by consumers of tobacco products in this state, and upon the consumers, at a rate of twenty-eight percent of the cost of the tobacco products, with the limitation that if the tobacco product is a cigar, the additional tax shall not exceed fifty cents per cigar.
 - c. Notwithstanding the rate of tax imposed pursuant to paragraphs "a" and "b", if the tobac-

¹ Chapter 17, §10 herein

co product is a cigar, the total amount of the tax imposed pursuant to paragraphs "a" and "b" combined shall not exceed fifty cents per cigar.

- e. d. The taxes imposed by this subsection shall not apply if the taxes imposed by subsection 1 on the tobacco products have been paid.
- d. e. The taxes imposed under this subsection shall not apply to the use or storage of tobacco products in quantities of:
 - (1) Less than twenty-five cigars.
- (2) Less than one pound smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one consumer.
- Sec. 47. Section 453A.45, subsection 5, unnumbered paragraphs 2 and 4, Code 2007, are amended to read as follows:

Such <u>The</u> report shall be made on forms provided by the director <u>or the director may require</u> by rule that the report be filed by electronic transmission.

Any person who fails or refuses to transmit to the director the required reports or whoever refuses to permit the examination of the records by the director shall be guilty of a <u>simple serious</u> misdemeanor.

Sec. 48. Section 453A.46, subsections 1 and 3, Code 2007, are amended to read as follows:

1. On or before the twentieth day of each calendar month every distributor with a place of business in this state shall file a return with the director showing for the preceding calendar month the quantity and wholesale sales price of each tobacco product brought, or caused to be brought, into this state for sale; and made, manufactured, or fabricated in this state for sale in this state, during the preceding calendar month; and any other information the director may require. Every licensed distributor outside this state shall in like manner file a return with the director showing for the preceding calendar month the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month and any other information the director may require. Returns shall be made upon forms furnished or made available in electronic form and prescribed by the director and shall contain other information as the director may require. Each return shall be accompanied by a remittance for the full tax liability shown on the return, less a discount as fixed by the director not to exceed five percent of the tax. Within three years after the return is filed or within three years after the return became due, whichever is later, the department shall examine it, determine the correct amount of tax, and assess the tax against the taxpayer for any deficiency. The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax, or in the case of a failure to file a return.

The three-year period of limitation <u>period</u> may be extended by a taxpayer by signing a waiver agreement form to be provided by the department. The agreement must stipulate the <u>period</u> of extension <u>period</u> and the tax period to which the extension applies. The agreement must also <u>provide</u> <u>stipulate</u> that a claim for refund may be filed by the taxpayer at any time during the <u>period of</u> extension <u>period</u>.

- 3. In addition to the tax or additional tax, the taxpayer shall <u>also</u> pay a penalty as provided in section 421.27 <u>and be subject to the civil penalties set forth in sections 421.27; 453A.31, subsection 2; and 453A.50, subsection 3, as applicable</u>.
- Sec. 49. Section 453A.46, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 7. The director may require by rule that reports be filed by electronic transmission.
 - Sec. 50. Section 453A.50, subsection 2, Code 2007, is amended to read as follows:
- 2. Any Except as otherwise provided, any person who otherwise violates any provisions of this division shall be guilty of a simple misdemeanor.

- Sec. 51. Section 453A.50, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 3. The following civil penalties shall be imposed for a violation of this division:
 - a. A two hundred dollar penalty for the first violation.
- b. A five hundred dollar penalty for a second violation within three years of the first violation.
- c. A thousand dollar penalty for a third or subsequent violation within three years of the first violation.

The penalty imposed in this subsection is in addition to the tax, penalty, and interest imposed in other sections of this division. Each day a violation occurs counts as a new violation for purposes of this subsection.

Sec. 52. NEW SECTION. 453A.51 ASSESSMENT OF COST OF AUDIT.

The department may employ auditors or other persons to audit and examine the books and records of a permit holder or other person dealing in tobacco products to ascertain whether the permit holder or other person has paid the amount of the taxes required to be paid by the permit holder or other person under the provisions of this chapter. If the taxes have not been paid, as required, the department shall assess against the permit holder or other person, as additional penalty, the reasonable expenses and costs of the investigation and audit.

- Sec. 53. Section 453C.1, subsection 10, Code 2007, is amended to read as follows:
- 10. "Units sold" means the number of individual cigarettes sold in the state by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by the state on packs bearing the excise stamp of the state or on roll-your-own tobacco containers. The department of revenue shall adopt rules as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.
- Sec. 54. REFUNDS. Refunds of taxes which result from the amendment to section 453A.43, in this division of this Act, relating to the limitation on the taxes imposed on cigars occurring between March 15, 2007, and the effective date of the amendment to section 453A.43 in this division of this Act, shall not be allowed unless refund claims are filed prior to October 1, 2007, notwithstanding any other provision of law. Claimants shall not be entitled to interest on any refunds.
- Sec. 55. EFFECTIVE DATE AND APPLICABILITY. The provision in this division of this Act amending section 453A.43, and the section of this division of this Act providing refunds resulting from the amendment of section 453A.43, being deemed of immediate importance, take effect upon enactment and are retroactively applicable to March 15, 2007.

Approved May 24, 2007

LICENSURE OF REAL ESTATE BROKERS OR SALESPERSONS — CONVICTIONS OF SPECIFIED OFFENSES

H.F. 924

AN ACT relating to qualifications for licensure as a real estate broker or salesperson upon conviction of specified offenses.

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

Section 1. Section 543B.15, subsection 3, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:

- 3. a. An applicant for a real estate broker's or salesperson's license who has been convicted of an offense specified in this subsection shall not be considered for licensure until the following time periods have elapsed following completion of any applicable period of incarceration, or payment of a fine or fulfillment of any other type of sentence:
 - (1) For an offense which is classified as a felony, two years.
- (2) Notwithstanding subparagraph (1), for offenses including or involving forgery, embezzlement, obtaining money under false pretenses, theft, arson, extortion, conspiracy to defraud, or other offense involving a criminal breach of fiduciary duty, five years.
- b. After expiration of the time periods specified in paragraph "a", an application shall be considered by the commission pursuant to subsection 7 and may be denied on the grounds of the conviction. An applicant may request a hearing pursuant to section 543B.19 in the event of a denial.
- c. For purposes of this section, "convicted" means a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction in this state, or in any other state, territory, or district of the United States, or in any foreign jurisdiction.
 - Sec. 2. Section 543B.15, subsection 6, Code 2007, is amended to read as follows:
- 6. A licensed real estate broker or salesperson shall notify the commission of the licensee's conviction of an offense included in subsection 3 within sixty ten days of the conviction. Notification of a conviction for an offense which is classified as a felony shall result in the immediate suspension of a license pending the outcome of a hearing conducted pursuant to section 543B.35. The failure of the licensee to notify the commission of the conviction within sixty ten days of the date of the conviction is sufficient grounds for revocation of the license.

Approved May 24, 2007

CHAPTER 188

GAMBLING GAMES AND GAMBLING STRUCTURES

S.F. 263

AN ACT concerning gambling games on gambling structures.

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

Section 1. Section 97A.3, subsection 1, Code 2007, is amended to read as follows:

1. All peace officer members of the division of state patrol and the division of criminal inves-

tigation 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 and gambling structure 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. 2. Section 97B.42B, subsection 1, paragraph a, Code 2007, is amended to read as follows:
- a. Gaming enforcement officers employed by the division of criminal investigation for excursion boat and gambling structure gambling enforcement activities.
 - Sec. 3. Section 99B.6, subsection 8, Code 2007, is amended to read as follows:
- 8. Gambling games authorized under chapter 99F may be conducted on an excursion gambling boat <u>or gambling structure</u> which is licensed as an establishment that serves or sells alcoholic beverages, wine, or beer as defined in section 123.3 if the gambling games are conducted pursuant to chapter 99F and rules adopted under chapter 99F. Notwithstanding section 123.3, subsection 26, paragraph "b", a person holding a federal gambling permit and licensed to conduct gambling games pursuant to chapter 99F may hold a liquor license.
- Sec. 4. Section 99D.5, subsection 5, paragraph c, Code 2007, is amended to read as follows: c. Place a wager on an entry in a race or on a gambling game operated on an excursion gambling boat or gambling structure.
- Sec. 5. Section 99F.1, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 11A. "Gambling structure" means any man-made stationary structure approved by the commission that does not include a racetrack enclosure which is subject to land-based building codes rather than maritime or Iowa department of natural resources inspection laws and regulations on which lawful gambling is authorized and licensed as provided in this chapter.
 - Sec. 6. Section 99F.1, subsection 12, Code 2007, is amended to read as follows:
- 12. "Gaming floor" means that portion of an excursion gambling boat, gambling structure, or racetrack enclosure in which gambling games are conducted as designated by the commission.
 - Sec. 7. Section 99F.3, Code 2007, is amended to read as follows:
 - 99F.3 EXCURSION BOAT GAMBLING GAMES AUTHORIZED.

The system of wagering on a gambling game as provided by this chapter is legal, when conducted on an excursion gambling boat, gambling structure, or racetrack enclosure at authorized locations by a licensee as provided in this chapter.

- Sec. 8. Section 99F.4, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 25. To license the licensee of a gambling structure subject to the provisions of this chapter and rules adopted pursuant to this chapter relating to gambling and as provided in section 99F.4D.
- Sec. 9. <u>NEW SECTION</u>. 99F.4D GAMBLING GAMES AT GAMBLING STRUCTURES REQUIREMENTS LICENSING.
- 1. Unless otherwise provided by this chapter, the provisions of this chapter applicable to an excursion gambling boat shall also apply to a gambling structure.

- 2. A licensee authorized to conduct gambling games on an excursion boat may convert the license to authorize the conducting of gambling games on a gambling structure with the approval of the commission. In addition, a licensee authorized to conduct gambling games on a moored barge may elect to have the license treated to allow the conducting of gambling games on a gambling structure with the approval of the commission.
- Sec. 10. Section 99F.5, Code 2007, is amended to read as follows:
 99F.5 LICENSE TO CONDUCT GAMBLING GAMES ON EXCURSION GAMBLING BOAT
 —LICENSE TO OPERATE BOAT APPLICATIONS OPERATING AGREEMENTS FEE.
- 1. A qualified sponsoring organization may apply to the commission for a license to conduct gambling games on an excursion gambling boat <u>or gambling structure</u> as provided in this chapter. A person may apply to the commission for a license to operate an excursion gambling boat. An operating agreement entered into on or after May 6, 2004, between a qualified sponsoring organization and an operator <u>of an excursion gambling boat or gambling structure</u> shall provide for a minimum distribution by the qualified sponsoring organization for educational, civic, public, charitable, patriotic, or religious uses as defined in section 99B.7, subsection 3, paragraph "b", that averages at least three percent of the adjusted gross receipts for each license year. The application shall be filed with the administrator of the commission at least ninety days before the first day of the next excursion season as determined by the commission, shall identify the excursion gambling boat upon which gambling games will be authorized, shall specify the exact location where the excursion gambling boat will be docked, and shall be in a form and contain information as the commission prescribes. The minimum passenger capacity of an excursion gambling boat <u>or gambling structure</u> is two hundred fifty persons.
- 2. The annual license fee to operate an excursion gambling boat shall be based on the passenger-carrying capacity including crew, for which the excursion gambling boat is registered. For a gambling structure, the annual license fee shall be based on the capacity of the gambling structure. The annual fee shall be five dollars per person capacity.
 - Sec. 11. Section 99F.7, subsection 1, Code 2007, is amended to read as follows:
- 1. If the commission is satisfied that this chapter and its rules adopted under this chapter applicable to licensees have been or will be complied with, the commission shall issue a license for a period of not more than three years to an applicant to own a gambling game operation, to an applicant to operate a gambling structure, and to an applicant to operate an excursion gambling boat. The commission shall decide which of the gambling games authorized under this chapter the commission will permit. The commission shall decide the number, location, and type of gambling structures and excursion gambling boats licensed under this chapter for. The commission shall allow the operation of an excursion boat or moored barge on or within one thousand feet of the high water marks of the rivers, lakes, and reservoirs of this state. An excursion gambling boat may be located or operated on a natural or man-made lake or reservoir if the lake or reservoir is of sufficient size to accommodate recreational activity. An excursion gambling boat may also be located on a man-made basin or other body of water adjacent to a river, provided it is located no more than one thousand feet from the high water mark of the river, as established by the commission in consultation with the United States army corps of engineers, the department of natural resources, or other appropriate regulatory agency. The license shall set forth, as applicable, the name of the licensee, the type of license granted, the location of the gambling structure or the place where the excursion gambling boats will operate and dock, and the time and number of days during the excursion season and the off season when gambling may be conducted by the licensee.
- Sec. 12. Section 99F.7, subsection 2, Code 2007, is amended by adding the following new paragraph:
- <u>NEW PARAGRAPH</u>. c. A person awarded a new license to conduct gambling games on an excursion gambling boat or gambling structure in the same county as another licensed excursion gambling boat or gambling structure shall only be licensed to operate an excursion gam-

bling boat or gambling structure that is located at a similarly situated site and operated as a substantially similar facility as any other excursion gambling boat or gambling structure in the county.

- Sec. 13. Section 99F.9, subsections 3 and 5, Code 2007, are amended to read as follows:
- 3. The licensee may receive wagers only from a person present on a licensed excursion gambling boat, licensed gambling structure, or in a licensed racetrack enclosure.
- 5. A person under the age of twenty-one years shall not make or attempt to make a wager on an excursion gambling boat, gambling structure, or in a racetrack enclosure and shall not be allowed on the gaming floor of an excursion gambling boat or gambling structure or in the wagering area, as defined in section 99D.2, or on the gaming floor of a racetrack enclosure. However, a person eighteen years of age or older may be employed to work on the gaming floor of an excursion gambling boat or gambling structure or in the wagering area or on the gaming floor of a racetrack enclosure. A person who violates this subsection with respect to making or attempting to make a wager commits a scheduled violation under section 805.8C, subsection 5.
 - Sec. 14. Section 99F.10, subsections 1, 2, and 4, Code 2007, are amended to read as follows:
- 1. A qualified sponsoring organization conducting gambling games on an excursion gambling boat <u>or gambling structure</u> licensed under section 99F.7 shall pay the tax imposed by section 99F.11.
- 2. An excursion gambling boat <u>or gambling structure</u> licensee shall pay to the commission a regulatory fee to be charged as provided in this section.
- 4. In determining the license fees and state regulatory fees to be charged as provided under section 99F.4 and this section, the commission shall use as the basis for determining the amount of revenue to be raised from the license fees and regulatory fees the amount appropriated to the commission plus the cost of salaries for no more than two special agents for each excursion gambling boat or gambling structure and no more than four gaming enforcement officers for each excursion gambling boat or gambling structure with a patron capacity of less than two thousand persons or no more than five gaming enforcement officers for each excursion gambling boat or gambling structure with a patron capacity of at least two thousand persons, plus any direct and indirect support costs for the agents and officers, for the division of criminal investigation's excursion gambling boat or gambling structure activities.
 - Sec. 15. Section 99F.11, subsection 2, Code 2007, is amended to read as follows:
- 2. The tax rate imposed each fiscal year on any amount of adjusted gross receipts over three million dollars shall be as follows:
 - a. If the licensee is an excursion gambling boat or gambling structure, twenty-two percent.
- b. If the licensee is a racetrack enclosure conducting gambling games and another licensee that is an excursion gambling boat <u>or gambling structure</u> is located in the same county, then the following rate, as applicable:
- (1) If the licensee of the racetrack enclosure has not been issued a table games license during the fiscal year or if the adjusted gross receipts from gambling games of the licensee in the prior fiscal year were less than one hundred million dollars, twenty-two percent.
- (2) If the licensee of the racetrack enclosure has been issued a table games license during the fiscal year or prior fiscal year and the adjusted gross receipts from gambling games of the licensee in the prior fiscal year were one hundred million dollars or more, twenty-two percent on adjusted gross receipts received prior to the operational date and twenty-four percent on adjusted gross receipts received on or after the operational date. For purposes of this subparagraph, the operational date is the date the commission determines table games became operational at the racetrack enclosure.
- c. If the licensee is a racetrack enclosure conducting gambling games and no licensee that is an excursion gambling boat <u>or gambling structure</u> is located in the same county, twenty-four percent.

- Sec. 16. Section 99F.12, subsection 2, Code 2007, is amended to read as follows:
- 2. The licensee shall furnish to the commission reports and information as the commission may require with respect to its activities. The gross receipts and adjusted gross receipts from gambling shall be separately handled and accounted for from all other moneys received from operation of an excursion gambling boat or from operation of a racetrack enclosure or gambling structure licensed to conduct gambling games. The commission may designate a representative to board a licensed excursion gambling boat or to enter a racetrack enclosure or gambling structure licensed to conduct gambling games, who shall have full access to all places within the enclosure of the boat, the gambling structure, or the racetrack enclosure, who shall directly supervise the handling and accounting of all gross receipts and adjusted gross receipts from gambling, and who shall supervise and check the admissions. The compensation of a representative shall be fixed by the commission but shall be paid by the licensee.
 - Sec. 17. Section 99F.15, subsection 3, Code 2007, is amended to read as follows:
- 3. A person wagering or accepting a wager at any location outside an excursion gambling boat, gambling structure, or a racetrack enclosure is in violation of section 725.7.
- Sec. 18. Section 99F.15, subsection 4, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A person commits a class "D" felony and, in addition, shall be barred for life from excursion gambling boats <u>and gambling structures</u> under the jurisdiction of the commission, if the person does any of the following:

- Sec. 19. Section 99F.15, subsection 4, paragraphs a and b, Code 2007, are amended to read as follows:
- a. Offers, promises, or gives anything of value or benefit to a person who is connected with an excursion gambling boat <u>or gambling structure</u> operator including, but not limited to, an officer or employee of a licensee or holder of an occupational license pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the commission.
- b. Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with an excursion gambling boat <u>or gambling structure</u> including, but not limited to, an officer or employee of a licensee, or holder of an occupational license, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the commission.
 - Sec. 20. Section 533C.103, subsection 13, Code 2007, is amended to read as follows:
- 13. Pari-mutuel wagering, racetracks, and excursion gambling boats, and gambling structures as provided in chapters 99D and 99F.

Approved May 25, 2007

SAC AND FOX TRIBE SETTLEMENT

— NATURAL RESOURCES REGULATION

S.F. 304

AN ACT relating to the exercise of regulatory authority by the department of natural resources and the natural resource commission within the boundaries of the Sac and Fox tribe settlement in Tama county, and providing for applicability and effective dates.

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

Section 1. Section 481A.38, subsection 3, Code 2007, is amended to read as follows:

- 3. The department and the commission shall exercise regulatory authority regarding seasons, bag limits, possession limits, locality, the method of taking, or the taking of fish and wild-life by members of the Sac and Fox tribe of the Mississippi in Iowa within the boundaries of the Sac and Fox tribe settlement in Tama county only to the extent provided in a written agreement between the tribal council of the Sac and Fox tribe of the Mississippi in Iowa and the department. The written agreement shall not be construed to supersede or impair the regulatory authority exercised by the commission pursuant to the federal Migratory Bird Treaty Act, the federal Migratory Bird Stamp Hunting Act, the federal Endangered Species Act, or other federal law and shall not be construed to supersede or impair the regulatory authority exercised by the Sac and Fox tribe of the Mississippi in Iowa pursuant to any federal act, statute, or law. The department and the commission shall not unreasonably fail to enter into an agreement and shall pursue such an agreement in an expedient manner. This subsection shall become effective upon signing of the written agreement by the director of the department and the chairperson of the Sac and Fox tribe of the Mississippi in Iowa.
- Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 25, 2007

CHAPTER 190

VOTING, VOTING MACHINES, AND OPTICAL SCAN VOTING SYSTEMS $S.F.\ 369$

AN ACT relating to voting machines and optical scan voting systems.

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

Section 1. Section 49.28, Code 2007, is amended to read as follows: 49.28 COMMISSIONER TO FURNISH REGISTERS AND SUPPLIES.

- <u>1.</u> The commissioner shall prepare and furnish to each precinct an election register and all other books, forms, materials, equipment, and supplies necessary to conduct the election.
 - 2. a. After the registration deadline and before election day the commissioner shall prepare

an election register for each precinct in which voting will occur on the day of the election. The precinct election register shall be a list of the names and addresses of all registered voters of the precinct. Inactive records listed in the election register shall be clearly identified with a special mark or symbol.

- <u>b.</u> When a precinct is divided by a district boundary, and some, but not all, registered voters of the precinct may vote on an issue or office from that district, the election register shall clearly indicate which of the registered voters are entitled to vote in the district.
- 3. a. The commissioner shall furnish a supply of printed ballots to each precinct where voting machines are to be used for any election.
- b. In any precinct in which voting machines are designated as the only method of voting for an election, a paper ballot shall be furnished to any person offering to vote under the provisions of section 49.81 or 49.90 or to any person offering to vote if any of the following apply:
 - (1) A power failure prevents use of the voting machines.
 - (2) A malfunction occurs that prevents the use of one or more voting machines.
- (3) A malfunction occurs preventing one or more voting machines from producing the paper record required in section 52.7, subsection 2.
- (4) Any other conditions existing due to a fault of one or more voting machines that prevents a person offering to vote from casting the person's ballot.
- c. The ballots furnished by the commissioner shall be the same as the ballots used for voters casting ballots pursuant to sections 49.81 and 49.90, and voting shall be in accordance with statutory provisions relating to conventional paper ballots. After a paper ballot has been voted under this subsection, the precinct election official shall place the voted ballot in a closed container to be kept in a secure manner in a secure place.
- Sec. 2. Section 49.53, unnumbered paragraph 1, Code 2007, is amended to read as follows: The commissioner shall not less than four nor more than twenty days before the day of each election, except those for which different publication requirements are prescribed by law, publish notice of the election. The notice shall contain a facsimile of the portion of the ballot containing the first rotation as prescribed by section 49.31, subsection 2, and shall show the names of all candidates or nominees and the office each seeks, and all public questions, to be voted upon at the election. The sample ballot published as a part of the notice may at the discretion of the commissioner be reduced in size relative to the actual ballot but such reduction shall not cause upper case letters appearing in candidates' names or in summaries of public measures on the published sample ballot to be less than ninety percent of the size of such upper case letters appearing on the actual ballot. The notice shall also state the date of the election, the hours the polls will be open, the location of each polling place at which voting is to occur in the election, the location of the polling places designated as early ballot pick-up sites, and the names of the precincts voting at each polling place, but the statement need not set forth any fact which is apparent from the portion of the ballot appearing as a part of the same notice. The notice shall include the full text of all public measures to be voted upon at the election. The notice shall also include notice of testing required pursuant to sections 52.9, 52.35, and 52.38.
- Sec. 3. Section 50.48, subsection 4, unnumbered paragraph 1, Code 2007, is amended to read as follows:

When all members of the recount board have been selected, the board shall undertake and complete the required recount as expeditiously as reasonably possible. The commissioner or the commissioner's designee shall supervise the handling of ballots or voting machine documents to ensure that the ballots and other documents are protected from alteration or damage. The board shall open only the sealed ballot containers from the precincts specified to be recounted in the request or by the recount board. The board shall recount only the ballots which were voted and counted for the office in question, including any disputed ballots returned as required in section 50.5. If an electronic tabulating system was used to count the ballots, the recount board may request the commissioner to retabulate the ballots using the electronic tab-

ulating system. The same program used for tabulating the votes on election day shall be used at the recount unless the program is believed or known to be flawed. If a voting machine was used, the paper record required in section 52.7, subsection 2, shall be the official record used in the recount. However, if the commissioner believes or knows that the paper records produced from a machine have been compromised due to damage, mischief, malfunction, or other cause, the printed ballot images produced from the internal audit log for that machine shall be the official record used in the recount.

- Sec. 4. Section 52.1, subsection 1, Code 2007, is amended to read as follows:
- 1. At all elections conducted under chapter 49, and at any other election unless specifically prohibited by the statute authorizing the election, votes may be cast, registered, recorded, and counted by means of either voting machines or electronic optical scan voting systems, in accordance with this chapter.
- Sec. 5. Section 52.1, subsection 2, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
 - 2. As used in this chapter, unless the context otherwise requires:
- a. "Automatic tabulating equipment" means apparatus, including but not limited to electronic data processing machines, that are utilized to ascertain the manner in which optical scan ballots have been marked by voters or by electronic ballot marking devices, and count the votes marked on the ballots.
- b. "Ballot" includes paper ballots designed to be read by automatic tabulating equipment. In appropriate contexts, "ballot" also includes conventional paper ballots.
- c. "Ballot marking device" means a pen, pencil, or similar writing tool, or an electronic device, all designed for use in marking an optical scan ballot, and so designed or fabricated that the mark it leaves may be detected and the vote so cast counted by automatic tabulating equipment.
- d. "Optical scan ballot" means a printed ballot designed to be marked by a voter with a ballot marking device.
- e. "Optical scan voting system" means a system employing paper ballots under which votes are cast by voters by marking paper ballots with a ballot marking device and thereafter counted by use of automatic tabulating equipment.
- f. "Program" means the written record of the set of instructions defining the operations to be performed by a computer in examining, counting, tabulating, and printing votes.
- g. "Voting machine" means a direct recording electronic device meeting the requirements of section 52.7, subsections 1 and 2, and designated for use in casting, registering, recording, and counting votes at an election.

Sec. 6. Section 52.2, Code 2007, is amended to read as follows: 52.2 PURCHASE.

- 1. The Except as otherwise provided in subsection 2, the board of supervisors of a county may, by a majority vote, authorize, purchase, and order the use of voting machines or an electronic optical scan voting system in any one or more voting precincts within the county until otherwise ordered by the board of supervisors. Voting machines and an electronic optical scan voting system may be used concurrently at the same precinct.
 - 2. Notwithstanding any provision to the contrary:
- a. On or after the effective date of this Act, a county whose voting system primarily utilizes voting machines, as defined in section 52.1, shall, when seeking to replace the voting system, replace the voting system with an optical scan voting system only. The requirements of the federal Help America Vote Act relating to disabled voters shall be met by a county through the use of electronic ballot marking devices that are compatible with an optical scan voting system.
- b. On or after the effective date of this Act, a county that utilizes a voting machine, as defined in section 52.1, and an optical scan voting system concurrently at the same precinct shall, when seeking to replace the voting machine, replace the voting machine with an electronic

ballot marking device that is compatible with an optical scan voting system in order to ensure that each precinct in the county shall have at least one electronic ballot marking device.

- Sec. 7. Section 52.7, Code 2007, is amended by striking the section and inserting in lieu thereof the following:
 - 52.7 CONSTRUCTION OF MACHINE APPROVED REQUIREMENTS.
- 1. A voting machine approved by the state board of examiners for voting machines and optical scan voting systems shall be so constructed as to do all of the following:
- a. Permit straight party voting, pursuant to section 49.94, for all political parties and nonparty political organizations on the ballot.
- b. Permit a voter to vote for any person for any office, whether or not the person is nominated as a candidate by any party or organization.
 - c. Permit voting in absolute secrecy.
- d. Prevent voting for more than one person for the same office, except where a voter is lawfully entitled to vote for more than one person for that office.
- e. Afford a voter an opportunity to vote for any or all persons for that office as the voter is by law entitled to vote for and no more, at the same time preventing a voter from voting for the same person twice.
- f. Provide a voter with an opportunity to change a vote before the ballot is recorded and counted.
- g. Present together the names of each team of candidates for president and vice president and for governor and lieutenant governor. The votes for a team shall be counted as a vote for both candidates of the team.
- h. Provide a voter with a method for casting write-in votes for paired offices so that the voter can specify one person as a candidate for president or for governor and one person as a candidate for vice president or for lieutenant governor.
 - i. Accurately account for every vote cast upon it.
- j. If the machine is to be used for provisional or absentee voting, remove information from the ballot identifying the voter before the ballot is recorded and counted.
- k. Maintain an internal audit log that will store each ballot cast separate from the ballot tabulation function, which ballot may be reproduced on paper in the case of a recount or machine malfunction. The printed ballot image produced from an internal audit log shall be sealed in the manner, and for the time period, prescribed in section 50.12. The state commissioner of elections shall adopt rules to implement this paragraph "k".
- l. For all elections held on or after November 4, 2008, provide a paper record for review by the voter as provided in subsection 2.
- 2. A voting machine shall be capable of producing a paper record that the voter may review before the voter casts the voter's ballot. The paper record shall meet all of the following requirements:
 - a. Be printed on paper separate from all other paper records.
- b. Be readable by the voter without the use of an electronic device. It may also be machine-readable.
 - c. Not contain any information that will identify the person who cast the ballot.
- d. Be stored at the polling place in a secure container, such that the voter is incapable of removing the paper record from the polling place.
- 3. After the polls close, the precinct election officials shall seal all paper records required by subsection 2 in the manner, and for the time period, prescribed in section 50.12.
- Sec. 8. Section 52.9, unnumbered paragraph 2, Code 2007, is amended to read as follows: It shall be the duty of the commissioner or the commissioner's duly authorized agents to examine and test the voting machines to be used at any election, after the machines have been prepared for the election and not less than twelve hours before the opening of the polls on the morning of the election. For any election to fill a partisan office, the county chairperson of each political party referred to in section 49.13 shall be notified in writing of the date, time said, and place the machines shall be examined and tested so that they may be present, or have a repre-

sentative present. For every election, the commissioner shall include the <u>publish notice of the date</u>, time, and place the examination and testing will be conducted. The commissioner may <u>include such</u> notice in the notice of the election published as <u>required by pursuant to</u> section 49.53. Those present for the examination and testing shall sign a certificate which shall read substantially as follows:

Sec. 9. Section 52.33, Code 2007, is amended to read as follows:

52.33 ABSENTEE VOTING BY ELECTRONIC OPTICAL SCAN VOTING SYSTEM.

In any county in which the board of supervisors has adopted voting by means of an electronic optical scan voting system, the commissioner may elect to shall also conduct absentee voting by use of such a system if the system so used is compatible with the counting center serving the precinct polling places in the county where voting is by means of an electronic voting system. In any other county, the commissioner may with approval of the board of supervisors conduct absentee voting by use of an electronic optical scan voting system. All provisions of chapter 53 shall apply to such absentee voting, so far as applicable. In counties where absentee voting is conducted by use of an electronic optical scan voting system, the special precinct counting board shall, at the time required by chapter 53, prepare absentee ballots for delivery to the counting center tabulation in the manner prescribed by this chapter.

The absentee and special precinct board shall follow the process prescribed in section 52.37, subsection 21, in handling damaged or defective ballots and in counting write-in votes on special paper optical scan ballots.

Sec. 10. Section 52.35, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Within five days before <u>Before</u> the date of any election at which votes are to be cast by means of an <u>electronic optical scan</u> voting system and tabulated at a counting center established under section 52.34, the commissioner in <u>charge</u> of the counting center where votes so cast are to be tabulated shall have the automatic tabulating equipment, including the portable tabulating <u>devices</u>, tested to ascertain that it will correctly count the votes cast for all offices and on all public questions. <u>Testing shall be completed not later than twelve hours before the opening of the polls on the morning of the election.</u> The procedure for conducting the test shall be as follows:

- Sec. 11. Section 52.35, subsections 1 and 3, Code 2007, are amended to read as follows:
- 1. For any election to fill a partisan office, the county chairperson of each political party shall be notified in writing of the <u>date</u>, time, <u>and place</u> the test will be conducted, so that they may be present or have a representative present. For every election, the commissioner shall <u>include such publish notice of the date</u>, time, and place the test will be conducted. The commissioner may include such notice in the notice of the election published as required by <u>pursuant</u> to section 49.53. The test shall be open to the public.
- 3. The test group of ballots used for the test shall be clearly labeled as such, and retained in the counting center commissioner's office. The test prescribed in subsection 2 shall be repeated immediately before the start of the official tabulation of ballots cast in the election, and again immediately after the tabulation is completed. The test group of ballots and the programs used for the counting procedure shall be sealed, retained for the time required for and disposed of in the same manner as ballots cast in the election.
- Sec. 12. Section 52.35, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 4. Those present for the test shall sign a certificate which shall read substantially as follows:

The undersigned certify that we were present and witnessed the testing of the following tabulating devices, that we believe the devices are in proper condition for use in the election of (date); that following the test the vote totals were erased from the memory of each tabulating device and a report was produced showing that all vote totals in the memory were

locations of the device	devices were securely locked or sealed; ces which were tested are listed below.	and that the serial numbers and	
Signed	(name and political party affiliation, if applicable) (name and political party affiliation, if applicable)		
	Voting equipment custodian Dated		
Precinct	Location	Serial Number	

Sec. 13. Sections 52.11 through 52.16, 52.21, 52.22, 52.32, 52.34, 52.36, 52.38, and 52.40, Code 2007, are repealed.

CONFORMING AMENDMENTS

- Sec. 14. Section 39A.5, subsection 1, paragraph a, subparagraph (3), Code 2007, is amended to read as follows:
- (3) Circulating, communicating, or attempting to circulate or communicate information with reference to the result of the counted ballots or making a compilation of vote subtotals before the polls are closed in violation of section 51.11, 52.40, or 53.23.
- Sec. 15. Section 43.45, subsection 4, unnumbered paragraph 1, Code 2007, is amended to read as follows:

In precincts where <u>electronic optical scan</u> voting systems are used and ballots are counted in the precinct, precinct election officials shall do all of the following:

- Sec. 16. Section 43.45, subsection 5, Code 2007, is amended by striking the subsection.
- Sec. 17. Section 43.48, Code 2007, is amended by striking the section and inserting in lieu thereof the following:
 - 43.48 ELECTOR MAY ASCERTAIN VOTE CAST.

The commissioner shall make available to the public the precinct counts produced by the voting equipment.

Sec. 18. Section 46.22, Code 2007, is amended to read as follows: 46.22 VOTING.

Voting at judicial elections shall be by separate paper ballot, special paper ballot, ballot eards optical scan ballot, or by voting machine in the space provided for public measures. If separate paper ballots are used, the election judges shall offer a ballot to each voter. If special paper optical scan ballots or ballot cards are used, either a separate ballot or a distinct heading may be used to distinguish the judicial ballot. Separate ballot boxes for the general election ballots and the judicial election ballots are not required. The general election ballot and the judicial election ballot may be voted in the same voting booth.

- Sec. 19. Section 49.25, subsection 3, Code 2007, is amended to read as follows:
- 3. The commissioner shall furnish to each precinct where voting is to be by paper ballot, special paper or optical scan ballot, or ballot card, rather than by voting machine, the necessary ballot boxes, suitably equipped with seals or locks and keys, and voting booths. The voting booths shall be approved by the board of examiners for voting machines and electronic optical scan voting systems and shall provide for voting in secrecy. At least one voting booth in each

precinct shall be accessible to persons with disabilities. If the lighting in the polling place is inadequate, the voting booths used in that precinct shall include lights. Ballot boxes shall be locked or sealed before the polls open and shall remain locked or sealed until the polls are closed, except as provided in sections section 51.7 and 52.40, or to provide necessary service to a malfunctioning portable vote tallying device. If a ballot box is opened prior to the closing of the polls, two precinct election officials not of the same party shall be present and observe the ballot box being opened.

- Sec. 20. Section 49.30, subsection 1, Code 2007, is amended to read as follows:
- 1. Where special paper optical scan ballots are used, if it is not possible to include all offices and public measures on a single ballot, separate ballots may be provided for nonpartisan offices, judges, or public measures.
 - Sec. 21. Section 49.30, subsection 2, Code 2007, is amended by striking the subsection.
- Sec. 22. Section 49.30, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Where <u>conventional</u> paper ballots are used, separate paper ballots shall be used:

Sec. 23. Section 49.43, unnumbered paragraphs 1 and 2, Code 2007, are amended to read as follows:

If possible, all public measures and constitutional amendments to be voted upon by an elector shall be included on a single special paper ballot which shall also include all offices to be voted upon. However, if it is necessary, a separate ballot may be used as provided in section 49.30, subsection 1.

In precincts using paper ballots all public measures to be voted upon by a voter at a given election shall be printed upon one ballot of some color other than white. In precincts using voting machines all public measures shall be placed in the question row on the machine; however, if it is impossible to place all the public measures on the machine ballot, or if only a portion of the registered voters of the precinct are entitled to vote upon any measure presented, the commissioner may provide a separate paper ballot for the public measure or measures.

Sec. 24. Section 49.44, unnumbered paragraphs 1 and 2, Code 2007, are amended to read as follows:

When a proposed constitutional amendment or other public measure to be decided by the voters of the entire state is to be voted upon, the state commissioner shall prepare a written summary of the amendment or measure including the number of the amendment or statewide public measure assigned by the state commissioner. The summary shall be printed immediately preceding the text of the proposed amendment or measure on the paper ballot or special paper optical scan ballot referred to in section 49.43. If the complete text of the public measure will not fit on the special paper ballot it shall be posted inside the voting booth. A copy of the full text shall be included with any absentee ballots.

In precincts where the amendment or measure will be voted on by machine, the summary shall be placed in <u>on</u> the <u>voting</u> machine <u>inserts</u> as required by section 52.25.

Sec. 25. Section 49.90, Code 2007, is amended to read as follows: 49.90 ASSISTING VOTER.

Any voter who may declare upon oath that the voter is blind, cannot read the English language, or is, by reason of any physical disability other than intoxication, unable to cast a vote without assistance, shall, upon request, be assisted by the two officers as provided in section 49.89, or alternatively by any other person the voter may select in casting the vote. The officers, or the person selected by the voter, shall cast the vote of the voter requiring assistance, and shall thereafter give no information regarding the vote cast. If any elector because of a disability cannot enter the building where the polling place for the elector's precinct of residence is located, the two officers shall take a paper ballot to the vehicle occupied by the elector

with a disability and allow the elector to cast the ballot in the vehicle. If an elector with a disability cannot cast a ballot on a voting machine the elector shall be allowed to cast a paper ballot, which shall be opened immediately after the closing of the polling place by the two precinct election officials designated under section 49.89, who shall register the votes cast thereon on a voting machine in the polling place before the votes cast there are tallied pursuant to section 52.21 50.16. To preserve so far as possible the confidentiality of each ballot of an elector with a disability, the two officers shall proceed substantially in the same manner as provided in section 53.24. In precincts where all voters use paper ballots, those cast by voters with disabilities shall be deposited in the regular ballot box and counted in the usual manner.

Sec. 26. Section 49.99, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The voter may also write on the line provided for write-in votes the name of any person for whom the voter desires to vote and mark the voting target opposite the name. If the voter is using a voting system other than an electronic optical scan voting system, as defined in section 52.1, the writing of the name shall constitute a valid vote for the person whose name has been written on the ballot without regard to whether the voter has made a mark opposite the name. However, when a write-in vote is cast using an electronic optical scan voting system, the ballot must also be marked in the corresponding space in order to be counted. Marking the voting target opposite a write-in line without writing a name on the line shall not affect the validity of the remainder of the ballot.

Sec. 27. Section 52.3, Code 2007, is amended to read as follows:

52.3 TERMS OF PURCHASE — TAX LEVY.

The county board of supervisors, on the adoption and purchase of a voting machine or an electronic optical scan voting system, may issue bonds under section 331.441, subsection 2, paragraph "b", subparagraph (1).

Sec. 28. Section 52.4, Code 2007, is amended to read as follows:

52.4 EXAMINERS — TERM — REMOVAL.

The state commissioner of elections shall appoint three members to a board of examiners for voting machines and electronic voting systems, not more than two of whom shall be from the same political party. The examiners shall hold office for staggered terms of six years, subject to removal at the pleasure of the state commissioner of elections.

At least one of the examiners shall have been trained in computer programming and operations. The other two members shall be directly involved in the administration of elections and shall have experience in the use of electronic voting machines and optical scan voting systems.

Sec. 29. Section 52.5, Code 2007, is amended to read as follows:

52.5 TESTING AND EXAMINATION OF VOTING EQUIPMENT.

A person or corporation owning or being interested in a voting machine or <u>electronic optical scan</u> voting system may request that the state commissioner call upon the board of examiners to examine and test the machine or system. Within seven days of receiving a request for examination and test, the state commissioner shall notify the board of examiners of the request in writing and set a time and place for the examination and test.

The state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the testing and examination of any voting machine or electronic optical scan voting system by the board of examiners. The rules shall prescribe the method to be used in determining whether the machine or system is suitable for use within the state and performance standards for voting equipment in use within the state. The rules shall provide that all electronic optical scan voting systems and voting machines approved for use by the examiners after April 9, 2003, shall meet voting systems performance and test standards, as adopted by the federal election commission on April 30, 2002, and as deemed adopted by Pub. L. No. 107-252, section 222. The rules shall include standards for determining when recertification is necessary following modifications to the equipment or to the programs used

in tabulating votes, and a procedure for rescinding certification if a system or machine is found not to comply with performance standards adopted by the state commissioner.

The state commissioner may employ a competent person or persons to assist the examiners in their evaluation of the equipment and to advise the examiners as to the sufficiency of the equipment. Consultant fees shall be paid by the person who requested the certification. Following the examination and testing of the voting machine or system the examiners shall report to the state commissioner describing the testing and examination of the machine or system and upon the capacity of the machine or system to register the will of voters, its accuracy and efficiency, and with respect to its mechanical perfections and imperfections. Their report shall be filed in the office of the state commissioner and shall state whether in their opinion the kind of machine or system so examined can be safely used by voters at elections under the conditions prescribed in this chapter. If the report states that the machine or system can be so used, it shall be deemed approved by the examiners, and machines or systems of its kind may be adopted for use at elections as provided in this section. Any form of voting machine or system not so approved cannot be used at any election. Before actual use by a county of a particular electronic optical scan voting system which has been approved for use in this state, the state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the development of vote counting programs and all procedures used in actual counting of votes by means of that system.

Sec. 30. Section 52.8, Code 2007, is amended to read as follows:

52.8 EXPERIMENTAL USE.

The board of supervisors of any county may provide for the experimental use at an election in one or more districts, of a voting machine or <u>electronic optical scan</u> voting system which it might lawfully adopt, without a formal adoption thereof; and its use at such election shall be as valid for all purposes as if it had been lawfully adopted.

Sec. 31. Section 52.23, unnumbered paragraph 1, Code 2007, is amended to read as follows:

After the total vote for each candidate has been ascertained, and before leaving the room or voting place, the precinct election officials shall make and sign the canvass forms referred to in section 52.21, which canvass shall serve as a written statement of election. Said canvass statement shall be in lieu of the tally list required in section 50.16.

Sec. 32. Section 52.25, unnumbered paragraphs 1 and 2, Code 2007, are amended to read as follows:

The question of a constitutional convention, amendments, and public measures including bond issues may be voted on voting machines and on special paper ballots in the following manner:

The entire convention question, amendment or public measure shall be printed and displayed prominently in at least four places within the voting precinct, and inside each voting booth, or on the left-hand side inside the curtain of each voting machine, the printing to be in conformity with the provisions of chapter 49. The public measure shall be summarized by the commissioner and in the largest type possible printed on the special paper ballots or inserts used in on the voting machines, except that:

Sec. 33. Section 52.26, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Every <u>electronic</u> <u>optical scan</u> voting system approved by the state board of examiners for voting machines and <u>electronic</u> voting systems shall:

- Sec. 34. Section 52.26, subsection 1, paragraph a, Code 2007, is amended to read as follows:
 - a. Provide for voting in secrecy, except as to persons entitled by sections 49.90 and 49.91

to assistance. The state board of examiners for voting machines and electronic voting systems shall determine whether the systems' voting booths provide for voting in secrecy.

Sec. 35. Section 52.27, Code 2007, is amended to read as follows: 52.27 COMMISSIONER TO PROVIDE <u>ELECTRONIC OPTICAL SCAN</u> VOTING EQUIPMENT.

The commissioner having jurisdiction of any precinct for which the board of supervisors has adopted voting by means of an electronic optical scan voting system shall, as soon as practicable thereafter, provide for use at each election held in the precinct special paper optical scan ballots and vote ballot marking devices in appropriate numbers. The commissioner shall have custody of all equipment required for use of the electronic optical scan voting system, and shall be responsible for maintaining it in good condition and for storing it between elections. All provisions of chapter 49 relative to times and circumstances under which voting machines are to be used in any election and the number of voting machines to be provided shall also govern the use of electronic optical scan voting systems, when applicable.

Sec. 36. Section 52.28, Code 2007, is amended to read as follows: 52.28 <u>ELECTRONIC OPTICAL SCAN VOTING SYSTEM BALLOT FORMS</u>.

The commissioner of each county in which the use of an electronic optical scan voting system in one or more precincts has been authorized shall determine the arrangement of candidates' names and public questions upon the ballot or ballots used with the system. The ballot information shall be arranged as required by chapters 43 and 49, and by any relevant provisions of any statutes which specify the form of ballots for special elections, so far as possible within the constraints of the physical characteristics of the electronic optical scan voting system in use in that county. The state commissioner may adopt rules requiring a reasonable degree of uniformity among counties in arrangement of electronic optical scan voting system ballots.

Sec. 37. Section 52.29, Code 2007, is amended to read as follows: 52.29 <u>ELECTRONIC OPTICAL SCAN</u> VOTING SYSTEM SAMPLE BALLOTS.

The commissioner shall provide for each precinct where an electronic optical scan voting system is in use at least four sample special paper optical scan ballots which shall be exact copies of the official ballots as printed for that precinct. The sample ballots shall be arranged in the form of a diagram showing the special paper optical scan ballot as it will appear to the voter in that precinct on election day. The sample ballots shall be posted prominently within the polling place, and shall be open to public inspection during the hours the polls are open on election day.

Sec. 38. Section 52.31, Code 2007, is amended to read as follows:

52.31 PROCEDURE WHERE VOTES CAST ON SPECIAL PAPER OPTICAL SCAN BALLOTS

Preparations for voting and voting at any election in a precinct where votes are to be received on special paper optical scan ballots shall be in accordance with the provisions of chapter 49 governing voting upon conventional paper ballots with the following exceptions:

- 1. Before entering the voting booth each voter shall be cautioned to mark the ballot only with a vote ballot marking device provided in the booth or by the precinct election officials.
- 2. In each precinct where a portable vote tallying system automatic tabulating equipment is used and the ballots are tabulated by a device located in the precinct which is equipped with a mechanism which will not permit more than one ballot to be inserted at a time, the voter may personally insert the ballot into the tabulating device.

Sec. 39. Section 52.37, Code 2007, is amended to read as follows: 52.37 COUNTING CENTER SPECIAL PRECINCT TABULATION PROCEDURE. The tabulation of absentee and provisional ballots cast by means of an electronic optical

scan voting system, at a counting center established pursuant to this chapter, shall be conducted as follows:

1. The sealed ballot container from each precinct shall be delivered to the counting center by two election officials, not members of the same political party if the ballot contains partisan offices, who shall travel together in the same vehicle and shall have the container under their immediate joint control until they surrender it to the commissioner or the commissioner's designee in charge of the counting center. The commissioner may designate two precinct election officials, of different political parties if the ballot contains partisan offices, to collect the sealed ballot containers from more than one precinct to deliver to the counting center. The commissioner or designee shall, in the presence of the two precinct election officials who delivered the container, enter on a record kept for the purpose that the container was received, the time the container was received, and the condition of the seal upon receipt.

In nonpartisan elections the election officials delivering the ballots are not required to be members of any political party, or to be members of different political parties.

2. 1. After the record required by subsection 1 has been made, the ballot container shall be opened. If any ballot is found damaged or defective, so that it cannot be counted properly by the automatic tabulating equipment, a true duplicate shall be made by the resolution board team and substituted for the damaged or defective ballot, or, as an alternative, the valid votes on a defective ballot may be manually counted at the counting center by the resolution special precinct election board, whichever method is best suited to the system being used. All duplicate ballots shall be clearly labeled as such, and shall bear a serial number which shall also be recorded on the damaged or defective ballot.

The resolution special precinct election board shall also tabulate any write-in votes which were cast. Write-in votes cast for a candidate whose name appears on the ballot for the same office shall be counted as a vote for the candidate indicated, if the vote is otherwise properly cast.

Ballots which are rejected by the tabulating equipment as blank because they have been marked with an unreadable marker shall be duplicated or tabulated as required by this subsection for damaged or defective ballots. The commissioner may instruct the resolution special precinct election board to mark over voters' unreadable marks using a marker compatible with the tabulating equipment. The resolution special precinct election board shall take care to leave part of the original mark made by the voter. If it is impossible to mark over the original marks made by the voter without completely obliterating them, the ballot shall be duplicated.

- 3. 2. The record printed by the automatic tabulating equipment, with the addition of a record of any write-in or other votes manually counted pursuant to this chapter, shall constitute the official return of the <u>absentee ballot and special voter's</u> precinct. Upon completion of the tabulation of the votes from each individual precinct, the result shall be announced and reported in substantially the manner required by section 50.11.
- 4. 3. If for any reason it becomes impracticable to count all or any part of the ballots with the automatic tabulation tabulating equipment, the commissioner may direct that they be counted manually, in accordance with chapter 50 so far as applicable.

Sec. 40. Section 331.383, Code 2007, is amended to read as follows: 331.383 DUTIES AND POWERS RELATING TO ELECTIONS.

The board shall ensure that the county commissioner of elections conducts primary, general, city, school, and special elections in accordance with applicable state law. The board shall canvass elections in accordance with sections 43.49 to 43.51, 43.60 to 43.62, 46.24, 50.13, 50.24 to 50.29, 50.44 to 50.47, 260C.39, 275.25, 277.20, 376.1, 376.7, and 376.9. The board shall prepare and deliver a list of persons nominated in accordance with section 43.55, provide for a recount in accordance with section 50.48, provide for election precincts in accordance with sections 49.3, 49.4, 49.6 to 49.8 and 49.11, pay election costs as provided in section 47.3, participate in election contests as provided in sections 62.1A and 62.9, and perform other election duties required by state law. The board may authorize additional precinct election officials as provided in section 51.1, provide for the use of a voting machine or electronic optical scan

voting system as provided in sections 52.2, 52.3, <u>and</u> 52.8, and 52.34, and exercise other election powers as provided by state law.

- Sec. 41. Section 331.441, subsection 2, paragraph b, subparagraph (1), Code 2007, is amended to read as follows:
 - (1) Voting machines or an electronic optical scan voting system.
- Sec. 42. Section 364.2, subsection 4, paragraph b, Code 2007, is amended to read as follows:
- b. Such an ordinance shall not become effective unless approved at an election. The proposal may be submitted by the council on its own motion to the voters at any city election. Upon receipt of a valid petition as defined in section 362.4 requesting that a proposal be submitted to the voters, the council shall submit the proposal at the next regular city election or at a special election called for that purpose before the next regular city election. However, the city council may dispense with such election as to the grant, amendment, extension, or renewal of an electric light and power, heating, or gasworks franchise unless there is a valid petition requesting submission of the proposal to the voters, or the party seeking such franchise, grant, amendment, extension, or renewal requests an election. If a majority of those voting approves the proposal, the city may proceed as proposed. The complete text of the ordinance shall be included on the ballot if conventional paper ballots are used. If an electronic optical scan voting system or voting machine is used, the proposal shall be stated on the optical scan ballot and on the machine, and the full text of the ordinance posted for the voters pursuant to section 52.25. All absentee voters shall receive the full text of the ordinance.

Approved May 25, 2007

CHAPTER 191

CIVIL RIGHTS — SEXUAL ORIENTATION OR GENDER IDENTITY $S.F.\ 427$

AN ACT relating to the Iowa civil rights act and discrimination based upon a person's sexual orientation or gender identity.

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

Section 1. Section 216.2, Code 2007, is amended by adding the following new subsections: <u>NEW SUBSECTION</u>. 9A. "Gender identity" means a gender-related identity of a person, regardless of the person's assigned sex at birth.

<u>NEW SUBSECTION</u>. 12A. "Sexual orientation" means actual or perceived heterosexuality, homosexuality, or bisexuality.

- Sec. 2. Section 216.5, subsections 6 and 8, Code 2007, are amended to read as follows:
- 6. To issue such publications and reports of investigations and research as in the judgment of the commission shall tend to promote goodwill among the various racial, religious, and ethnic groups of the state and which shall tend to minimize or eliminate discrimination in public accommodations, employment, apprenticeship and on-the-job training programs, vocational schools, or housing because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, ancestry, or disability.

- 8. To make recommendations to the general assembly for such further legislation concerning discrimination because of race, creed, color, sex, <u>sexual orientation</u>, <u>gender identity</u>, national origin, religion, ancestry, or disability as it may deem necessary and desirable.
- Sec. 3. Section 216.6, subsection 1, paragraphs a, b, and c, Code 2007, are amended to read as follows:
- a. Person to refuse to hire, accept, register, classify, or refer for employment, to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such applicant or employee, unless based upon the nature of the occupation. If a person with a disability is qualified to perform a particular occupation, by reason of training or experience, the nature of that occupation shall not be the basis for exception to the unfair or discriminating practices prohibited by this subsection.
- b. Labor organization or the employees, agents, or members thereof to refuse to admit to membership any applicant, to expel any member, or to otherwise discriminate against any applicant for membership or any member in the privileges, rights, or benefits of such membership because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability of such applicant or member.
- c. Employer, employment agency, labor organization, or the employees, agents, or members thereof to directly or indirectly advertise or in any other manner indicate or publicize that individuals of any particular age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability are unwelcome, objectionable, not acceptable, or not solicited for employment or membership unless based on the nature of the occupation. If a person with a disability is qualified to perform a particular occupation by reason of training or experience, the nature of that occupation shall not be the basis for exception to the unfair or discriminating practices prohibited by this subsection.

An employer, employment agency, or their employees, servants, or agents may offer employment or advertise for employment to only persons with disabilities, when other applicants have available to them other employment compatible with their ability which would not be available to persons with disabilities because of their disabilities. Any such employment or offer of employment shall not discriminate among persons with disabilities on the basis of race, color, creed, sex, sexual orientation, gender identity, or national origin.

- Sec. 4. Section 216.6, subsection 6, paragraph d, Code 2007, is amended to read as follows: d. Any bona fide religious institution or its educational facility, association, corporation, or society with respect to any qualifications for employment based on religion, sexual orientation, or gender identity when such qualifications are related to a bona fide religious purpose. A religious qualification for instructional personnel or an administrative officer, serving in a supervisory capacity of a bona fide religious educational facility or religious institution, shall be presumed to be a bona fide occupational qualification.
- Sec. 5. Section 216.7, subsection 1, paragraphs a and b, Code 2007, are amended to read as follows:
- a. To refuse or deny to any person because of race, creed, color, sex, <u>sexual orientation</u>, <u>gender identity</u>, national origin, religion, or disability the accommodations, advantages, facilities, services, or privileges thereof, or otherwise to discriminate against any person because of race, creed, color, sex, <u>sexual orientation</u>, <u>gender identity</u>, national origin, religion, or disability in the furnishing of such accommodations, advantages, facilities, services, or privileges.
- b. To directly or indirectly advertise or in any other manner indicate or publicize that the patronage of persons of any particular race, creed, color, sex, <u>sexual orientation</u>, <u>gender identity</u>, national origin, religion, or disability is unwelcome, objectionable, not acceptable, or not solicited.
 - Sec. 6. Section 216.7, subsection 2, paragraph a, Code 2007, is amended to read as follows: a. Any bona fide religious institution with respect to any qualifications the institution may

impose based on religion, sexual orientation, or gender identity when such qualifications are related to a bona fide religious purpose.

- Sec. 7. Section 216.8, subsections 1 through 4, Code 2007, are amended to read as follows: 1. To refuse to sell, rent, lease, assign, sublease, refuse to negotiate, or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion, or interest therein, to any person because of the race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status of such person.
- 2. To discriminate against any person because of the person's race, color, creed, sex, <u>sexual orientation</u>, <u>gender identity</u>, religion, national origin, disability, or familial status, in the terms, conditions, or privileges of the sale, rental, lease assignment, or sublease of any real property or housing accommodation or any part, portion, or interest in the real property or housing accommodation or in the provision of services or facilities in connection with the real property or housing accommodation.

For purposes of this section, "person" means one or more individuals, corporations, partner-ships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.

- 3. To directly or indirectly advertise, or in any other manner indicate or publicize that the purchase, rental, lease, assignment, or sublease of any real property or housing accommodation or any part, portion, or interest therein, by persons of any particular race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status is unwelcome, objectionable, not acceptable, or not solicited.
- 4. To discriminate against the lessee or purchaser of any real property or housing accommodation or part, portion, or interest of the real property or housing accommodation, or against any prospective lessee or purchaser of the property or accommodation, because of the race, color, creed, religion, sex, sexual orientation, gender identity, disability, age, or national origin of persons who may from time to time be present in or on the lessee's or owner's premises for lawful purposes at the invitation of the lessee or owner as friends, guests, visitors, relatives, or in any similar capacity.
 - Sec. 8. Section 216.8A, subsections 1 and 2, Code 2007, are amended to read as follows:
- 1. A person shall not induce or attempt to induce another person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of a particular race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status.
- 2. A person shall not represent to a person of a particular race, color, creed, sex, <u>sexual orientation</u>, <u>gender identity</u>, religion, national origin, disability, or familial status that a dwelling is not available for inspection, sale, or rental when the dwelling is available for inspection, sale, or rental.
- Sec. 9. Section 216.8A, subsection 4, paragraph a, Code 2007, is amended to read as follows:
- a. A person whose business includes engaging in residential real estate related transactions shall not discriminate against a person in making a residential real estate related transaction available or in terms or conditions of a residential real estate related transaction because of race, color, creed, sex, <u>sexual orientation</u>, <u>gender identity</u>, religion, national origin, disability, or familial status.
 - Sec. 10. Section 216.8A, subsection 5, Code 2007, is amended to read as follows:
- 5. A person shall not deny another person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in terms or conditions of access, membership, or participation in such organization because

of race, color, creed, sex, <u>sexual orientation</u>, <u>gender identity</u>, religion, national origin, disability, or familial status.

Sec. 11. Section 216.9, unnumbered paragraph 1, Code 2007, is amended to read as follows:

It is an unfair or discriminatory practice for any educational institution to discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability in any program or activity. Such discriminatory practices shall include but not be limited to the following practices:

Sec. 12. Section 216.9, unnumbered paragraph 2, Code 2007, is amended to read as follows:

For the purpose of this section, "educational institution" includes any preschool, elementary, secondary, or community college, area education agency, or postsecondary college or university and their governing boards. This section does not prohibit an educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes so long as comparable facilities are provided. Nothing in this section shall be construed as prohibiting any bona fide religious institution from imposing qualifications based on religion, sexual orientation, or gender identity when such qualifications are related to a bona fide religious purpose or any institution from admitting students of only one sex.

Sec. 13. Section 216.10, Code 2007, is amended to read as follows:

216.10 UNFAIR CREDIT PRACTICES.

It shall be an unfair or discriminatory practice for any:

- 1. Creditor to refuse to enter into a consumer credit transaction or impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, <u>sexual orientation</u>, <u>gender identity</u>, physical disability, or familial status.
- 2. Person authorized or licensed to do business in this state pursuant to chapter 524, 533, 534, 536, or 536A to refuse to loan or extend credit or to impose terms or conditions more onerous than those regularly extended to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical disability, or familial status.
- 3. Creditor to refuse to offer credit life or health and accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability, sex, sexual orientation, gender identity, or familial status. Refusal by a creditor to offer credit life or health and accident insurance based upon the age or physical disability of the consumer shall not be an unfair or discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited by title XIII, subtitle 1.

The provisions of this section shall not be construed by negative implication or otherwise to narrow or restrict any other provisions of this chapter.

- Sec. 14. Section 216.12, subsection 1, Code 2007, is amended to read as follows:
- 1. Any bona fide religious institution with respect to any qualifications it may impose based on religion, sexual orientation, or gender identity, when the qualifications are related to a bona fide religious purpose unless the religious institution owns or operates property for a commercial purpose or membership in the religion is restricted on account of race, color, or national origin.
 - Sec. 15. Section 216.12A, Code 2007, is amended to read as follows:
 - 216.12A ADDITIONAL HOUSING EXCEPTION.

Sections 216.8 and 216.8A do not prohibit a person engaged in the business of furnishing appraisals of real estate from taking into consideration factors other than race, color, creed,

sex, <u>sexual orientation</u>, <u>gender identity</u>, religion, national origin, disability, or familial status in appraising real estate.

Sec. 16. NEW SECTION. 216.21 CONSTRUCTION OF CHAPTER.

This chapter shall not be construed to allow marriage between persons of the same sex, in accordance with chapter 595.

Approved May 25, 2007

CHAPTER 192

RECOGNITION AND ENFORCEMENT OF FOREIGN OR TRIBAL JUDGMENTS

S.F. 430

AN ACT relating to a civil judgment, decree, or order of a court of a federally recognized Indian tribe and including an applicability provision.

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

Section 1. Section 624.24, Code 2007, is amended to read as follows: 624.24 WHEN JUDGMENT LIEN ATTACHES.

When the real estate lies in the county wherein the judgment of the district court of this state or of the circuit or district courts of the United States was entered in the judgment docket and lien index kept by the clerk of the court having jurisdiction, the lien shall attach from the date of such entry of judgment, but if in another it will not attach until an attested copy of the judgment is filed in the office of the clerk of the district court of the county in which the real estate lies except for foreign judgments pursuant to chapters 626A and 626B and tribal judgments as defined in section 626D.2, which shall not attach until an appeal is concluded, the time for the appeal has expired, or the stay of execution has expired or was vacated pursuant to section 626A.4, 626B.3, 626B.5, or 626D.7. In such cases, the lien shall attach on the date the clerk of court files an attested copy of the judgment in the office of the clerk of the district court of the county in which the real estate lies in any of the following circumstances:

- 1. The foreign or tribal judgment has not been appealed and the time for filing an appeal has expired.
- 2. The foreign or tribal judgment has been appealed and the judgment has been affirmed on appeal and is not subject to further appeal.
- 3. An appeal from a foreign or tribal judgment has been filed and a stay from such judgment has not been granted by the district court to the appealing party.
- Sec. 2. Section 626A.3, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 4. The filing of a foreign judgment under this chapter shall not create a lien upon any real estate until after the expiration of the time provided for in this chapter for challenging the conclusiveness of the foreign judgment and pursuant to section 624.24.
 - Sec. 3. Section 626B.6, Code 2007, is amended to read as follows: 626B.6 OTHER FOREIGN JUDGMENTS.
- $\underline{1}$. This chapter does not prevent the recognition of a foreign judgment by a court of this state in a situation not specifically covered in this chapter.

2. The filing of a foreign judgment shall not create a lien upon any real estate until all challenges, if any, to the conclusiveness of the foreign judgment are concluded pursuant to section 626B.3. Upon final determination of the conclusiveness of the foreign judgment, such judgment shall constitute a lien on real estate pursuant to section 624.24.

Sec. 4. NEW SECTION. 626D.1 TITLE.

This chapter shall be cited as the "Recognition and Enforcement of Tribal Court Civil Judgments Act".

Sec. 5. NEW SECTION. 626D.2 DEFINITIONS.

As used in this chapter:

- 1. "Tribal court" means any court of any Indian or Alaska native tribe, band, nation, pueblo, village, or community that the United States secretary of the interior recognizes as an Indian tribe.
- 2. "Tribal judgment" means a written, civil judgment, order, or decree of a tribal court of record duly authenticated in accordance with the laws and procedures of the tribe or tribal court of record and in accordance with this chapter. For purposes of this subsection, a "tribal court of record" is considered a court of record if the court maintains a permanent record of the tribal court's proceedings, maintains either a transcript or electronic record of the tribal court's proceedings, and provides that a final judgment of a tribal court is reviewable on appeal.

Sec. 6. NEW SECTION. 626D.3 FILING PROCEDURES.

- 1. A copy of any tribal judgment may be filed in the office of the clerk of court in any county in this state.
- 2. The person filing the tribal judgment shall make and file with the clerk of court an affidavit setting forth the name and last known address of the party seeking enforcement and the responding party. Upon the filing of the tribal judgment and accompanying affidavit, the enforcing party shall serve upon the responding party a notice of filing of the tribal judgment together with a copy of the tribal judgment in accordance with rule 1.442 of the Iowa rules of civil procedure. The enforcing party shall file proof of service or mailing with the clerk of court. The notice of filing shall include the name and address of the enforcing party and the enforcing party's attorney, if any, and shall include the text contained in sections 626D.4 and 626D.5.
- 3. The filing of a tribal judgment shall not create a lien upon any real estate until such time as all challenges, if any, to the recognition and enforcement of the tribal judgment are concluded pursuant to sections 626D.4 and 626D.5. Upon a final and conclusive determination of enforceability of the tribal judgment, the judgment shall constitute a lien upon real estate pursuant to section 624.24.

Sec. 7. NEW SECTION. 626D.4 RESPONSES.

Any objection to the enforcement of a tribal judgment shall be filed within thirty days of receipt of the mailing of the notice of filing the tribal judgment. If an objection is filed within such time period, the court shall set a time period for a formal response to the objection and may set the matter for hearing.

Sec. 8. NEW SECTION. 626D.5 RECOGNITION AND ENFORCEMENT OF TRIBAL JUDGMENTS.

- 1. Unless objected to pursuant to section 626D.4, a tribal judgment shall be recognized and enforced by the courts of this state to the same extent and with the same effect as any judgment, order, or decree of a court of this state.
- 2. If no objections are timely filed, the clerk shall issue a certification that no objections were timely filed and the tribal judgment shall be enforceable in the same manner as if issued by a valid court of this state.
- 3. A tribal judgment shall not be recognized and enforced if the objecting party demonstrates by a preponderance of the evidence at least one of the following:

- a. The tribal court did not have personal or subject matter jurisdiction.
- b. A party was not afforded due process.
- 4. The court may recognize and enforce or decline to recognize and enforce a tribal judgment on equitable grounds for any of the following reasons:
 - a. The tribal judgment was obtained by extrinsic fraud.
- b. The tribal judgment conflicts with another filed judgment that is entitled to recognition in this state.
- c. The tribal judgment is inconsistent with the parties' contractual choice of forum provided the contractual choice of forum issue was timely raised in the tribal court.
- d. The tribal court does not recognize and enforce judgments of the courts of this state under standards similar to those provided in this chapter.
- e. The cause of action or defense upon which the tribal judgment is based is repugnant to the fundamental public policy of the United States or this state.

Sec. 9. <u>NEW SECTION</u>. 626D.6 STAY — BOND REQUIREMENT ON APPEAL.

- 1. If the objecting party demonstrates to the court that an appeal from the tribal judgment is pending or will be taken or that a stay of execution has been granted, the court may stay enforcement of the tribal judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.
- 2. If a party appeals a district court's ruling on the recognition and enforcement of a tribal judgment, the court, upon application of the opposing party, shall require the same security for satisfaction of the judgment which is required in this state.

Sec. 10. NEW SECTION. 626D.7 CONTACTING COURTS.

The district court, after notice to the parties, may attempt to resolve any issues raised regarding a tribal judgment pursuant to section 626D.3 or 626D.5, by contacting the tribal court judge who issued the judgment.

Sec. 11. NEW SECTION. 626D.8 APPLICABILITY.

This chapter shall govern the procedures for the recognition and enforcement by the courts of this state of a civil judgment, order, or decree issued by a tribal court of any federally recognized Indian tribe emanating from a cause of action that accrued on or after the effective date of this Act. The date that a cause of action accrues shall be determined under the appropriate laws of this state. This chapter does not impair the right of a party to seek enforcement under any other existing laws or procedures.

Approved	May	25,	2007
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CHAPTER 193

REGULATION OF PHARMACY BENEFITS MANAGERS

S.F. 512

AN ACT relating to the regulation of pharmacy benefits managers and making penalties applicable, and providing an effective date.

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

Section 1. NEW SECTION. 510B.1 DEFINITIONS.

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

1. "Commissioner" means the commissioner of insurance.

- 2. "Covered entity" means a nonprofit hospital or medical services corporation, health insurer, health benefit plan, or health maintenance organization; a health program administered by a department or the state in the capacity of provider of health coverage; or an employer, labor union, or other group of persons organized in the state that provides health coverage. "Covered entity" does not include a self-funded health coverage plan that is exempt from state regulation pursuant to the federal Employee Retirement Income Security Act of 1974 (ERISA), as codified at 29 U.S.C. § 1001 et seq., a plan issued for health coverage for federal employees, or a health plan that provides coverage only for accidental injury, specified disease, hospital indemnity, Medicare supplemental, disability income, or long-term care, or other limited benefit health insurance policy or contract.
- 3. "Covered individual" means a member, participant, enrollee, contract holder, policyholder, or beneficiary of a covered entity who is provided health coverage by the covered entity, and includes a dependent or other person provided health coverage through a policy, contract, or plan for a covered individual.
- 4. "Generic drug" means a chemically equivalent copy of a brand-name drug with an expired patent.
- 5. "Labeler" means a person that receives prescription drugs from a manufacturer or whole-saler and repackages those drugs for later retail sale and that has a labeler code from the federal food and drug administration pursuant to 21 C.F.R. § 207.20.
 - 6. "Pharmacy" means pharmacy as defined in section 155A.3.
- 7. "Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a covered entity under the terms and conditions of the contract between the pharmacy benefits manager and the covered entity.
- 8. "Pharmacy benefits manager" means a person who performs pharmacy benefits management services. "Pharmacy benefits manager" includes a person acting on behalf of a pharmacy benefits manager in a contractual or employment relationship in the performance of pharmacy benefits management services for a covered entity. "Pharmacy benefits manager" does not include a health insurer licensed in the state if the health insurer or its subsidiary is providing pharmacy benefits management services exclusively to its own insureds, or a public self-funded pool or a private single employer self-funded plan that provides such benefits or services directly to its beneficiaries.
 - 9. "Prescription drug" means prescription drug as defined in section 155A.3.
 - 10. "Prescription drug order" means prescription drug order as defined in section 155A.3.

Sec. 2. <u>NEW SECTION</u>. 510B.2 CERTIFICATION AS A THIRD-PARTY ADMINISTRATOR REQUIRED.

A pharmacy benefits manager doing business in this state shall obtain a certificate as a third-party administrator under chapter 510, and the provisions relating to a third-party administrator pursuant to chapter 510 shall apply to a pharmacy benefits manager.

Sec. 3. NEW SECTION. 510B.3 ENFORCEMENT — RULES.

- 1. The commissioner shall enforce the provisions of this chapter.
- 2. The commissioner shall adopt rules pursuant to chapter 17A to administer this chapter including rules relating to all of the following:
 - a. Timely payment of pharmacy claims.
- b. A process for adjudication of complaints and settlement of disputes between a pharmacy benefits manager and a licensed pharmacy related to pharmacy auditing practices, termination of pharmacy agreements, and timely payment of pharmacy claims.

Sec. 4. $\,$ NEW SECTION. 510B.4 PERFORMANCE OF DUTIES — GOOD FAITH — CONFLICT OF INTEREST.

1. A pharmacy benefits manager shall perform the pharmacy benefits manager's duties exercising good faith and fair dealing in the performance of its contractual obligations toward the covered entity.

- 2. A pharmacy benefits manager shall notify the covered entity in writing of any activity, policy, practice ownership interest, or affiliation of the pharmacy benefits manager that presents any conflict of interest.
- Sec. 5. <u>NEW SECTION</u>. 510B.5 CONTACTING COVERED INDIVIDUAL REQUIREMENTS

A pharmacy benefits manager, unless authorized pursuant to the terms of its contract with a covered entity, shall not contact any covered individual without the express written permission of the covered entity.

- Sec. 6. <u>NEW SECTION</u>. 510B.6 DISPENSING OF SUBSTITUTE PRESCRIPTION DRUG FOR PRESCRIBED DRUG.
- 1. The following provisions shall apply when a pharmacy benefits manager requests the dispensing of a substitute prescription drug for a prescribed drug to a covered individual:
- a. The pharmacy benefits manager may request the substitution of a lower priced generic and therapeutically equivalent drug for a higher priced prescribed drug.
- b. If the substitute drug's net cost to the covered individual or covered entity exceeds the cost of the prescribed drug, the substitution shall be made only for medical reasons that benefit the covered individual.
- 2. A pharmacy benefits manager shall obtain the approval of the prescribing practitioner prior to requesting any substitution under this section.
- 3. A pharmacy benefits manager shall not substitute an equivalent prescription drug contrary to a prescription drug order that prohibits a substitution.
 - Sec. 7. NEW SECTION. 510B.7 DUTIES TO PHARMACY NETWORK PROVIDERS.
- 1. A pharmacy benefits manager shall not mandate basic recordkeeping that is more stringent than that required by state or federal law or regulation.
- 2. If a pharmacy benefits manager receives notice from a covered entity of termination of the covered entity's contract, the pharmacy benefits manager shall notify, within ten working days of the notice, all pharmacy network providers of the effective date of the termination.
- 3. Within three business days of a price increase notification by a manufacturer or supplier, a pharmacy benefits manager shall adjust its payment to the pharmacy network provider consistent with the price increase.
- Sec. 8. PHARMACY BENEFITS MANAGER LEGISLATIVE INTERIM COMMITTEE. The legislative council is requested to establish a legislative interim committee on pharmacy benefits managers to review all of the following:
- 1. Transparency and disclosure arrangements between pharmacy benefits managers and covered entities.
- 2. Confidentiality protections for information disclosed to covered entities and remedies for unauthorized disclosure.
 - 3. The ability of covered entities to audit pharmacy benefits managers.
- 4. Appropriate remedies for covered entities to enforce a provision of or for violation of a provision of chapter 510B, as enacted in this Act.
 - Sec. 9. EFFECTIVE DATE DIRECTIVE TO COMMISSIONER OF INSURANCE.
 - 1. This Act takes effect January 1, 2008.
- 2. Notwithstanding the effective date of this Act, the commissioner of insurance shall commence the process of developing proposed rules to implement and administer this Act beginning July 1, 2007.

CHAPTER 194

GAME BIRD HABITAT DEVELOPMENT PROGRAMS AND FUNDING

S.F. 558

AN ACT providing for an increase in the wildlife habitat fee, making an appropriation, and creating a game bird habitat development program.

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

Section 1.	Section 483A.1, subsection 1, paragraph q, Code 2007, is amen	ded to	read as fol-
lows:			
q. Wildlife	habitat fee	\$	8.00 <u>11.00</u>
Sec. 2. Se	ection 483A.1, subsection 2, paragraph r, Code 2007, is amend	ed to	read as fol-
lows:			
r. Wildlife	habitat fee	\$	8.00 11.00

Sec. 3. Section 483A.3, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 3. Notwithstanding subsections 1 and 2, any increase in revenues received on or after July 1, 2007, pursuant to this section as a result of fee increases pursuant to this Act, shall be used by the commission only for the purpose of the game bird habitat development program as provided in section 483A.3B. The commission shall not reduce on an annual basis for these purposes the amount of other funds being expended as of July 1, 2007.

Sec. 4. <u>NEW SECTION</u>. 483A.3B GAME BIRD HABITAT DEVELOPMENT PROGRAMS.

- 1. ALLOCATION OF REVENUE ACCOUNTS. All revenue collected from increases in wildlife habitat fees as provided in section 483A.3, subsection 3, that is deposited in the state fish and game protection fund shall be allocated as follows:
- a. Two dollars of each wildlife habitat fee collected shall be allocated to the game bird wetlands conservation account.
- b. One dollar of each wildlife habitat fee collected shall be allocated to the game bird buffer strip assistance account.
- c. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys collected from wildlife habitat fees that are deposited in each account created under this section shall be credited to that account. Notwithstanding section 8.33 or section 456A.17, moneys credited to each account created under this section shall not revert to the state general fund at the close of a fiscal year.
- d. All revenue generated by increases in the wildlife habitat fee as provided in section 483A.3, subsection 3, shall be used as provided in this section, except for that part which is specified by the department for use in paying administrative expenses as provided in section 456A.17.
 - 2. GAME BIRD WETLANDS CONSERVATION PROGRAM.
- a. All moneys allocated to the game bird wetlands conservation account shall be used by the department only to carry out the purposes of the game bird wetlands conservation program and shall be used in addition to funds already being expended by the department each year for wetlands conservation purposes.
- b. The purpose of the game bird wetlands conservation program is to create a sustained source of revenue to be used by the department to qualify for federal matching funds that are available for wetlands conservation and to undertake projects in conjunction with soil and water conservation districts, county conservation boards, and other partners that will aid in wetlands and associated habitat conservation in the state, including the acquisition, restoration, maintenance, or preservation of wetlands and associated habitat.

- c. (1) All moneys that are allocated to the game bird wetlands conservation account shall accumulate in the account until the account balance is equal to one million dollars or an amount sufficient to be used by the department to qualify for federal matching funds. Each time the account balance reaches an amount sufficient to be used by the department to qualify for federal matching funds, the department shall apply for such matching funds, and upon obtaining such funds, shall expend the state and federal revenues available at that time to undertake projects as set forth in paragraph "b".
- (2) Additional moneys that are generated by game bird wildlife habitat fees and allocated to the game bird wetlands conservation account shall again accumulate in the account, and each time the account balance is equal to one million dollars or an amount sufficient to be used by the department to qualify for federal matching funds, the department shall again apply for federal matching funds, and upon obtaining such funds, shall expend the state and federal revenues available at that time to undertake projects as set forth in paragraph "b".
- d. The department shall use all state revenue and federal matching funds obtained under the federal North American Wetlands Conservation Act to undertake the purposes of the game bird wetlands conservation program as set forth in paragraph "b". State revenue allocated to the account shall be used by the department only for projects that increase public recreational hunting opportunities in the state and shall not be used for projects on private land that is not accessible to the public for recreational hunting.
 - 3. GAME BIRD BUFFER STRIP ASSISTANCE PROGRAM.
- a. All moneys allocated to the game bird buffer strip assistance account shall be used by the department only to carry out the purposes of the game bird buffer strip assistance program and shall be used in addition to funds already being expended by the department each year for such purposes. The department shall not reduce the amount of other funds being expended for these purposes as of July 1, 2007.
- b. The purpose of the game bird buffer strip assistance program is to increase landowner participation in federally funded conservation programs that benefit game birds and to increase opportunities for recreational hunting on private lands. To the extent possible, moneys allocated to the game bird buffer strip assistance account shall be used in conjunction with and to qualify for additional funding from private conservation organizations and other state and federal agencies to accomplish the purposes of the program. The funds may be used to provide private landowners with cost-sharing assistance for habitat improvement practices on projects that are not eligible for federal programs or where federal funding for such projects is not adequate. The department may utilize the funds to provide marketing and outreach efforts to landowners in order to maximize landowners' use of federal conservation programs. The department may coordinate such marketing and outreach efforts with soil and water conservation districts and other partners.
- c. (1) All moneys that are allocated to the game bird buffer strip assistance account shall accumulate in the account for a period of three years. At the end of the three-year period, the moneys in the account shall be used by the department to carry out the purposes of the game bird buffer strip assistance program as set forth in paragraph "b". The department shall, by rule pursuant to chapter 17A, establish eligibility requirements for the program and procedures for applications for and approval of projects to be funded under the program. The department shall expend moneys from the account only for projects on private land that is accessible to the public for recreational hunting.
- (2) Additional moneys that are generated by game bird wildlife habitat fees and allocated to the game bird buffer strip assistance account shall accumulate in the account and shall be used by the department every three years as set forth in subparagraph (1).

CHAPTER 195

$\begin{array}{c} {\rm DANGEROUS~WILD~ANIMALS-}\\ {\rm POSSESSION,~OWNERSHIP,~TRANSPORTATION-PENALTIES} \end{array}$

S.F. 564

ANACT regulating dangerous wild animals, including their ownership and possession, requiring registration, providing for fees and appropriations, and providing penalties.

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

Section 1. NEW SECTION. 717F.1 DEFINITIONS.

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

- 1. "Agricultural animal" means the same as defined in section 717A.1.1
- 2. "Assistive animal" means the same as defined in section 216C.11.
- 3. a. "Circus" means a person who is all of the following:
- (1) The holder of a class "C" license issued by the United States department of agriculture as provided in 9 C.F.R., pt. 2, subpt. A.
- (2) Is temporarily in this state as an exhibitor as defined in 9 C.F.R., pt. 1, for purposes of providing skilled performances by dangerous wild animals, clowns, or acrobats for public entertainment.
- b. "Circus" does not include a person, regardless of whether the person is a holder of a class "C" license as provided in paragraph "a", who does any of the following:
- (1) Keeps a dangerous wild animal which is a member of the order carnivora within the family felidae or the family ursidae, as described in this section.
 - (2) Uses the dangerous wild animal for any of the following purposes:
 - (a) A presentation to children at a public or nonpublic school as defined in section 280.2.
- (b) Entertainment that involves an activity in which a member of the public is in close proximity to the dangerous wild animal, including but not limited to a contest or a photographic opportunity.²
- 4. "Custody" means to possess, control, keep, or harbor a dangerous wild animal in this state by a public agency.
 - 5. a. "Dangerous wild animal" means any of the following:
- (1) A member of the family canidae of the order carnivora, including but not limited to wolves, coyotes, and jackals. However, a dangerous wild animal does not include a domestic dog.
- (2) A member of the family hyaenidae of the order of carnivora, including but not limited to hyenas.
- (3) A member of the family felidae of the order carnivora, including but not limited to lions, tigers, cougars, leopards, cheetahs, ocelots, and servals. However, a dangerous wild animal does not include a domestic cat.
 - (4) A member of the family ursidae of the order carnivora, including bears and pandas.
 - (5) A member of the family rhinocero tidae order perissodactyla, which is a rhinoceros.
 - (6) A member of the order proboscidea, which are any species of elephant.
- (7) A member of the order of primates other than humans, and including the following families: callitrichiadae, cebidae, cercopithecidae, cheirogaleidae, daubentoniidae, galagonidae, hominidae, hylobatidae, indridae, lemuridae, loridae, megaladapidae, or tarsiidae. A member includes but is not limited to marmosets, tamarins, monkeys, lemurs, galagos, bushbabies, great apes, gibbons, lesser apes, indris, sifakas, and tarsiers.
- (8) A member of the order crocodilia, including but not limited to alligators, caimans, crocodiles, and gharials.
- (9) A member of the family varanidae of the order squamata, which are limited to water monitors and crocodile monitors.
 - (10) A member of the order squamata which is any of the following:

¹ See chapter 215, §118 herein

² See chapter 215, §119 herein

- (a) A member of the family varanidae, which are limited to water monitors and crocodile monitors.
- (b) A member of the family atractaspidae, including but not limited to mole vipers and burrowing asps.
- (c) A member of the family helodermatidae, including but not limited to beaded lizards and gila monsters.
- (d) A member of the family elapidae, voperidae, crotalidae, atractaspidae, or hydrophidae which are venomous, including but not limited to cobras, mambas, coral snakes, kraits, adders, vipers, rattlesnakes, copperheads, pit vipers, keelbacks, cottonmouths, and sea snakes.
- (e) A member of the superfamily henophidia, which are limited to reticulated pythons, anacondas, and African rock pythons.³
- b. "Dangerous wild animal" includes an animal which is the offspring of an animal provided in paragraph "a", and another animal provided in that paragraph or any other animal. It also includes animals which are the offspring of each subsequent generation. However, a dangerous wild animal does not include the offspring of a domestic dog and a wolf, or the offspring from each subsequent generation in which at least one parent is a domestic dog.
 - 6. "Department" means the department of agriculture and land stewardship.
- 7. "Electronic identification device" means a device which when installed is designed to store information regarding an animal or the animal's owner in a digital format which may be accessed by a computer for purposes of reading or manipulating the information.
- 8. "Possess" means to own, keep, or control a dangerous wild animal, or supervise or provide for the care and feeding of a dangerous wild animal, including any activity relating to confining, handling, breeding, transporting, or exhibiting the dangerous wild animal.
 - 9. "Public agency" means the same as defined in section 28E.2.
 - 10. "Research facility" means any of the following:
 - a. A federal research facility as provided in 9 C.F.R. ch. I.
- b. A research facility that is required to be registered by the United States department of agriculture pursuant to 9 C.F.R. ch. I.
- c. A research facility which is certified by the department of agriculture and land stewardship as provided in section 162.10.
- 11. "Wildlife sanctuary" means an organization exempt from taxation pursuant to section 501(c) of the Internal Revenue Code that operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wildlife are provided care for their lifetime, if all of the following apply:
- a. The organization does not buy, sell, trade, auction, lease, loan, or breed any animal of which the organization is an owner.
- b. The organization is accredited by the American sanctuary association, the association of sanctuaries, or another similar organization recognized by the department.
- Sec. 2. $\,$ NEW SECTION. 717F.2 RULEMAKING CHAPTER 28E AGREEMENTS ASSISTANCE OF ANIMAL WARDEN.
 - 1. The department shall administer this chapter by doing all of the following:
- a. Adopting rules as provided in chapter 17A for the administration and enforcement of this chapter.
- b. Entering into agreements with public agencies pursuant to chapter 28E as the department determines necessary for the administration and enforcement of this chapter.
- 2. An animal warden as defined in section 162.2 shall assist the department in seizing and maintaining custody of dangerous wild animals.
 - Sec. 3. <u>NEW SECTION</u>. 717F.3 DANGEROUS WILD ANIMALS PROHIBITIONS. Except as otherwise provided in this chapter, a person shall not do any of the following:
 - 1. Own or possess a dangerous wild animal.
- 2. Cause or allow a dangerous wild animal owned by a person or in the person's possession to breed.
 - 3. Transport a dangerous wild animal into this state.

³ See chapter 215, §120 herein

Sec. 4. <u>NEW SECTION</u>. 717F.4 OWNING OR POSSESSING DANGEROUS WILD ANIMALS ON THE EFFECTIVE DATE OF THIS ACT.

A person who owns or possesses a dangerous wild animal on the effective date of this Act may continue to own or possess the dangerous wild animal subject to all of the following:

- 1. The person must be eighteen years old or older.
- 2. a. The person must not have been convicted of an offense involving the abuse or neglect of an animal pursuant to a law of this state or another state, including but not limited to chapter 717, 717B, 717C, or 717D or an ordinance adopted by a city or county.
- b. The department, another state, or the federal government must not have suspended an application for a permit or license or revoked a permit or license required to operate a commercial establishment for the care, breeding, or sale of animals, including as provided in chapter 162.
- c. The person must not have been convicted of a felony for an offense committed within the last ten years, as provided by this Code, under the laws of another state, or under federal law.
- d. The person must not have been convicted of a misdemeanor or felony for an offense committed within the last ten years involving a controlled substance as defined in section 124.101 in this state, under the laws of another state, or under federal law.
- 3. Within sixty days after the effective date of this Act, the person must have an electronic identification device implanted beneath the skin or hide of the dangerous wild animal, unless a licensed veterinarian states in writing that the implantation would endanger the comfort or health of the dangerous wild animal. In such case, an electronic identification device may be otherwise attached to the dangerous wild animal as required by the department.
- 4. Not later than December 31, 2007, the person must notify the department using a registration form prepared by the department. The registration form shall include all of the following information:
 - a. The person's name, address, and telephone number.
- b. A sworn affidavit that the person meets the requirements necessary to own or possess a dangerous wild animal as provided in this section.
- c. A complete inventory of each dangerous wild animal which the person owns or possesses. The inventory shall include all of the following information:
 - (1) The number of the dangerous wild animals according to species.
- (2) The manufacturer and manufacturer's number of the electronic device implanted in or attached to each dangerous wild animal.
- (3) The location where each dangerous wild animal is kept. The person must notify the department in writing within ten days of a change of address or location where the dangerous wild animal is kept.
- (4) The approximate age, sex, color, weight, scars, and any distinguishing marks of each dangerous wild animal.
- (5) The name, business mailing address, and business telephone number of the licensed veterinarian who is responsible for providing care to the dangerous wild animal. The information shall include a statement signed by the licensed veterinarian certifying that the dangerous wild animal is in good health.
 - (6) A color photograph of the dangerous wild animal.
- (7) A copy of a current liability insurance policy as required in this section. The person shall send a copy of the current liability policy to the department each year.
 - 5. The person must pay the department a registration fee as provided in section 717F.8.
- 6. The person must maintain health and ownership records for the dangerous wild animal for the life of the dangerous wild animal.
- 7. The person must confine the dangerous wild animal in a primary enclosure as required by the department on the person's premises. The person must not allow the dangerous wild animal outside of the primary enclosure unless the dangerous wild animal is moved pursuant to any of the following:

- a. To receive veterinary care from a licensed veterinarian.
- b. To comply with the directions of the department or an animal warden.
- c. To transfer ownership and possession of the dangerous wild animal to a wildlife sanctuary or provide for its destruction by euthanasia as required by the department.
- 8. The person must display at least one sign on the person's premises where the dangerous wild animal is kept warning the public that the dangerous wild animal is confined there. The sign must include a symbol warning children of the presence of the dangerous wild animal.
- 9. The person must immediately notify an animal warden or other local law enforcement official of any escape of a dangerous wild animal.
- 10. The person must maintain liability insurance coverage in an amount of not less than one hundred thousand dollars with a deductible of not more than two hundred fifty dollars, for each occurrence of property damage, bodily injury, or death caused by each dangerous wild animal kept by the person.
- 11. The person who owns or possesses the dangerous wild animal is strictly liable for any damages, injury, or death caused by the dangerous wild animal. The person must reimburse the department or other public agency for actual expenses incurred by capturing and maintaining custody of the dangerous wild animal.
- 12. If the person is no longer able to care for the dangerous wild animal, all of the following apply:
- a. The person must so notify the department, stating the planned disposition of the dangerous wild animal.
- b. The person must dispose of the dangerous wild animal by transferring ownership and possession to a wildlife sanctuary or providing for its destruction by euthanasia as required by the department.

Sec. 5. <u>NEW SECTION</u>. 717F.5 SEIZURE, CUSTODY, AND DISPOSAL OF DANGER-OUS WILD ANIMALS.

- 1. a. Except as provided in paragraph "b", the department shall seize a dangerous wild animal which is in the possession of a person if the person is not in compliance with the requirements of this chapter.
- b. Upon request, the department may provide that the person retain possession of the dangerous wild animal for not more than fourteen days, upon conditions required by the department. During that period, the person shall take all necessary actions to comply with this chapter. The department shall inspect the premises where the dangerous wild animal is kept during reasonable times to ensure that the person is complying with the conditions.
- 2. If the person fails to comply with the conditions of the department at any time or is not in compliance with this chapter following the fourteen-day period, the department shall seize the dangerous wild animal.
- a. The dangerous wild animal shall be considered to be a threatened animal which has been rescued as provided in chapter 717B. The court may authorize the return of the dangerous wild animal to the person from whom the dangerous wild animal was seized if the court finds all of the following:
 - (1) The person is capable of providing the care required for the dangerous wild animal.
- (2) There is a substantial likelihood that the person will provide the care required for the dangerous wild animal.
- (3) The dangerous wild animal has not been abused, neglected, or tortured, as provided in chapter 717B.
- b. If the court orders a permanent disposition of the dangerous wild animal, the dangerous wild animal shall be subject to disposition as provided in section 717B.4 and the responsible party shall be assessed costs associated with its seizure, custody, and disposition as provided in that section. The department may find long-term placement for the dangerous wild animal with a wildlife sanctuary or institution accredited or certified by the American zoo and aquarium association.

Sec. 6. <u>NEW SECTION</u>. 717F.6 CAUSE OF THE ESCAPE OF A DANGEROUS WILD ANIMAL — PROHIBITION.

A person shall not intentionally cause a dangerous wild animal to escape from its place of confinement, including as provided in section 717F.4.

Sec. 7. NEW SECTION. 717F.7 EXEMPTIONS.

This chapter does not apply to any of the following:

- 1. An institution accredited or certified by the American zoo and aquarium association.
- 2. A wildlife sanctuary.
- 3. A person who⁴ has been issued a falconry license by the department of natural resources pursuant to section 483A.1.
- 4. A person who owns or possesses a dangerous wild animal as an agricultural animal. The person shall not transfer the dangerous wild animal to another person, unless the person to whom the dangerous wild animal is transferred will own or possess it as an agricultural animal or the person is a wildlife sanctuary.
- 5. A person who owns or possesses a dangerous wild animal as an assistive animal. The person shall not transfer the dangerous wild animal to another person, unless the person to whom the dangerous wild animal is transferred will own or possess it as an assistive animal or the person is a wildlife sanctuary.
- 6. A person who harvests the dangerous wild animal as a hunter or trapper pursuant to state law and as regulated by the department of natural resources.
- 7. A person who has been issued a wildlife rehabilitation permit by the department of natural resources pursuant to section 481A.65.
- 8. A circus that obtains a permit from a city in which it will be temporarily operating, if the city issues permits.
 - 9. A city.
- 10. A nonprofit corporation governed under chapter 504 that is an organization described in section 501(c)(3) of the Internal Revenue Code and that is exempt from taxation under section 501(a) of the Internal Revenue Code if the nonprofit corporation was a party to a contract executed with a city prior to the effective date of this Act to provide for the exhibition of dangerous wild animals at a municipal zoo. The nonprofit corporation shall not transfer the dangerous wild animal to another person, unless the person to whom the dangerous wild animal is transferred is a wildlife sanctuary.
 - 11. The state fair as provided in chapter 173 or any fair as provided in chapter 174.
 - 12. A research facility.
- 13. A location operated by a person licensed to practice veterinary medicine pursuant to chapter 169.5
 - 14. A pound as defined in section 162.2.
 - 15. An animal shelter as defined in section 162.2.
 - 16. A county conservation board as provided in chapter 350.
- 17. An employee of the department responsible for the administration of this chapter, an animal warden as defined in section 162.2, or an animal care provider or law enforcement officer as defined in section 717B.1.
- 18. A person temporarily transporting a dangerous wild animal through this state if the transit time is not more than ninety-six hours and the dangerous wild animal is maintained within a confined area sufficient to prevent its escape or injuring members of the traveling public.
- 19. A public agency which maintains permanent custody of a dangerous wild animal, if the person to whom the public agency assigns the duty to manage the custody of the dangerous wild animal complies with the provisions of section 717F.4.
 - 20. A person who keeps a dangerous wild animal pursuant to all of the following conditions:
- a. The person is licensed by the United States department of agriculture as provided in 9 C.F.R. ch. I.
- b. The person is registered by the department of agriculture and land stewardship. Upon a complaint filed with the department of agriculture and land stewardship, the department

⁴ See chapter 215, §121 herein

⁵ See chapter 215, §122 herein

may inspect the premises or investigate the practices of the registered person and suspend or revoke the registration for the same causes and in the same manner as provided in section 162.12.

Sec. 8. NEW SECTION. 717F.8 DANGEROUS WILD ANIMAL REGISTRATION FEES.

The department may charge a registration fee for each dangerous wild animal owned or possessed by a person required to be registered pursuant to section 717F.4.

- 1. The department shall collect an annual registration fee which is an original registration fee or a renewal of an original registration fee. The amount of the renewal registration fee is one-half of the amount of the original registration fee. Moneys collected in registration fees shall be deposited in the dangerous wild animal registration fund created in section 717F.9.
 - 2. The amount of the original registration fees shall be as follows:
- a. Five hundred dollars for a member of the order proboscidea, which are any species of elephant.
- b. Five hundred dollars for a member of the family rhinocero tidae order perissodactyla, which is a rhinoceros.
- c. Three hundred dollars for a member of the family ursidae of the order carnivora, which is limited to bears.
 - d. For a member of the family felidae of the order carnivora, all of the following:
- (1) Three hundred dollars for a member of the subfamily pantherinae, limited to leopards other than snow leopards, lions, and tigers; and for a member of the subfamily felinae limited to pumas, jaguars, and cougars.
- (2) Two hundred dollars for a member of the subfamily felinae limited to bobcats, clouded leopards, cheetahs, and lynx.
- (3) One hundred dollars for a member of the subfamily felinae limited to caracals, desert cats, Geoffroy's cats, jungle cats, margays, ocelots, servals, and wild cats.
 - e. For a member of the order of primates other than humans, all of the following:
- (1) Three hundred dollars for a member commonly referred to as an ape, belonging to the hylobatidae family such as gibbons and siamangs, or to the pongidae family including gorillas, orangutans, or chimpanzees.
- (2) One hundred fifty dollars for a member commonly referred to as an old world monkey, belonging to the family cercopithecidae, including but not limited to macaques, rhesus, mangabeys, mandrills, guenons, patas monkeys, langurs, and proboscis monkeys.
- (3) Fifty dollars for a member commonly referred to as a new world monkey belonging to the family cebidae, including but not limited to cebids, including capuchin monkeys, howlers, woolly monkeys, squirrel monkeys, night monkeys, titis, uakaris, or to the family callitrichidae, including but not limited to marmosets and tamarins.
- f. One hundred dollars for a member of the order crocodilia, including but not limited to alligators, caimans, crocodiles, and gharials.
- g. Fifty dollars for a member of the family varanidae of the order squamata, which are limited to water monitors and crocodile monitors.
- h. Fifty dollars for a member of the family atractaspidae, including but not limited to mole vipers and burrowing asps.
- i. Fifty dollars for a member of the family helodermatidae, including but not limited to beaded lizards and gila monsters.
- j. Fifty dollars for a member of the family elapidae, voperidae, crotalidae, atractaspidae, or hydrophidae which are venomous, including but not limited to cobras, mambas, coral snakes, kraits, adders, vipers, rattlesnakes, copperheads, pit vipers, keelbacks, cottonmouths, and sea snakes.
- k. One hundred dollars for a member of the superfamily henophidia, which are limited to reticulated pythons, anacondas, and African rock pythons.⁶

Sec. 9. NEW SECTION. 717F.9 DANGEROUS WILD ANIMAL REGISTRATION FUND.

1. A dangerous wild animal registration fund is created in the state treasury under the con-

⁶ See chapter 215, §123 herein

trol 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 registration fees collected by the department pursuant to section 717F.8.

- 2. Moneys in the dangerous wild animal registration fund are appropriated to the department exclusively to administer and enforce the provisions of this chapter. The moneys shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this subsection.
- 3. Section 8.33 shall not apply to moneys in the dangerous wild animal registration 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. 10. NEW SECTION. 717F.10 ENFORCEMENT.

The department is the principal agency charged with enforcing the provisions of this chapter. An animal warden as defined in section 162.2, or an animal care provider or law enforcement officer as defined in section 717B.1, shall enforce this chapter as directed by the department.

Sec. 11. NEW SECTION. 717F.11 CIVIL PENALTY.

A person owning or possessing a dangerous wild animal who violates a provision of this chapter is subject to a civil penalty of not less than two hundred dollars and not more than two thousand dollars for each dangerous wild animal involved in the violation. Each day that a violation continues shall be considered as a separate offense. The civil penalties shall be deposited into the general fund of the state.

Sec. 12. NEW SECTION. 717F.12 INJUNCTIVE RELIEF.

The courts of this state may prevent and restrain violations of this chapter through the issuance of an injunction. The attorney general or a county attorney may institute suits on behalf of the state to prevent and restrain violations of this chapter.

Sec. 13. <u>NEW SECTION</u>. 717F.13 CRIMINAL PENALTIES.

A person who intentionally causes a dangerous wild animal to escape in violation of this chapter is guilty of an aggravated misdemeanor.

Sec. 14. INTENT OF THE GENERAL ASSEMBLY — ELIMINATION OF FULL-TIME EQUIVALENT POSITIONS. It is the intent of the general assembly that any additional full-time equivalent positions authorized to be filled by the department of agriculture and land stewardship relating to the regulation of persons required to register with the department as a condition of owning or possessing a dangerous wild animal pursuant to section 717F.4, as enacted in this Act, be eliminated once the regulation is no longer necessary.

Approved May 25, 2007

CHAPTER 196

JUDICIAL BRANCH PRACTICES AND PROCEDURES — DRIVER'S LICENSES, INSTALLMENT PAYMENT AGREEMENTS, AND COURT REVENUE DISTRIBUTION

H.F. 641

AN ACT relating to judicial branch practices and procedures, including issuance of a driver's license when delinquent on court obligations or after suspension or revocation, and distribution of court revenue to cities and counties, and the state, and including applicability provisions.

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

Section 1. Section 321.210A, Code 2007, is amended by adding the following new subsection:

<u>NEW SUBSECTION</u>. 4. If after suspension, the person enters into an installment agreement with the county attorney in accordance with section 321.210B to pay the fine, penalty, court cost, or surcharge, the person's license shall be reinstated by the department upon receipt of a report of an executed installment agreement.

Sec. 2. NEW SECTION. 321.210B INSTALLMENT AGREEMENT.

- 1. If a person's fine, penalty, surcharge, or court cost is deemed delinquent as provided in section 602.8107, subsection 3, and the person's driver's license has been suspended pursuant to section 321.210A, the person may execute an installment agreement with the county attorney or the county attorney's designee to pay the delinquent amount and the fee assessed in subsection 7 in installments. Prior to execution of the installment agreement, the person shall provide the county attorney or the county attorney's designee with a financial statement in order for the parties to the agreement to determine the amount of the installment payments.
- 2. A person shall execute an installment agreement in the county where the fine, penalty, surcharge, or court cost was imposed. If the county where the fine, penalty, surcharge, or court cost was imposed does not have an installment agreement program, the person shall execute an installment agreement in the person's county of residence. If the county of residence does not have an installment agreement program, the person may execute an installment agreement with any county attorney or county attorney's designee.
- 3. The county attorney or the county attorney's designee shall file the installment agreement with the clerk of the district court in the county where the fine, penalty, surcharge, or court cost was imposed, within five days of execution of the agreement.
- 4. Upon receipt of an executed installment agreement and after the first installment payment, the clerk of the district court shall report the receipt of the executed installment agreement to the department of transportation.
- 5. Upon receipt of the report from the clerk of the district court and payment of the reinstatement fee as provided in section 321.191, the department shall immediately reinstate the driver's license of the person unless the driver's license of the person is otherwise suspended, revoked, denied, or barred under another provision of law.
- 6. If a driver's license is reinstated upon receipt of a report of an executed installment agreement the driver shall provide proof of financial responsibility pursuant to section 321A.17, if otherwise required by law.
- 7. The civil penalty, if assessed pursuant to section 321.218A, shall be added to the amount owing under the installment agreement. The clerk of the district court shall transmit to the department, from the first moneys collected, an amount equal to the amount of any civil penalty assessed and added to the installment agreement. The department shall transmit the money received from the clerk of the district court pursuant to this subsection to the treasurer of state for deposit in the juvenile detention home fund created in section 232.142.
 - 8. Upon determination by the county attorney or the county attorney's designee that the per-

son is in default, the county attorney or the county attorney's designee shall notify the clerk of the district court.

- 9. The clerk of the district court, upon receipt of a notification of a default from the county attorney or the county attorney's designee, shall report the default to the department of transportation.
- 10. Upon receipt of a report of a default from the clerk of the district court, the department shall suspend the driver's license of a person as provided in section 321.210A. For purposes of suspension and reinstatement of the driver's license of a person in default, the suspension and any subsequent reinstatement shall be considered a suspension pursuant to section 321.210A.
- 11. If a new fine, penalty, surcharge, or court cost is imposed on a person after the person has executed an installment agreement with the county attorney or the county attorney's designee, and the new fine, penalty, surcharge, or court cost is deemed delinquent as provided in section 602.8107, subsection 3, and the person's driver's license has been suspended pursuant to section 321.210A, the person may enter into a second installment agreement with the county attorney or county attorney's designee to pay the delinquent amount and the fee, if assessed, in subsection 7 in installments.
- 12. If an installment agreement is in default, the fine, penalty, surcharge, or court cost covered under the agreement shall not become part of any new installment agreement.
 - 13. A person is eligible to enter into five installment agreements in the person's lifetime.
- 14. Except for the civil penalty if assessed and collected pursuant to subsection 7, any amount collected under the installment agreement shall be distributed as provided in section 602.8107, subsection 4.
- Sec. 3. Section 321.215, subsection 1, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. f. The person's appointments with the person's parole or probation officer.

- Sec. 4. Section 321.210C, Code 2007, is amended to read as follows: 321.210C PROBATION PERIOD.
- 1. A person whose driver's license or operating privileges have been suspended, revoked, or barred under this chapter 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 a second 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.
- 2. A person whose driver's license or operating privileges have been revoked under chapter 321J, must satisfactorily complete a twelve-month probation period beginning immediately after the end of the period of revocation. Upon conviction of a moving traffic violation which occurs during the probation period, the department may revoke the driver's license or operating privileges for an additional period equal in duration to the original period of revocation, or for one year, whichever is the shorter period.
- 3. For purposes of determining a conviction under this section, the department shall not consider the first two speeding violations within the probation period that are ten miles per hour or less over the legal speed limit in speed zones having a legal speed limit between thirty-four miles per hour and fifty-six miles per hour.
 - Sec. 5. Section 321.218A, Code 2007, is amended to read as follows: 321.218A CIVIL PENALTY DISPOSITION REINSTATEMENT.

When the department suspends, revokes, or bars a person's driver's license or nonresident operating privilege for a conviction under this chapter, the department shall assess the person

a civil penalty of two hundred dollars. However, for persons age nineteen or under, the civil penalty assessed shall be fifty dollars. The civil penalty does not apply to a suspension issued for a violation of section 321.180B. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in the juvenile detention home fund created in section 232.142. A Except as provided in section 321.210B, a temporary restricted license shall not be issued or a driver's license or nonresident operating privilege reinstated until the civil penalty has been paid.

Sec. 6. Section 321J.20, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The department may, on application, issue a temporary restricted license to a person whose noncommercial driver's license is revoked under this chapter allowing the person to drive to and from the person's home and specified places at specified times which can be verified by the department and which are required by the person's full-time or part-time employment, continuing health care or the continuing health care of another who is dependent upon the person, continuing education while enrolled in an educational institution on a part-time or full-time basis and while pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion, substance abuse treatment, and court-ordered community service responsibilities, and appointments with the person's parole or probation officer if the person's driver's license has not been revoked previously under section 321J.4, 321J.9, or 321J.12 and if any of the following apply:

- Sec. 7. Section 331.756, subsection 5, Code 2007, is amended to read as follows:
- 5. <u>a.</u> Enforce all forfeited bonds and recognizances and prosecute all proceedings necessary for the recovery of debts, revenues, moneys, fines, penalties, restitution of court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, and forfeitures accruing to the state, the county or a road district in the county, and all suits in the county against public service corporations which are brought in the name of the state. To assist in this duty, the county attorney may procure professional collection services provided by persons or organizations, including private attorneys, which are generally considered to have knowledge and special abilities which are not generally available to state or local government or may designate another county official or agency a designee to assist with collection efforts.
- <u>b.</u> If <u>the designee is a professional collection services are procured agency</u>, the county attorney shall file with the clerk of the district court an indication of the satisfaction of each obligation to the full extent of all moneys collected in satisfaction of that obligation, including all fees and compensation retained by the <u>collection service designee</u> incident to the collection and not paid into the office of the clerk.
- <u>c.</u> Before a county attorney designates another county official or agency to assist with collection of debts, revenues, moneys, fines, penalties, restitution of court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, and forfeitures, the board of supervisors of the county must approve the designation.
- <u>d.</u> All fines, penalties, court costs, fees, and restitution for court-appointed attorney fees ordered pursuant to section 815.9, including the expenses of a public defender which are delinquent as defined in section 602.8107 may be collected by the county attorney or the <u>person procured or designated by the county attorney county attorney's designee</u>. The county attorney or the county attorney's designee may collect delinquent obligations under an installment agreement pursuant to section 321.210B.
- e. In order to receive a percentage of the amounts collected pursuant to section 602.8107, the county attorney must file annually with the clerk of the district court on or before July 1 a notice of full commitment to collect delinquent obligations and must file on the first day of each month a list of the cases in which the county attorney or the person procured or designated by the county attorney county attorney's designee is pursuing the collection of delinquent obligations. The list shall include a list of cases where delinquent obligations are being collected under an installment agreement pursuant to section 321.210B, and a list of cases in default

which are no longer being collected under an installment agreement but remain delinquent. The annual notice shall contain a list of procedures which will be initiated by the county attorney. Amounts collected by the county attorney or the person procured or designated by the county attorney county attorney's designee shall be distributed in accordance with section 602.8107.

f. As used in this subsection, "designee" means a professional collection services agency operated by a person or organization, including a private attorney, that is generally considered to have knowledge and special abilities not generally possessed by the state, a local government, or another county official or agency, or a county attorney or a county attorney's designee in another county where the fine, penalty, surcharge, or court cost was not imposed.

Sec. 8. Section 602.8105, subsection 2, paragraph e, Code 2007, 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. However, the fee shall be waived and shall not be collected from a political subdivision of the state if a county attorney or county attorney's designee is collecting a delinquent judgment pursuant to section 602.8107, subsection 4.

Sec. 9. Section 602.8107, subsection 4, unnumbered paragraph 1, Code 2007, is amended to read as follows:

All fines, penalties, court costs, fees, surcharges, and restitution for court-appointed attorney fees or for expenses of a public defender which are deemed delinquent by the clerk pursuant to subsection 3 may be collected by the county attorney or the county attorney's designee. Thirty-five percent of the amounts collected by the county attorney or the person procured or designated by the county attorney shall be deposited in the general fund of the county if the county attorney has filed the notice required in section 331.756, subsection 5, unless the county attorney has discontinued collection efforts on a particular delinquent amount. Up to one million two hundred thousand dollars of the remainder shall be paid each fiscal year to the clerks for distribution under section 602.8108. If the threshold amount of one million two hundred thousand dollars has been distributed under section 602.8108, the remainder shall be distributed as provided in subsection 5. The state court administrator shall notify the clerks that the threshold amount has been distributed under section 602.8108, and that the distribution of any additional moneys collected by the county attorney shall be as provided in subsection 5.

Sec. 10. Section 602.8107, subsection 5, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:

5. Any additional moneys collected in excess of the threshold amount under subsection 4 shall be distributed by the state court administrator as follows: thirty-five percent of any additional moneys collected by the county attorney or the person procured or designated by the county attorney shall be deposited in the general fund of the county where the moneys were collected; thirty-three percent of any additional moneys collected by the county attorney or the person procured or designated by the county attorney shall be deposited with the office of the county attorney that collected the moneys; and the remainder shall be paid to the clerk of the district court for distribution under section 602.8108 or the state court administrator may distribute the remainder under section 602.8108 if the additional moneys have already been received by the state court administrator.

Sec. 11. Section 602.8107, subsection 6, unnumbered paragraph 1, Code 2007, is amended to read as follows:

If a county attorney does not file the notice and list of cases required in section 331.756, subsection 5, <u>including the list of installment agreements under section 321.210B</u>, the judicial branch may assign cases to the centralized collection unit of the department of revenue or its designee to collect debts owed to the clerk of the district court. <u>In addition</u>, an installment

agreement in default that remains delinquent may also be assigned to the centralized collection unit of the department of revenue or its designee.

Sec. 12. Section 602.8109, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

No later than the fifteenth day of each calendar month the <u>The</u> clerk of the district court shall deliver <u>a statement</u> to the county auditor <u>a statement</u> no later than the fifteenth day of each <u>month</u> disclosing all of the following:

- Sec. 13. Section 602.8109, subsections 5 and 6, Code 2007, are amended by striking the subsections and inserting in lieu thereof the following:
- 5. The clerk of the district court shall deliver a statement to the city clerk no later than the fifteenth day of each month disclosing all of the following:
- a. The specific amounts of statutory fees and costs that are payable by the city to the clerk of the district court for services rendered by the clerk or other state officers or employees during the preceding month in connection with each civil or criminal action, and the total of all such fees and costs.
- b. Any amounts collected by the clerk of the district court during the preceding month as costs in an action when such amounts are payable by law to the city as reimbursement for costs incurred by the city in connection with a civil or criminal action, and the total of all such amounts.
- 6. If the amount owed by the city under subsection 5, paragraph "a", for a calendar month is greater than the amount due to the city under subsection 5, paragraph "b", for that month, the city shall remit the difference to the clerk of the district court no later than the last of the month in which the statement under subsection 5 is received.
 - Sec. 14. Section 602.8109, subsection 7, Code 2007, is amended to read as follows:
- 7. If the amount due the city under subsection 5, paragraph "b", for a calendar month is greater than the amount owed by the city under subsection 5, paragraph "a", for that month, the clerk of the district court shall remit the difference to the city clerk no later than the last day of the month in which the statement under subsection 5 is delivered.
- <u>8.</u> Amounts not paid as required under subsection 3, 4, 5, or 6, <u>or</u> 7 shall bear interest for each day of delinquency at the rate in effect as of the day of delinquency for time deposits of public funds for eighty-nine days, as established under section 12C.6.
- Sec. 15. PROCESSING OF INSTALLMENT AGREEMENTS. Notwithstanding section 602.8107, subsection 4, and section 602.8108, for the fiscal year beginning July 1, 2007, and ending June 30, 2008, up to the first three hundred thousand dollars of the remainder to be paid to the clerk pursuant to section 602.8107, subsection 4, shall be allocated to the judicial branch to enhance the ability of the judicial branch to efficiently process installment agreements filed with the clerk pursuant to section $321.210B.^{1}$
- Sec. 16. INSTALLMENT AGREEMENT COOPERATION. It is the intent of the general assembly that the judicial branch, the department of transportation, the department of workforce development, county attorneys, and other state and local agencies cooperate in the collection of delinquent court fines, penalties, surcharges, and court costs by coordinating efforts in the collection of installment agreement payments under section 321.210B.
- Sec. 17. APPLICABILITY. An installment agreement shall not be executed in any county until January 1, 2008, except an installment agreement may be executed and, if executed, a driver's license shall be reinstated as provided in section 321.210B for a fine, penalty, court cost, or surcharge imposed in Polk or Linn county.

Approved May 25, 2007

¹ See chapter 215, §47 herein

CHAPTER 197

LICENSURE AND CERTIFICATION RELATING TO ELECTRICAL WORK AND ALARM SYSTEMS

H.F. 897

AN ACT establishing statewide licensure and certification of electricians and installers, providing for inspections, establishing fees, and providing penalties.

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

- Section 1. Section 100.1, subsection 7, Code 2007, is amended to read as follows:
- 7. To administer the fire extinguishing system contractor, alarm system contractor, and alarm system installer certification program established in chapter 100C.
- Sec. 2. Section 100C.1, Code 2007, is amended by adding the following new subsections: NEW SUBSECTION. 0A. "Alarm system" means a system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of a fire alarm, security alarm, or medical alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals.

<u>NEW SUBSECTION</u>. 0B. "Alarm system contractor" means a person engaging in or representing oneself as engaging in the activity or business of layout, installation, repair, alteration, addition, maintenance, or maintenance inspection of alarm systems in this state.

<u>NEW SUBSECTION</u>. 0C. "Alarm system installer" means an employee of an alarm system contractor who is engaged in the layout, installation, repair, alteration, addition, maintenance, or maintenance inspection of alarm systems.

- Sec. 3. Section 100C.1, subsection 10, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
 - 10. "Responsible managing employee" means one of the following:
- a. An owner, partner, officer, or manager employed full-time by a fire extinguishing system contractor who is certified by the national institute for certification in engineering technologies at a level three in fire protection technology, automatic sprinkler system layout, or another certification in automatic sprinkler system layout recognized by rules adopted by the fire marshal pursuant to section 100C.7 or who meets any other criteria established by rule.
- b. An owner, partner, officer, or manager employed full-time by an alarm system contractor who is certified by the national institute for certification in engineering technologies in fire alarm systems or security systems at a level established by the fire marshal by rule or who meets any other criteria established by rule under this chapter. The rules may provide for separate endorsements for fire, security, and medical alarm systems and may require separate qualifications for each.
 - Sec. 4. Section 100C.2, Code 2007, is amended to read as follows:

100C.2 CERTIFICATION — EMPLOYEES.

- 1. A person shall not act as a fire extinguishing system contractor without first obtaining a fire extinguishing system contractor's certificate pursuant to this chapter.
- 2. A person shall not act as an alarm system contractor without first obtaining an alarm system contractor's certificate pursuant to this chapter. A person shall not act as an alarm system installer without first obtaining an alarm system contractor's or alarm system installer's certificate pursuant to this chapter.
- 2. 3. a. A responsible managing employee may act as a responsible managing employee for only one fire extinguishing system contractor at a time. The responsible managing employee shall not be designated as the responsible managing employee for more than two fire extinguishing system contractors in any twelve-month period.
 - b. A responsible managing employee may act as a responsible managing employee for only

one alarm system contractor at a time. The responsible managing employee shall not be designated as the responsible managing employee for more than two alarm system contractors in any twelve-month period.

- c. A responsible managing employee may serve as the responsible managing employee for a fire extinguishing system contractor and an alarm system contractor at the same time, provided that the fire extinguishing system contractor and the alarm system contractor are the same business, and that the person designated as the responsible managing employee meets the responsible managing employee criteria established for each certification.
- 3. 4. a. An employee of a certified fire extinguishing system contractor working under the direction of a responsible managing employee is not required to obtain and maintain an individual fire extinguishing system contractor's certificate.
- b. An employee of a certified alarm system contractor who is an alarm system installer, and who is not licensed pursuant to chapter 103 shall obtain and maintain certification as an alarm system installer and shall meet and maintain qualifications established by the state fire marshal by rule.
 - Sec. 5. Section 100C.3, Code 2007, is amended to read as follows: 100C.3 APPLICATION INFORMATION TO BE PROVIDED.
- 1. A fire extinguishing system contractor, an alarm system contractor, or an alarm system installer shall apply for a certificate on a form prescribed by the state fire marshal. The application shall be accompanied by a fee in an amount prescribed by rule pursuant to section 100C.7 and shall include all of the following information, as applicable:
- a. The name, address, and telephone number of the contractor <u>or installer and, in the case of an installer, the name and certification number of the contractor by whom the installer is employed, including all legal and fictitious names.</u>
 - b. Proof of insurance coverage required by section 100C.4.
- c. The name and qualifications of the person designated as the contractor's responsible managing employee and of persons designated as alternate responsible managing employees.
 - d. Any other information deemed necessary by the state fire marshal.
- 2. Upon receipt of a completed application and prescribed fees, if the contractor <u>or installer</u> meets all requirements established by this chapter, the state fire marshal shall issue a certificate to the <u>fire extinguishing system</u> contractor <u>or installer</u> within thirty days.
- 3. Certificates shall expire and be renewed as established by rule pursuant to section 100C.7.
- 4. Any change in the information provided in the application shall be promptly reported to the state fire marshal. When the employment of a responsible managing employee is terminated, the fire extinguishing system contractor shall notify the state fire marshal within thirty days after termination.
 - Sec. 6. Section 100C.4, Code 2007, is amended to read as follows: 100C.4 INSURANCE.
- 1. A fire extinguishing system contractor shall maintain general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of automatic fire extinguishing systems in an amount determined by the state fire marshal by rule.
- 2. An alarm system contractor shall maintain general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of alarm systems in an amount determined by the state fire marshal by rule.
 - Sec. 7. Section 100C.5, subsection 1, Code 2007, is amended to read as follows:
- 1. The state fire marshal shall suspend or revoke the certificate of any fire extinguishing system contractor or installer who fails to maintain compliance with the conditions necessary to obtain a certificate. A certificate may also be suspended or revoked if any of the following occur:

- a. The employment or relationship of a responsible managing employee with a fire extinguishing system contractor is terminated, unless the fire extinguishing system contractor has included a qualified alternate on the application or an application designating a new responsible managing employee is filed with the state fire marshal within six months after the termination
 - b. The contractor <u>or installer</u> fails to comply with any provision of this chapter.
- c. The contractor <u>or installer</u> fails to comply with any other applicable codes and ordinances.
 - Sec. 8. Section 100C.6, subsection 2, Code 2007, is amended to read as follows:
- 2. Limit the power of the state or a political subdivision of the state to regulate the quality and character of work performed by <u>fire extinguishing system</u> contractors <u>or installers</u> through a system of fees, permits, and inspections designed to ensure compliance with, and aid in the administration of, state and local building codes or to enforce other local laws for the protection of the public health and safety.
 - Sec. 9. Section 100C.7, Code 2007, is amended to read as follows: 100C.7 ADMINISTRATION RULES.

The state fire marshal shall administer this chapter and, after consultation with the fire extinguishing system contractors <u>and alarm systems</u> advisory board, shall adopt rules pursuant to chapter 17A necessary for the administration and enforcement of this chapter.

- Sec. 10. Section 100C.10, Code 2007, is amended to read as follows:
- $100\mathrm{C}.10\,$ FIRE EXTINGUISHING SYSTEM CONTRACTORS <u>AND ALARM SYSTEMS</u> ADVISORY BOARD.
- 1. A fire extinguishing system contractors <u>and alarm systems</u> advisory board is established in the division of state fire marshal of the department of public safety and shall advise the division on matters pertaining to the application and certification of <u>fire extinguishing system</u> contractors <u>and installers</u> pursuant to this chapter.
- 2. The board shall consist of seven eleven voting members appointed by the commissioner of public safety as follows:
 - a. Two full-time fire officials of incorporated municipalities or counties.
 - b. One full-time building official of an incorporated municipality or county.
- c. Two <u>Three</u> fire extinguishing system contractors, certified pursuant to this chapter, of which at least one shall be a water-based fire sprinkler contractor.
- d. Three alarm system contractors, certified pursuant to this chapter, at least one of whom shall have experience with fire alarm systems, at least one of whom shall have experience with security alarm systems, and at least one of whom shall have experience with medical alarm systems.
 - d. e. One professional engineer or architect licensed in the state.
 - e. f. One representative of the general public.
- 3. The state fire marshal, or the state fire marshal's designee, and the chairperson of the electrical examining board created in section 103.2 shall be a nonvoting ex officio member members of the board.
- 4. The commissioner shall initially appoint two members for two-year terms, two members for four-year terms, and three members for six-year terms. Following the expiration of the terms of initially appointed members, each term thereafter shall be for a period of six years. No member shall serve more than two consecutive terms. Of the appointments to new positions on the board which take effect July 1, 2007, the commissioner shall make the initial appointments for two, four, or six years, at the commissioner's discretion, so that the terms of no more than four board members shall expire at the same time. If a position on the board becomes vacant prior to the expiration of a member's term, the member appointed to the vacancy shall serve the balance of the unexpired term.
- 5. Four <u>Six</u> voting members of the advisory board shall constitute a quorum. A majority vote of the board shall be required to conduct business.

Sec. 11. NEW SECTION. 103.1 DEFINITIONS.

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

- 1. "Apprentice electrician" means any person who as such person's principal occupation is engaged in learning and assisting in the installation, alteration, and repair of electrical wiring, apparatus, and equipment as an employee of a person licensed under this chapter, and who is licensed by the board and is progressing toward completion of an apprenticeship training program registered by the bureau of apprenticeship and training of the United States department of labor. For purposes of this chapter, persons who are not engaged in the installation, alteration, or repair of electrical wiring, apparatus, and equipment, either inside or outside buildings, shall not be considered apprentice electricians.
 - 2. "Board" means the electrical examining board created under section 103.2.
- 3. "Class A journeyman electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment and to supervise apprentice electricians and who is licensed by the board.
- 4. "Class A master electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes and who is licensed by the board.
- 5. "Class B journeyman electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment who meets and is subject to the restrictions of section 103.12.
- 6. "Class B master electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation of electrical wiring, apparatus, and equipment who meets and is subject to the restrictions of section 103.10.
- 7. "Commercial installation" means an installation intended for commerce, but does not include a residential installation.
- 8. "Electrical contractor" means a person affiliated with an electrical contracting firm or business who is licensed by the board as either a class A or class B master electrician and who is also registered with the state of Iowa as a contractor.
- 9. "Industrial installation" means an installation intended for use in the manufacture or processing of products involving systematic labor or habitual employment and includes installations in which agricultural or other products are habitually or customarily processed or stored for others, either by buying or reselling on a fee basis.
- 10. "Inspector" means a person certified as an electrical inspector upon such reasonable conditions as may be adopted by the board. The board may permit more than one class of electrical inspector.
- 11. "New electrical installation" means the installation of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes.
- 12. "Public use building or facility" means any building or facility designated for public use, including all property owned and occupied or designated for use by the state of Iowa.
- 13. "Residential installation" means an installation intended for a single-family or two-family residential dwelling or a multifamily residential dwelling not larger than a four-family dwelling.
- 14. "Routine maintenance" means the repair or replacement of existing electrical apparatus or equipment of the same size and type for which no changes in wiring are made.
- 15. "Special electrician" means a person having the necessary qualifications, training, and experience in wiring or installing special classes of electrical wiring, apparatus, equipment, or installations which shall include irrigation system wiring, disconnecting and reconnecting of existing air conditioning and refrigeration, and sign installation and who is licensed by the board.
- 16. "Unclassified person" means any person, other than an apprentice electrician or other person licensed under this chapter, who, as such person's principal occupation, is engaged in learning and assisting in the installation, alteration, and repair of electrical wiring, apparatus, and equipment as an employee of a person licensed under this chapter, and who is licensed

by the board as an unclassified person. For purposes of this chapter, persons who are not engaged in the installation, alteration, or repair of electrical wiring, apparatus, and equipment, either inside or outside buildings, shall not be considered unclassified persons.

Sec. 12. NEW SECTION. 103.2 ELECTRICAL EXAMINING BOARD CREATED.

- 1. An electrical examining board is created within the division of state fire marshal of the department of public safety. The board shall consist of eleven voting members appointed by the governor and subject to senate confirmation, all of whom shall be residents of this state.
 - 2. The members shall be as follows:
- a. Two members shall be journeyman electricians, one a member of an electrical workers union covered under a collective bargaining agreement and one not a member of a union.
- b. Two members shall be master electricians or electrical contractors, one of whom is a contractor signed to a collective bargaining agreement or a master electrician covered under a collective bargaining agreement and one of whom is a nonunion contractor or a master electrician who is not a member of a union.
 - c. One member shall be an electrical inspector.
- d. Two members, one a union member covered under a collective bargaining agreement and one a nonunion member, shall not be a member of any of the aforementioned groups and shall represent the general public.
- e. One member shall be the state fire marshal or a representative of the state fire marshal's office.
- f. One member shall be a local building official employed by a political subdivision to perform electrical inspections for that political subdivision.
 - g. One member shall represent a public utility.
- h. One member shall be an engineer licensed pursuant to chapter 542B with a background in electrical engineering.
- 3. The public members of the board shall be allowed to participate in administrative, clerical, or ministerial functions incident to giving a licensure examination, but shall not determine the content of the examination or determine the correctness of the answers. Professional associations or societies composed of licensed electricians may recommend to the governor the names of potential board members whose profession is representative of that association or society. However, the governor is not bound by the recommendations. A board member shall not be required to be a member of any professional electrician association or society.

Sec. 13. <u>NEW SECTION</u>. 103.3 TERMS OF OFFICE — EXPENSES — COUNSEL.

- 1. Appointments to the board, other than the state fire marshal or a representative of the state fire marshal's office, shall be for three-year staggered terms and shall commence and end as provided by section 69.19. The most recently appointed state fire marshal, or a representative of the state fire marshal's office, shall be appointed to the board on an ongoing basis. Vacancies shall be filled for the unexpired term by appointment of the governor and shall be subject to senate confirmation. Members shall serve no more than three terms or nine years, whichever is least.
- 2. Members of the board are entitled to receive all actual expenses incurred in the discharge of their duties within the limits of funds appropriated to the board. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.
- 3. The board shall be entitled to the counsel and services of the attorney general. The board may compel the attendance of witnesses, pay witness fees and mileage, take testimony and proofs, and administer oaths concerning any matter within its jurisdiction.

Sec. 14. NEW SECTION. 103.4 ORGANIZATION OF THE BOARD.

The board shall elect annually from its members a chairperson and a vice chairperson, and shall hire and provide staff to assist the board in administering this chapter. An executive secretary designated by the board shall report to the state fire marshal for purposes of routine board administrative functions, and shall report directly to the board for purposes of execution of board policy such as application of licensing criteria and processing of applications. The

board shall hold at least one meeting quarterly at the location of the board's principal office, and meetings shall be called at other times by the chairperson or four members of the board. At any meeting of the board, a majority of members constitutes a quorum.

Sec. 15. NEW SECTION. 103.5 OFFICIAL SEAL — BYLAWS.

The board shall adopt and have an official seal which shall be affixed to all certificates of licensure granted.

Sec. 16. NEW SECTION. 103.6 POWERS AND DUTIES.

The board shall:

- 1. Adopt rules pursuant to chapter 17A and in doing so shall be governed by the minimum standards set forth in the most current publication of the national electrical code issued and adopted by the national fire protection association, and amendments to the code, which code and amendments shall be filed in the offices of the secretary of state and the board and shall be a public record. The board shall adopt rules reflecting updates to the code and amendments to the code. The board shall promulgate and adopt rules establishing wiring standards that protect public safety and health and property and that apply to all electrical wiring which is installed subject to this chapter.
- 2. Revoke, suspend, or refuse to renew any license granted pursuant to this chapter when the licensee:
 - a. Fails or refuses to pay any examination, license, or renewal fee required by law.
- b. Is an electrical contractor and fails or refuses to provide and keep in force a public liability insurance policy and surety bond as required by the board.
 - c. Violates any political subdivision's inspection ordinances.

The board may, in its discretion, revoke, suspend, or refuse to renew any license granted pursuant to this chapter when the licensee violates any provision of the national electrical code as adopted pursuant to subsection 1, this chapter, or any rule adopted pursuant to this chapter.

- 3. Adopt rules for continuing education requirements for each classification of licensure established pursuant to this chapter, and adopt all rules, not inconsistent with the law, necessary for the proper performance of the duties of the board.
 - 4. Provide for the amount and collection of fees for inspection and other services.

Sec. 17. <u>NEW SECTION</u>. 103.7 ELECTRICIAN AND INSTALLER LICENSING AND INSPECTION FUND.

An electrician and installer licensing and inspection fund is created in the state treasury as a separate fund under the control of the board. All licensing, examination, renewal, and inspection fees shall be deposited into the fund and retained by and for the use of the board. Expenditures from the fund shall be approved by the sole authority of the board in consultation with the state fire marshal. Amounts deposited into the fund shall be considered repayment receipts as defined in section 8.2. Notwithstanding section 8.33, any balance in the fund on June 30 of each fiscal year shall not revert to the general fund of the state, but shall remain available for the purposes of this chapter in subsequent fiscal years. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

Sec. 18. <u>NEW SECTION</u>. 103.8 PLAN, LAY OUT, OR SUPERVISE CERTAIN ACTIVITIES — LICENSE REQUIRED — EXCEPTIONS.

Except as provided in sections 103.13 and 103.14, no person shall, for another, plan, lay out, or supervise the installation of wiring, apparatus, or equipment for electrical light, heat, power, and other purposes unless the person is licensed by the board as an electrical contractor, a class A master electrician, or a class B master electrician.

Sec. 19. NEW SECTION. 103.9 ELECTRICAL CONTRACTOR LICENSE.

1. An applicant for an electrical contractor license shall either be or employ a licensed class A or class B master electrician, and be registered with the state of Iowa as a contractor.

2. A contractor who holds a class B master electrician license shall be licensed subject to the restrictions of section 103.10.

Sec. 20. <u>NEW SECTION</u>. 103.10 CLASS A MASTER ELECTRICIAN LICENSE — QUALIFICATIONS — CLASS B MASTER ELECTRICIAN LICENSE.

- 1. An applicant for a class A master electrician license shall have at least one year's experience, acceptable to the board, as a licensed class A or class B journeyman electrician.
- 2. In addition, an applicant shall meet examination criteria based upon the most recent national electrical code adopted pursuant to section 103.6 and upon electrical theory, as determined by the board.
- 3. a. An applicant who can provide proof acceptable to the board that the applicant has been working in the electrical business and involved in planning for, laying out, supervising, and installing electrical wiring, apparatus, or equipment for light, heat, and power prior to 1990 may be granted a class B master electrician license without taking an examination. An applicant who is issued a class B master electrician license pursuant to this section shall not be authorized to plan, lay out, or supervise the installation of electrical wiring, apparatus, and equipment in a political subdivision which, prior to or after the effective date of this section of this Act, establishes licensing standards which preclude such work by class B master electricians in the political subdivision. The board shall adopt rules establishing procedures relating to the restriction of a class B master electrician license pursuant to this subsection.
- b. A class B master electrician may become licensed as a class A master electrician upon successful passage of the examination prescribed in subsection 2.
- 4. A person licensed to plan, lay out, or supervise the installation of electrical wiring, apparatus, or equipment for light, heat, power, and other purposes and supervise apprentice electricians by a political subdivision preceding the effective date of this section of this Act pursuant to a supervised written examination, and who is currently engaged in the electrical contracting industry, shall be issued an applicable statewide license corresponding to that licensure as a class A master electrician or electrical contractor. The board shall adopt by rule certain criteria for city examination standards satisfactory to fulfill this requirement.

Sec. 21. <u>NEW SECTION</u>. 103.11 WIRING OR INSTALLING — SUPERVISING APPRENTICES — LICENSE REQUIRED — QUALIFICATIONS.

Except as provided in section 103.13, no person shall, for another, wire for or install electrical wiring, apparatus, or equipment, or supervise an apprentice electrician or unclassified person, unless the person is licensed by the board as an electrical contractor, a class A master electrician, a class B master electrician, or is licensed as a class A journeyman electrician, or a class B journeyman electrician, and is employed by an electrical contractor, a class A master electrician, a class B master electrician.

Sec. 22. <u>NEW SECTION</u>. 103.12 CLASS A JOURNEYMAN ELECTRICIAN LICENSE QUALIFICATIONS — CLASS B JOURNEYMAN ELECTRICIAN LICENSE.

- 1. An applicant for a class A journeyman electrician license shall have successfully completed an apprenticeship training program registered by the bureau of apprenticeship and training of the United States department of labor in accordance with the standards established by that department. An applicant may petition the board to receive a waiver of this requirement. The board shall determine a level of on-the-job experience as an unclassified person sufficient to qualify for a waiver.
- 2. In addition, an applicant shall obtain a score of at least seventy-five percent on an examination prescribed and administered by the board based upon the most recent national electrical code adopted pursuant to section 103.6 and upon electrical theory.
- 3. a. An applicant who can provide proof acceptable to the board that the applicant has been employed as a journeyman electrician since 1990 may be granted a class B journeyman electrician license without taking an examination. An applicant who is issued a class B journeyman electrician license pursuant to this section shall not be authorized to wire for or install electri-

¹ According to enrolled Act; the word "or" probably intended

cal wiring, apparatus, and equipment in a political subdivision which, prior to or after the effective date of this section of this Act, establishes licensing standards which preclude such work by class B journeyman electricians in the political subdivision. The board shall adopt rules establishing procedures relating to the restriction of a class B journeyman electrician license pursuant to this subsection.

- b. A class B journeyman electrician may become licensed as a class A journeyman electrician upon successful passage of the examination prescribed in subsection 2.
- 4. A person licensed to wire for or install electrical wiring, apparatus, or equipment or supervise an apprentice electrician by a political subdivision preceding the effective date of this section of this Act pursuant to a supervised written examination, and who is currently engaged in the electrical contracting industry with at least four years' experience, shall be issued an applicable statewide license corresponding to that licensure as a class A journeyman electrician or a class B journeyman electrician. The board shall adopt by rule certain criteria for city examination standards satisfactory to fulfill this requirement.

Sec. 23. <u>NEW SECTION</u>. 103.13 SPECIAL ELECTRICIAN LICENSE — QUALIFICATIONS.

The board shall by rule provide for the issuance of special electrician licenses authorizing the licensee to engage in a limited class or classes of electrical work, which class or classes shall be specified on the license. Each licensee shall have experience, acceptable to the board, in each such limited class of work for which the person is licensed.

Sec. 24. NEW SECTION. 103.14 ALARM INSTALLATIONS.

A person who is not licensed pursuant to this chapter may plan, lay out, or install electrical wiring, apparatus, and equipment for components of alarm systems that operate at seventy volt/amps (VA) or less, only if the person is certified to conduct such work pursuant to chapter 100C. Installations of alarm systems that operate at seventy volt/amps (VA) or less are subject to inspection by state inspectors as provided in section 103.32, except that reports of such inspections, if the installation being inspected was performed by a person certified pursuant to chapter 100C, shall be submitted to the state fire marshal and any action taken on a report of an inspection of an installation performed by a person certified pursuant to chapter 100C shall be taken by or at the direction of the state fire marshal, unless the installation has been found to exceed the authority granted to the certificate holder pursuant to chapter 100C and therefore to be in violation of this chapter.

Sec. 25. NEW SECTION. 103.15 APPRENTICE ELECTRICIAN — UNCLASSIFIED PERSON.

- 1. A person shall be licensed by the board and pay a licensing fee to work as an apprentice electrician while participating in an apprenticeship training program registered by the bureau of apprenticeship and training of the United States department of labor in accordance with the standards established by that department. An apprenticeship shall be limited to six years from the date of licensure, unless extended by the board upon a finding that a hardship existed which prevented completion of the apprenticeship program. Such licensure shall entitle the licensee to act as an apprentice to an electrical contractor, a class A master electrician, a class B master electrician, a class A journeyman electrician, or a class B journeyman electrician as provided in subsection 3.
- 2. A person shall be licensed as an unclassified person by the board to perform electrical work if the work is performed under the personal supervision of a person actually licensed to perform such work and the licensed and unclassified persons are employed by the same employer. After one hundred continuous days of employment as a nonlicensed unclassified person, the unclassified person must receive a license from the board. Licensed persons shall not permit unclassified persons to perform electrical work except under the personal supervision of a person actually licensed to perform such work. Unclassified persons shall not supervise the performance of electrical work or make assignments of electrical work to unclassified per-

sons. Electrical contractors employing unclassified persons performing electrical work shall maintain records establishing compliance with this section, which shall designate all unclassified persons performing electrical work.

- 3. Apprentice electricians and unclassified persons shall do no electrical wiring except under the direct personal on-the-job supervision and control and in the immediate presence of a licensee pursuant to this chapter. Such supervision shall include both on-the-job training and related classroom training as approved by the board. The licensee may employ or supervise apprentice electricians and unclassified persons at a ratio not to exceed three apprentice electricians and unclassified persons to one licensee, except that such ratio and the other requirements of this section shall not apply to apprenticeship classroom training.
- 4. For purposes of this section, "the direct personal on-the-job supervision and control and in the immediate presence of a licensee" shall mean the licensee and the apprentice electrician or unclassified person shall be working at the same project location but shall not require that the licensee and apprentice electrician or unclassified person be within sight of one another at all times.
- 5. An apprentice electrician shall not install, alter, or repair electrical equipment except as provided in this section, and the licensee employing or supervising an apprentice electrician shall not authorize or permit such actions by the apprentice electrician.

Sec. 26. NEW SECTION. 103.16 LICENSE EXAMINATIONS.

- 1. Examinations for licensure shall be given as often as deemed necessary by the board, but no less than one time per month. The scope of the examinations and the methods of procedure shall be prescribed by the board. The examinations given by the board shall be the experior assessment examination, or a successor examination approved by the board, or an examination prepared by a third-party testing service which is substantially equivalent to the experior assessment examination, or a successor examination approved by the board.
- 2. An examination may be given by representatives of the board. As soon as practicable after the close of each examination, a report shall be filed in the office of the secretary of the board by the board. The report shall show the action of the board upon each application and the secretary of the board shall notify each applicant of the result of the applicant's examination. Applicants who fail the examination once shall be allowed to take the examination at the next scheduled time. Thereafter, the applicant shall be allowed to take the examination at the discretion of the board. An applicant who has failed the examination may request, in writing, information from the board concerning the applicant's examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the board administers a uniform, standardized examination, the board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the board.

Sec. 27. <u>NEW SECTION</u>. 103.17 DISCLOSURE OF CONFIDENTIAL INFORMATION — CRIMINAL PENALTY.

A member of the board shall not disclose information relating to the following:

- 1. Criminal history or prior misconduct of an applicant.
- 2. Information relating to the contents of an examination.
- 3. Information relating to examination results other than a final score except for information about the results of an examination given to the person who took the examination.

A member of the board who willfully communicates or seeks to communicate such information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

Sec. 28. <u>NEW SECTION</u>. 103.18 LICENSE RENEWAL — CONTINUING EDUCATION. In order to renew a class A master electrician, class B master electrician, class A journeyman electrician, or class B journeyman electrician license issued pursuant to this chapter, the li-

censee shall be required to complete eighteen contact hours of continuing education courses approved by the board during the three-year period for which a license is granted. The contact hours shall include a minimum of six contact hours studying the national electrical code described in section 103.6, and the remaining contact hours may include study of electrical circuit theory, blueprint reading, transformer and motor theory, electrical circuits and devices, control systems, programmable controllers, and microcomputers or any other study of electrical-related material that is approved by the board. Any additional hours studying the national electrical code shall be acceptable. For purposes of this section, "contact hour" means fifty minutes of classroom attendance at an approved course under a qualified instructor approved by the board.

Sec. 29. <u>NEW SECTION</u>. 103.19 LICENSES — EXPIRATION — APPLICATION — FEES.

- 1. Licenses issued pursuant to this chapter shall expire every three years, with the exception of licenses for apprentice electricians and unclassified persons, which shall expire on an annual basis. All license applications shall include the applicant's social security number. The board shall establish the fees to be payable for examination and license issuance and renewal in amounts not to exceed the following:
 - a. For examinations:
 - (1) Class A master electrician, one hundred twenty-five dollars.
 - (2) Class A journeyman electrician, sixty dollars.
 - b. For each year of the three-year license period for issuance and renewal:
 - (1) Electrical contractor, one hundred twenty-five dollars.
 - (2) Class A master electrician, class B master electrician, one hundred twenty-five dollars.
- (3) Class A journeyman electrician, class B journeyman electrician, or special electrician, twenty-five dollars.
 - c. For apprentice electricians, twenty dollars.
- 2. The holder of an expired license may renew the license for a period of three months from the date of expiration upon payment of the license fee plus ten percent of the renewal fee for each month or portion thereof past the expiration date. All holders of licenses expired for more than three months shall apply for a new license.

Sec. 30. <u>NEW SECTION</u>. 103.20 LICENSEE STATUS — EMPLOYMENT — DEATH.

- 1. Individuals performing electrical work in a capacity for which licensure is required pursuant to this chapter shall be employed by the authority or company obtaining a permit for the performance of such work, and shall possess a valid license issued by the board.
- 2. Upon the death of an electrical contractor, a class A master electrician, or a class B master electrician, the board may permit a representative to carry on the business of the decedent for a period not to exceed six months for the purpose of completing work under contract to comply with this chapter. Such representative shall furnish all public liability and property damage insurance required by the board.

Sec. 31. <u>NEW SECTION</u>. 103.21 LICENSES WITHOUT EXAMINATION — RECIPROCITY WITH OTHER STATES.

To the extent that any other state which provides for the licensing of electricians provides for similar action, the board may grant licenses, without examination, of the same grade and class to an electrician who has been licensed by such other state for at least one year, upon payment by the applicant of the required fee, and upon the board being furnished with proof that the qualifications of the applicant are equal to the qualifications of holders of similar licenses in this state.

Sec. 32. <u>NEW SECTION</u>. 103.22 CHAPTER INAPPLICABILITY.

The provisions of this chapter shall not:

1. Apply to a person licensed as an engineer pursuant to chapter 542B, registered as an ar-

chitect pursuant to chapter 544A, licensed as a landscape architect pursuant to chapter 544B, or designated as lighting certified by the national council on qualifications for the lighting professions providing consultations and developing plans concerning electrical installations who is exclusively engaged in the practice of the person's profession.

- 2. Require employees of municipal corporations, electric membership or cooperative associations, public utility corporations, rural water associations or districts, railroads, telecommunications companies, franchised cable television operators, or commercial or industrial companies performing manufacturing, installation, and repair work for such employer to hold licenses while acting within the scope of their employment.
- 3. Require any person doing work for which a license would otherwise be required under this chapter to hold a license issued under this chapter if the person is the holder of a valid license issued by any political subdivision, so long as the person makes electrical installations only in the jurisdictional limits of such political subdivision and such license issued by the political subdivision meets the requirements of this chapter.
- 4. Apply to the installation, maintenance, repair, or alteration of vertical transportation or passenger conveyors, elevators, moving walks, dumbwaiters, stagelifts, manlifts, or appurtenances thereto beyond the terminals of the controllers. The licensing of elevator contractors or constructors shall not be considered a part of the licensing requirements of this chapter.
- 5. Require a license of any person who engages any electrical appliance where approved electrical supply is already installed.
- 6. Prohibit an owner of property from performing work on the owner's principal residence, if such residence is an existing dwelling rather than new construction and is not larger than a single-family dwelling, or farm property, excluding commercial or industrial installations or installations in public use buildings or facilities, or require such owner to be licensed under this chapter. In order to qualify for inapplicability pursuant to this subsection, a residence shall qualify for the homestead tax exemption.
 - 7. Require that any person be a member of a labor union in order to be licensed.
- 8. Apply to a person who is qualified pursuant to administrative rules relating to the storage and handling of liquefied petroleum gases while engaged in installing, servicing, testing, replacing, or maintaining propane gas utilization equipment, or gas piping systems of which the equipment is a part, and related or connected accessory systems or equipment necessary to the operation of the equipment.
- 9. Apply to a person who meets the requirements for a well contractor pursuant to administrative rules while engaged in installing, servicing, testing, replacing, or maintaining a well or well equipment, or piping systems of which the equipment is a part, and related or connected accessory systems or equipment necessary to the operation of the equipment.
- 10. Apply to a person performing alarm system installations engaged in the design, installation, erection, repair, maintenance, or alteration of class two or class three remote control, signaling, or power-limited circuits, optical fiber cables or other cabling, or communications circuits, including raceways, as defined in the national electrical code for voice, video, audio, and data signals in commercial or residential premises.

Sec. 33. <u>NEW SECTION</u>. 103.23 ELECTRICAL INSTALLATIONS — SUBJECT TO INSPECTION.

The inspection and enforcement provisions of this chapter shall apply to the following:

- 1. All new electrical installations for commercial or industrial applications, including installations both inside and outside of buildings, and for public use buildings and facilities and any installation at the request of the owner.
- 2. All new electrical installations for residential applications in excess of single-family residential applications.
- 3. All new electrical installations for single-family residential applications requiring new electrical service equipment.
- 4. Existing electrical installations observed during inspection which constitute an electrical hazard. Existing installations shall not be deemed to constitute an electrical hazard if the wir-

ing when originally installed was installed in accordance with the electrical code in force at the time of installation and has been maintained in that condition.

- Sec. 34. <u>NEW SECTION</u>. 103.24 STATE INSPECTION INAPPLICABILITY IN CERTAIN POLITICAL SUBDIVISIONS ELECTRICAL INSPECTORS CERTIFICATE OF OUALIFICATION.
- 1. No person other than the holder of an electrical inspector's certificate of qualification shall be appointed to act as an electrical inspector and to enforce this chapter as an electrical inspector and to enforce this chapter or any applicable resolution or ordinance within the inspector's jurisdiction. The board shall establish by rule standards for the certification and decertification of state electrical inspectors, and certified electrical inspector continuing education requirements.
- 2. State inspection shall not apply within the jurisdiction of any political subdivision which, pursuant to section 103.29, provides by resolution or ordinance standards of electrical wiring and its installation that are not less² than those prescribed by the board or by this chapter and which further provides by resolution or ordinance for the inspection of electrical installations within the limits of such subdivision by a certified electrical inspector. A copy of the certificate of each electrical inspector shall be provided to the board by the political subdivision issuing the certificate.
 - 3. State inspection shall not apply to routine maintenance.

Sec. 35. <u>NEW SECTION</u>. 103.25 REQUEST FOR INSPECTION — FEES.

At or before commencement of any installation required to be inspected by the board, the licensee or owner making such installation shall submit to the state fire marshal's office a request for inspection. The board shall prescribe the methods by which the request may be submitted, which may include electronic submission or through a form prescribed by the board that can be submitted either through the mail or by a fax transmission. The board shall also prescribe methods by which inspection fees can by paid, which may include electronic methods of payment. If the board or the state fire marshal's office becomes aware that a person has failed to file a necessary request for inspection, the board or the state fire marshal's office shall send a written notification by certified mail that the request must by³ filed within fourteen days. Any person filing a late request for inspection shall pay a delinquency fee in an amount to be determined by the board. Failure to file a late request within fourteen days shall be subject to a civil penalty to be determined by the board by rule.

Sec. 36. <u>NEW SECTION</u>. 103.26 CONDEMNATION — DISCONNECTION — OPPORTUNITY TO CORRECT NONCOMPLIANCE.

If the inspector finds that any installation or portion of an installation is not in compliance with accepted standards of construction for safety to health and property, based upon minimum standards set forth in the local electrical code or the national electrical code adopted by the board pursuant to section 103.6, the inspector shall by written order condemn the installation or noncomplying portion or order service to such installation disconnected and shall send a copy of such order to the board, the state fire marshal, and the electrical utility supplying power involved. If the installation or the noncomplying portion is such as to seriously and proximately endanger human health or property, the order of the inspector when approved by the inspector's superior shall require immediate condemnation and disconnection by the applicant. In all other cases, the order of the inspector shall establish a reasonable period of time for the installation to be brought into compliance with accepted standards of construction for safety to health and property prior to the effective date established in such order for condemnation or disconnection.

Sec. 37. NEW SECTION. 103.27 CONDEMNATION OR DISCONNECTION ORDER — SERVICE.

1. A copy of each condemnation or disconnection order shall be served personally or by reg-

 $^{^{2}\,}$ According to enrolled Act; the phrase "that are not less stringent" probably intended

³ According to enrolled Act

ular mail upon the property owner at the property owner's last known address, the licensee making the installation, and such other persons as the board by rule may direct.

2. The electrical utility supplying power shall be served with a copy of any order which requires immediate disconnection or prohibits energizing an installation.

Sec. 38. <u>NEW SECTION</u>. 103.28 CERTIFICATE OF SAFE OPERATION — DISMISSAL OF CONDEMNATION OR DISCONNECTION ORDER.

- 1. No electrical installation subject to inspection under this chapter shall be newly connected or reconnected for use until the electrical inspector has filed with the electrical utility supplying power a certificate stating that the electrical inspector has approved such energization.
- 2. If the electrical inspector determines that an electrical installation subject to inspection by the board is not in compliance with accepted standards of construction for safety to health and property, based upon minimum standards adopted by the board pursuant to this chapter, the inspector shall issue a correction order. A correction order made pursuant to this section shall be served personally or by United States mail only upon the licensee making the installation. The correction order shall order the licensee to make the installation comply with the standards, noting specifically what changes are required. The order shall specify a date, not more than seventeen calendar days from the date of the order, when a new inspection shall be made. When the installation is brought into compliance to the satisfaction of the inspector, the inspector shall file with the electrical utility supplying power a certificate stating that the electrical inspector has approved energization.
- 3. An electrical utility supplier may refuse service without liability for such refusal until the provisions of this section have been met.

Sec. 39. <u>NEW SECTION</u>. 103.29 POLITICAL SUBDIVISIONS — INSPECTIONS — AUTHORITY OF POLITICAL SUBDIVISIONS.

- 1. A political subdivision performing electrical inspections prior to December 31, 2007, shall continue to perform such inspections. After December 31, 2012, a political subdivision may choose to discontinue performing its own inspections and permit the board to have jurisdiction over inspections in the political subdivision. If a political subdivision seeks to discontinue its own inspections prior to December 31, 2012, the political subdivision shall petition the board. If a unanimous vote of the board finds that a political subdivision's inspections are inadequate by reason of misfeasance, malfeasance, or nonfeasance, the board may suspend or revoke the political subdivision's authority to perform its own inspections, subject to appeal according to the procedure set forth in section 103.35 and judicial review pursuant to section 17A.19. A political subdivision not performing electrical inspections prior to December 31, 2007, may make provision for inspection of electrical installations within its jurisdiction, in which case it shall keep on file with the board copies of its current inspection ordinances or resolutions and electrical codes.
- 2. A political subdivision performing electrical inspections pursuant to subsection 1 prior to December 31, 2007, may maintain a different supervision ratio than the ratio of three apprentice electricians and unclassified persons to one licensee specified in section 103.15, subsection 3, but may not exceed that ratio. A political subdivision which begins performing electrical inspections after December 31, 2007, shall maintain the specified three-to-one ratio unless the board approves a petition by the political subdivision for a lower ratio. A political subdivision which discontinues performing electrical inspections and permits the board to have jurisdiction over inspections shall maintain the specified three-to-one supervision ratio, and may not petition for a lower ratio unless the political subdivision subsequently resumes performing electrical inspections.
- 3. A political subdivision that performs electrical inspections may set appropriate permit fees to pay for such inspections. A political subdivision shall not require any person holding a license from the board to pay any license fee or take any examination if the person holds a current license issued by the board which is of a classification equal to or greater than the classification needed to do the work proposed. Any such political subdivision may provide a re-

quirement that each person doing electrical work within the jurisdiction of such political subdivision have on file with the political subdivision a copy of the current license issued by the board or such other evidence of such license as may be provided by the board.

- 4. A political subdivision is authorized to determine what work may be performed by a class B licensee within the jurisdictional limits of the political subdivision.
- 5. A political subdivision that performs electrical inspections shall act as the authority having jurisdiction for electrical inspections and for amending the national electrical code adopted by the board pursuant to section 103.6 for work performed within the jurisdictional limits of the political subdivision, provided those inspections and amendments conform to the requirements of this chapter. Any action by a political subdivision with respect to amendments to the national electrical code shall be filed with the board prior to enforcement by the political subdivision, and shall not be less stringent than the minimum standards established by the board by rule.
- 6. A political subdivision may grant a variance or interpret the national electrical code in a manner which deviates from a standard interpretation on an exception basis for a one-time installation or planned installation so long as such a variance or interpretation does not present an electrical hazard or danger to life or property.

Sec. 40. NEW SECTION. 103.30 INSPECTIONS NOT REQUIRED.

Nothing in this chapter shall be construed to require the work of employees of municipal corporations, railroads, electric membership or cooperative associations, public utility corporations, rural water associations or districts, or telecommunications systems to be inspected while acting within the scope of their employment.

Sec. 41. NEW SECTION. 103.32 STATE INSPECTION PROCEDURES.

- 1. An inspection shall be made within three business days of the submission of a request for an inspection as provided in section 103.25. When necessary, circuits may be energized by the authorized installer prior to inspection but the installation shall remain subject to condemnation and disconnection and subject to any appropriate restrictions or limitations as determined by the board.
- 2. Where wiring is to be concealed, the inspector must be notified within a reasonable time to complete rough-in inspections prior to concealment, exclusive of Saturdays, Sundays, and holidays. If wiring is concealed before rough-in inspections without adequate notice having been given to the inspector, the person responsible for having enclosed the wiring shall be responsible for all costs resulting from uncovering and replacing the cover material.
- 3. State inspection procedures and policies shall be established by the board. The state fire marshal, or the state fire marshal's designee, shall enforce the procedures and policies, and enforce the provisions of the national electrical code adopted by the board.
- 4. Except when an inspection reveals that an installation or portion of an installation is not in compliance with accepted standards of construction for safety to health and property, based upon minimum standards set forth in the local electrical code or the national electrical code adopted by the board pursuant to section 103.6, such that an order of condemnation or disconnection is warranted pursuant to section 103.26, an inspector shall not add to, modify, or amend a construction plan as originally approved by the state fire marshal in the course of conducting an inspection.
- 5. Management and supervision of inspectors, including hiring decisions, disciplinary action, promotions, and work schedules are the responsibility of the state fire marshal acting in accordance with applicable law and pursuant to any applicable collective bargaining agreement. The state fire marshal and the board shall jointly determine work territories, regions, or districts for inspectors and continuing education and ongoing training requirements applicable to inspectors. An inspector subject to disciplinary action pursuant to this subsection shall be entitled to an appeal according to the procedure set forth in section 103.35 and judicial review pursuant to section 17A.19.
 - 6. The board shall establish a web-based licensure verification database for access by a state

or local inspector for verification of licensee status. The database shall include the name of every person licensed under this chapter and a corresponding licensure number. Inspectors shall be authorized to request the name and license number of any person working at a jobsite subject to inspection for verification of licensee status. Licensees under this chapter shall be required to carry a copy of their current license and photo identification at all times when employed on a jobsite for compliance with this subsection.

Sec. 42. NEW SECTION. 103.33 STATE INSPECTION FEES.

- 1. All state electrical inspection fees shall be due and payable to the board at or before commencement of the installation and shall be forwarded with the request for inspection. Inspection fees provided in this section shall not apply within the jurisdiction of any political subdivision if the political subdivision has adopted an ordinance or resolution pursuant to this chapter.
 - 2. The board shall establish the fees for inspections in amounts not to exceed:
- a. For each separate inspection of an installation, replacement, alteration, or repair, twenty-five dollars.
- b. For services, change of services, temporary services, additions, alterations, or repairs on either primary or secondary services as follows:
- (1) Zero to one hundred ampere capacity, twenty-five dollars plus five dollars per branch circuit or feeder.
- (2) One hundred one to two hundred ampere capacity, thirty-five dollars plus five dollars per branch circuit or feeder.
- (3) For each additional one hundred ampere capacity or fraction thereof, twenty dollars plus five dollars per branch circuit or feeder.
 - c. For field irrigation system inspections, sixty dollars for each unit inspected.
- d. For the first reinspection required as a result of a correction order, fifty dollars; a second reinspection required as a result of noncompliance with the same correction order, seventy-five dollars; and subsequent reinspections associated with the same correction order, one hundred dollars for each reinspection.
- 3. When an inspection is requested by an owner, the minimum fee shall be thirty dollars plus five dollars per branch circuit or feeder. The fee for fire and accident inspections shall be computed at the rate of forty-seven dollars per hour, and mileage and other expenses shall be reimbursed as provided by the office of the state fire marshal.
- 4. For installations requiring more than six months in the process of construction and in excess of three hundred dollars total inspection fees, the persons responsible for the installation may, after a minimum filing fee of one hundred dollars, pay a prorated fee for each month and submit it with an order for payment initiated by the electrical inspector.

Sec. 43. <u>NEW SECTION</u>. 103.34 CONDEMNATION OR DISCONNECTION ORDERS — APPEALS — DISPOSITION OF ORDERS PENDING APPEAL.

- 1. Any person aggrieved by a condemnation or disconnection order issued by the state fire marshal's office may appeal from the order by filing a written notice of appeal with the board within ten days after the date the order was served upon the owner or within ten days after the order was filed with the board, whichever is later.
- 2. Upon receipt of the notice of appeal from a condemnation or disconnection order because the electrical installation is proximately dangerous to health or property, the order appealed from shall not be stayed unless countermanded by the board.
- 3. Upon receipt of notice of appeal from a condemnation or disconnection order because the electrical installation is not in compliance with accepted standards of construction for safety to health and property, except as provided in subsection 2, the order appealed from shall be stayed until final decision of the board and the board shall notify the property owner and the electrical contractor, class A master electrician, class B master electrician, fire alarm installer, or special electrician making the installation. The power supplier shall also be notified in those instances in which the order has been served on such supplier.

Sec. 44. NEW SECTION. 103.35 APPEAL PROCEDURES.

- 1. Upon receipt of a notice of appeal, the chairperson or executive secretary of the board may designate a hearing officer from among the board members to hear the appeal or may set the matter for hearing before the full board at its next regular meeting. A majority of the board shall make the decision.
- 2. Upon receiving the notice of appeal, the board shall notify all persons served with the order appealed from. Such persons may join in the hearing and give testimony in their own behalf. The board shall set the hearing date on a date not more than fourteen days after receipt of the notice of appeal unless otherwise agreed by the interested parties and the board.

Sec. 45. NEW SECTION. 103.36 SUSPENSION, REVOCATION, OR REPRIMAND.

The board, by a simple majority vote of the entire board, may suspend for a period not exceeding two years, or revoke the certificate of licensure of, or reprimand any licensee who is found guilty of any of the following acts or offenses:

- 1. Fraud in procuring a certificate of licensure.
- 2. Professional incompetency.
- 3. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful to the public. Proof of actual injury need not be established.
 - 4. Habitual intoxication or addiction to the use of drugs.
- 5. Conviction of a felony under the laws of the United States, this state, any other state, territory, or possession of the United States, the District of Columbia, or any foreign country. A copy of the record of conviction or plea of guilty is conclusive evidence of such conviction.
- 6. Revocation or suspension of licensure, or other disciplinary action by the licensing authority of another state, territory, or possession of the United States, the District of Columbia, or any foreign country. A certified copy of the record or order of suspension, revocation, or other disciplinary action is prima facie evidence of such fact.
 - 7. Fraud in representations as to skill or ability.
 - 8. Use of untruthful or improbable statements in advertisements.
 - 9. Willful or repeated violations of this chapter.

Sec. 46. NEW SECTION. 103.37 PROCEDURE.

Proceedings for any action under section 103.36 shall be commenced by filing with the board written charges against the accused. Upon the filing of charges, the board shall conduct an investigation into the charges. The board shall designate a time and place for a hearing, and shall notify the accused of this action and furnish the accused a copy of all charges at least thirty days prior to the date of the hearing. The accused has the right to appear personally or by counsel, to cross-examine witnesses, or to produce witnesses in defense.

Sec. 47. NEW SECTION. 103.38 INJUNCTION.

Any person who is not legally authorized to practice in this state according to this chapter, who practices, or in connection with the person's name, uses any designation tending to imply or designate the person as authorized to practice in this state according to this chapter, may be restrained by permanent injunction.

Sec. 48. NEW SECTION. 103.39 CRIMINAL VIOLATIONS.

A person who violates a permanent injunction issued pursuant to section 103.38 or presents or attempts to file as the person's own the certificate of licensure of another, or who gives false or forged evidence of any kind to the board in obtaining a certificate of licensure, or who falsely impersonates another practitioner of like or different name, or who uses or attempts to use a revoked certificate of licensure, is guilty of a fraudulent practice under chapter 714.

Sec. 49. NEW SECTION. 103.40 CIVIL PENALTY.

1. In addition to any other penalties provided for in this chapter, the board may by order im-

pose a civil penalty upon a person who is not licensed under this chapter and who does any of the following:

- a. Is employed in a capacity in which the person engages in or offers to engage in the activities authorized pursuant to this chapter.
- b. Uses or employs the words "electrical contractor", "class A master electrician", "class B master electrician", "class A journeyman electrician", or "class B journeyman electrician", or implies authorization to provide or offer those services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person is an "electrical contractor", "class A master electrician", "class B master electrician", "class A journeyman electrician", or "class B journeyman electrician".
- c. Gives false or forged evidence of any kind to the board or any member of the board in obtaining or attempting to obtain a certificate of licensure.
 - d. Falsely impersonates any individual licensed pursuant to this chapter.
- e. Uses or attempts to use an expired, suspended, revoked, or nonexistent certificate of licensure.
- f. Knowingly aids or abets an unlicensed person who engages in any activity identified in this subsection.
- 2. A civil penalty imposed shall not exceed one thousand dollars for each offense. Each day of a continued violation constitutes a separate offense, except that offenses resulting from the same or common facts or circumstances shall be considered a single offense.
- 3. In determining the amount of a civil penalty to be imposed, the board may consider any of the following:
 - a. Whether the amount imposed will be a substantial economic deterrent to the violation.
 - b. The circumstances leading to the violation.
 - c. The severity of the violation and the risk of harm to the public.
 - d. The economic benefits gained by the violator as a result of noncompliance.
 - e. The interest of the public.
- 4. Before issuing an order under this section, the board shall provide the person written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice and shall be conducted in the same manner as provided in section 103.37.
- 5. The board, in connection with a proceeding under this section, may issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence, and may request the attorney general to bring an action to enforce the subpoena.
- 6. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review in accordance with section 17A.19.
- 7. If a person fails to pay a civil penalty within thirty days after entry of an order under subsection 1, or if the order is stayed pending an appeal within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.
- 8. An action to enforce an order under this section may be joined with an action for an injunction.
- Sec. 50. EFFECTIVE DATES. Section 2, section 3, section 10, sections 11 through 15, section 16, subsections 1 and 3, and section 27 of this Act, being deemed of immediate importance, take effect upon enactment. Sections 33 through 44 of this Act take effect January 1, 2009. The remaining sections and subsections of this Act take effect January 1, 2008.

CHAPTER 198

LICENSING AND REGULATION OF PLUMBERS AND MECHANICAL PROFESSIONALS

H.F. 908

AN ACT relating to the licensing and regulation of plumbers and mechanical professionals, and providing an appropriation and penalties and providing an effective date.

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

Section 1. NEW SECTION. 104C.1 TITLE.

This chapter may be known and cited as the "Iowa Plumber and Mechanical Professional Licensing Act".

Sec. 2. NEW SECTION. 104C.2 DEFINITIONS.

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

- 1. "Apprentice" means any person, other than a helper, journeyperson, or master, who, as a principal occupation, is engaged in working as an employee of a plumbing, HVAC, refrigeration, or hydronic systems contractor under the supervision of either a master or a journeyperson and is progressing toward completion of an apprenticeship training program registered by the office of apprenticeship of the United States department of labor while learning and assisting in the design, installation, and repair of plumbing, HVAC, refrigeration, or hydronic systems, as applicable.
- 2. "Board" means the plumbing and mechanical systems examining board as established pursuant to section 104C.3.
- 3. "Contractor" means a person or entity that provides plumbing, HVAC, refrigeration, or hydronic systems services on a contractual basis and who is paid a predetermined amount under that contract for rendering those services.
 - 4. "Department" means the Iowa department of public health.
 - 5. "Governmental subdivision" means any city, county, or combination thereof.
- 6. "Helper" means a person engaged in general manual labor activities who provides assistance to an apprentice, journeyperson, or master while under the supervision of a journeyperson or master.
- 7. "HVAC" means heating, ventilation, and air conditioning in ducted systems. "HVAC" includes all natural, propane, liquid propane, or other gas lines associated with any component of an HVAC system.
- 8. "Hydronic" means a heating or cooling system that transfers heating or cooling by circulating fluid through a closed system, including boilers, pressure vessels, refrigerated equipment in connection with chilled water systems, all steam piping, hot or chilled water piping together with all control devices and accessories, installed as part of, or in connection with, any comfort heating or comfort cooling system or appliance using a liquid water or steam as the heating or cooling media. "Hydronic" includes all low-pressure and high-pressure systems.
- 9. "Journeyperson" means any person, other than a master, who, as a principal occupation, is engaged as an employee of, or otherwise working under the direction of, a master in the design, installation, and repair of plumbing, HVAC, refrigeration, or hydronic systems, as applicable.
- 10. "Master" means any person who works in the planning or superintending of the design, installation, or repair of plumbing, HVAC, refrigeration, or hydronic systems and is otherwise lawfully qualified to conduct the business of plumbing, HVAC, refrigeration, or hydronic systems, and who is familiar with the laws and rules governing the same.
- 11. "Mechanical professional" means a person engaged in the HVAC, refrigeration, or hydronic industry.

- 12. "Mechanical systems" means HVAC, refrigeration, and hydronic systems.
- 13. "Medical gas piping" means a permanent fixed piping system in a health care facility which is used to convey oxygen, nitrous oxide, nitrogen, carbon dioxide, helium, medical air, and mixtures of these gases from its source to the point of use and includes the fixed piping associated with a medical, surgical, or gas scavenging vacuum system, as well as a bedside suction system.
- 14. "Medical gas system installer" means any person who installs or repairs medical gas piping, components, and vacuum systems, including brazers, who has been issued a valid certification from the national inspection testing certification (NITC) corporation, or an equivalent authority approved by the board.
- 15. "Plumbing" means all potable water building supply and distribution pipes, all plumbing fixtures and traps, all drainage and vent pipes, and all building drains and building sewers, storm sewers, and storm drains, including their respective joints and connections, devices, receptors, and appurtenances within the property lines of the premises, and including the connection to sanitary sewer, storm sewer, and domestic water mains. "Plumbing" includes potable water piping, potable water treating or using equipment, medical gas piping systems, fuel gas piping, water heaters and vents, including all natural, propane, liquid propane, or other gas lines associated with any component of a plumbing system.
- 16. "Refrigeration" means any system of refrigeration regardless of the level of power, if such refrigeration is intended to be used for the purpose of food and product preservation and is not intended to be used for comfort systems.

Sec. 3. <u>NEW SECTION</u>. 104C.3 PLUMBING AND MECHANICAL SYSTEMS EXAMINING BOARD.

- 1. A plumbing and mechanical systems examining board is created within the Iowa department of public health.
- 2. The examining board shall be comprised of eleven members, appointed by the governor, as follows:
 - a. The director of public health or the director's designee.
 - b. The commissioner of public safety or the commissioner's designee.
 - c. One plumbing inspector.
 - d. One mechanical inspector.
 - e. A contractor who primarily works in rural areas.
- f. An individual licensed as a journeyperson plumber pursuant to the provisions of this chapter or, for the initial membership of the board, an individual eligible for such licensure.
- g. An individual working as a plumbing contractor and licensed as a master plumber pursuant to the provisions of this chapter or, for the initial membership of the board, an individual eligible for such licensure.
- h. Two individuals licensed as journeyperson mechanical professionals pursuant to the provisions of this chapter or, for the initial membership of the board, two individuals eligible for such licensure.
- i. Two individuals licensed as master mechanical professionals pursuant to the provisions of this chapter or, for the initial membership of the board, two individuals eligible for such licensure. One of these individuals shall be a mechanical systems contractor.

The board members enumerated in paragraphs "c" through "i" are subject to confirmation by the senate.

The terms of the two plumber representatives on the board shall not expire on the same date, and one of the two plumber representatives on the board shall at all times while serving on the board be affiliated with a labor union while the other shall at all times while serving on the board not be affiliated with a labor union.

The terms of the mechanical professional representatives on the board shall not expire on the same date, and at least one of the mechanical professional representatives on the board shall at all times while serving on the board be affiliated with a labor union while at least one of the other mechanical professional representatives shall at all times while serving on the board not be affiliated with a labor union.

- 3. Members shall serve three-year terms except for the terms of the initial members, which shall be staggered so that three members' terms expire each calendar year. A member of the board shall serve no more than three full terms. A vacancy in the membership of the board shall be filled by appointment by the governor subject to senate confirmation.
- 4. If a person who has been appointed to serve on the board has ever been disciplined by the board, all board complaints and statements of charges, settlement agreements, findings of fact, and orders pertaining to the disciplinary action shall be made available to the senate committee to which the appointment is referred at the committee's request before the full senate votes on the person's appointment.
- 5. The board shall organize annually and shall select a chairperson and a secretary from its membership. A quorum shall consist of a majority of the members of the board.
- 6. Members of the board shall receive actual expenses for their duties as a member of the examining board. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.
- 7. The board may maintain a membership in any national organization of state examining boards for the professions of plumbing, HVAC, refrigeration, or hydronic professionals, with all membership fees to be paid from funds appropriated to the board.

Sec. 4. NEW SECTION. 104C.4 RULES.

The board shall adopt all rules necessary to carry out the licensing and other provisions of this chapter.

Sec. 5. NEW SECTION. 104C.5 APPLICATIONS FOR EXAMINATIONS.

Any person desiring to take an examination for a license issued pursuant to this chapter shall make application to the board at least fifteen days before the examination, on a form provided by the board. The application shall be accompanied by the examination fee and such documents and affidavits as are necessary to show the eligibility of the candidate to take the examination. All applications shall be in accordance with the rules of the department and the board and shall be signed by the applicant. The board may require that a recent photograph of the applicant be attached to the application.

Sec. 6. <u>NEW SECTION</u>. 104C.6 EXAMINATIONS.

- 1. The board shall give public notice of the time and place of all examinations to be held under this chapter. Such notice shall be given in such manner as the board deems necessary to provide adequate time to allow all candidates for licensure to comply with the provisions of this chapter.
- 2. Examinations for the licenses which may be issued pursuant to this chapter shall be conducted at least two times per year at such time and location as the department may fix in cooperation with the board. Applicants who fail to pass an examination shall be allowed to retake the examination at the next scheduled time. Any subsequent opportunities to take the examination are available only at the discretion of the board. An applicant who has failed an examination may request in writing information from the board concerning the examination grade and subject areas or questions where the applicant failed to answer correctly, except that if the board administers a uniform, standardized examination, the board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the board.
- 3. Prior to each examination, the department shall transmit to the board the list of candidates who are eligible to take the examinations to be given by the board. In making up such list, the department may call upon the board, or any member thereof, for information relative to the eligibility of any applicant.
- 4. An examination shall be evaluated in accordance with the rules of the board. After each examination, the board shall certify the names of the successful applicants to the department in the manner prescribed by the department. The department shall then issue the proper license and make the required entry in the registry book.

5. All matters connected with an examination for a license shall be filed with the department and preserved for such period of time as specified by the state records commission as a part of the records of the department. The records, except for records which reveal the performance of identified candidates, shall be open to public inspection.

Sec. 7. NEW SECTION. 104C.7 EXAMINATION RULES.

The board shall adopt rules relating to all of the following:

- 1. The qualifications required for applicants seeking to take examinations, which qualifications shall include a requirement that an applicant who is a contractor shall be required to provide the contractor's state contractor registration number.
 - 2. The denial of applicants seeking to take examinations.
 - 3. The conducting of examinations.
- 4. The grading of examinations and passing upon the technical qualifications of applicants, as shown by such examinations.
 - 5. The minimum scores required for passing standardized examinations.
 - 6. The selection of nationally recognized vendors providing examinations.

Sec. 8. NEW SECTION. 104C.8 EXAMINATION ASSISTANCE.

Upon the request of the board, the department shall assign one or more employees of the department to assist with any examination given by the board. A member of the board shall be present and shall have charge of all candidates during the examination. An employee assigned by the department shall perform such duties to assist with the examination process as the board may direct. If the duties of such employees are performed away from the seat of government, the employees shall receive necessary travel expenses, which shall be paid from the appropriations to the board in the same manner in which other similar expenses are paid. The department shall be reimbursed by the board for costs incurred.

Sec. 9. NEW SECTION. 104C.9 FEES.

- 1. The board shall set the fees for the examination of all applicants, by rule, which fees shall be based upon the cost of administering the examinations.
- 2. The board shall set the license fees and renewal fees for all licenses issued pursuant to this chapter, by rule, based upon the costs of sustaining the board and the actual costs of licensing.
- 3. All fees collected under this chapter shall be retained by the board. The moneys retained by the board shall be used for any of the board's duties under this chapter, including but not limited to the addition of full-time equivalent positions for program services and investigations. Revenues retained by the board pursuant to this section shall be considered repayment receipts as defined in section 8.2. Notwithstanding section 8.33, moneys retained by the board pursuant to this section are not subject to reversion to the general fund of the state.
- 4. Nothing in this chapter shall be interpreted to prohibit the state or any of its governmental subdivisions from charging construction permit fees or inspection fees related to work performed by plumbers and mechanical professionals.

Sec. 10. NEW SECTION. 104C.10 LICENSE OR CERTIFICATION REQUIRED.

- 1. Except as provided in section 104C.11, a person shall not install or repair plumbing, HVAC, refrigeration, or hydronic systems without obtaining a license issued by the board, or install or repair medical gas piping systems without obtaining a valid certification approved by the board.
- 2. Except as provided in section 104C.11, a person shall not engage in the business of designing, installing, or repairing plumbing, HVAC, refrigeration, or hydronic systems unless at all times a licensed master, who shall be responsible for the proper designing, installing, and repairing of the HVAC, refrigeration, or hydronic system, is employed by the person and is actively in charge of the plumbing, HVAC, refrigeration, or hydronic work of the person. An individual who performs such work pursuant to a business operated as a sole proprietorship shall be a licensed master in the applicable discipline.

3. The board may allow a two-year delay in implementing the licensure requirements for contractors who employ less than ten mechanical professionals.

Sec. 11. NEW SECTION. 104C.11 CHAPTER INAPPLICABILITY.

The provisions of this chapter shall not be construed to do any of the following:

- 1. Apply to a person licensed as an engineer pursuant to chapter 542B, registered as an architect pursuant to chapter 544A, or licensed as a landscape architect pursuant to chapter 544B who provides consultations or develops plans or other work concerning plumbing, HVAC, refrigeration, or hydronic work who is exclusively engaged in the practice of the person's profession.
- 2. Require employees of municipal corporations, electric membership or cooperative associations, public utility corporations, rural water associations or districts, railroads, or commercial retail or industrial companies performing manufacturing, installation, service, or repair work for such employer to hold licenses while acting within the scope of their employment.
- 3. Prohibit an owner of property from performing work on the owner's principal residence, if such residence is an existing dwelling rather than new construction and is not larger than a single-family dwelling, or farm property, excluding commercial or industrial installations or installations in public use buildings or facilities, or require such owner to be licensed under this chapter. In order to qualify for inapplicability pursuant to this subsection, a residence shall qualify for the homestead tax exemption. The provisions of this chapter shall also not be construed to prohibit an owner or operator of a health care facility licensed pursuant to chapter 135C, assisted living center licensed pursuant to chapter 231C, hospital licensed pursuant to chapter 135B, adult day care center licensed pursuant to chapter 231D, or a retirement facility certified pursuant to chapter 523D from performing work on the facility or require such owner or operator to be licensed under this chapter.
 - 4. Require that any person be a member of a labor union in order to be licensed.
- 5. Apply to a person who is qualified pursuant to administrative rules relating to the storage and handling of liquefied petroleum gases while engaged in installing, servicing, testing, replacing, or maintaining propane gas utilization equipment, or gas piping systems of which the equipment is a part, and related or connected accessory systems or equipment necessary to the operation of the equipment.
- 6. Apply to a person who meets the requirements for a certified well contractor pursuant to section 455B.190A while engaged in installing, servicing, testing, replacing, or maintaining a water system, water well, well pump, or well equipment, or piping systems of which the equipment is a part, and related or connected accessory systems or equipment necessary to the operation of the water well.
- 7. Require a helper engaged in general manual labor activities while providing assistance to an apprentice, journeyperson, or master to obtain a plumbing, HVAC, refrigeration, or hydronic license. Experience as a helper shall not be considered as practical experience for a journeyperson license.
 - 8. Apply to a person who is performing work subject to chapter 100C.

Sec. 12. NEW SECTION. 104C.12 FORM OF LICENSE.

A plumbing, HVAC, refrigeration, or hydronic license shall be in the form of a certificate under the seal of the department, signed by the Iowa director of public health, and shall be issued in the name of the board. The number of the book and page of the registry containing the entry of the license in the office of the department shall be noted on the face of the license.

Sec. 13. NEW SECTION. 104C.13 LICENSE PRESUMPTIVE EVIDENCE.

A license issued under this chapter shall be presumptive evidence of the right of the holder to practice in this state the profession specified.

Sec. 14. NEW SECTION. 104C.14 DISPLAY OF MASTER LICENSE.

A person holding a master license under this chapter shall keep the license publicly displayed in the primary place in which the person practices.

Sec. 15. NEW SECTION. 104C.15 REGISTRY OF LICENSES.

The name, location, and number of years of practice of the person to whom the license has been issued, the number of the certificate, and the date of registration thereof shall be entered in a registry kept in the office of the department to be known as the plumbing, HVAC, refrigeration, or hydronic registry. The registry shall be open to public inspection; however, the home address of the licensee shall be confidential.

Sec. 16. NEW SECTION. 104C.16 CHANGE OF RESIDENCE.

If a person licensed to practice as a plumbing, HVAC, refrigeration, or hydronic professional under this chapter changes their residence or place of practice, the person shall so notify the department.

Sec. 17. NEW SECTION. 104C.17 PREEMPTION OF LOCAL LICENSING REQUIREMENTS.

- 1. The provisions of this chapter regarding the licensing of plumbing, HVAC, refrigeration, and hydronic professionals and contractors shall supersede and preempt all plumbing, HVAC, refrigeration, or hydronic licensing provisions of all governmental subdivisions. On and after the effective date of this Act, all plumbing and mechanical licensing provisions promulgated by any governmental subdivision shall be null and void, except reciprocal licenses as provided in section 104C.21, and of no further force and effect, and a governmental subdivision may not prohibit a plumbing, HVAC, refrigeration, or hydronic professional licensed pursuant to this chapter from performing services for which that person is licensed pursuant to this chapter.
- 2. Nothing in this chapter shall prohibit a governmental subdivision from assessing and collecting permit fees or inspection fees related to work performed by plumbers and mechanical professionals.

Sec. 18. <u>NEW SECTION</u>. 104C.18 QUALIFICATIONS AND TYPES OF LICENSES ISSUED.

- 1. GENERAL QUALIFICATIONS. The board shall adopt, by rule, general qualifications for licensure. The board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of the profession for which the applicant requests to be licensed. Character references may be required as part of the licensing process, but shall not be obtained from licensed members of the plumbing or mechanical profession.
- 2. PLUMBING, HVAC, REFRIGERATION, AND HYDRONIC LICENSES. The board shall issue separate licenses for plumbing, HVAC, refrigeration, and hydronic professionals as follows:
- a. Apprentice license. In order to be licensed by the department as an apprentice, a person shall do all of the following:
- (1) File an application, which application shall establish that the person meets the minimum requirements adopted by the board.
- (2) Certify that the person will work under the supervision of a licensed journeyperson or master in the applicable discipline.
- (3) Be enrolled in an applicable apprentice program which is registered with the United States department of labor office of apprenticeship.
- b. Journeyperson license. In order to be licensed by the department as a journeyperson in the applicable discipline, a person shall do all of the following:
- (1) File an application and pay application fees as established by the board, which application shall establish that the person meets the minimum educational and experience requirements adopted by the board.
 - (2) Pass the state journeyperson licensing examination in the applicable discipline.
- (3) Provide the board with evidence of having completed at least four years of practical experience as an apprentice.
- c. Master license. In order to be licensed by the department as a master, a person shall do all of the following:

- (1) File an application and pay application fees as established by the board, which application shall establish that the person meets the minimum educational and experience requirements adopted by the board.
 - (2) Pass the state master licensing examination for the applicable discipline.
- (3) Provide evidence to the examining board that the person has previously been a licensed journeyperson in the applicable discipline or satisfies all requirements required to be licensed as a journeyperson in the applicable discipline.
 - (4) Provide evidence of public liability insurance pursuant to section 104C.19.
- 3. COMBINED LICENSES. The department may issue single or combined licenses to persons who qualify as a master, journeyperson, or apprentice under any of the disciplines.
- 4. WAIVER. Notwithstanding section 17A.9A, the board shall waive the written examination requirements set forth in this section for a journeyperson or master license if the applicant meets either of the following requirements:
 - a. The applicant meets both of the following requirements:
- (1) The applicant has previously passed a written examination which the board deems to be substantially similar to the licensing examination otherwise required by the board to obtain the applicable license.
- (2) The applicant has completed at least eight classroom hours of continuing education in courses or seminars approved by the board within the two-year period immediately preceding the date of the applicant's license application.
- b. The applicant can demonstrate to the satisfaction of the board that the applicant has five or more years of experience prior to the effective date of this Act in the plumbing, HVAC, refrigeration, or hydronic business, as applicable, which experience is of a nature that the board deems to be sufficient to demonstrate continuous professional competency consistent with that expected of an individual who passes the applicable licensing examination which the applicant would otherwise be required to pass.

Sec. 19. <u>NEW SECTION</u>. 104C.19 INSURANCE AND SURETY BOND REQUIRE-MENTS.

- 1. An applicant for a master license or renewal of an active master license shall provide evidence of a public liability insurance policy and surety bond in an amount determined sufficient by the board by rule.
- 2. If the applicant is engaged in plumbing, HVAC, refrigeration, or hydronic work individually through a business conducted as a sole proprietorship, the applicant shall personally obtain the insurance and surety bond required by this section. If the applicant is engaged in the plumbing, HVAC, refrigeration, or hydronic business as an employee or owner of a legal entity, then the insurance and surety bond required by this section shall be obtained by the entity and shall cover all plumbing or mechanical work performed by the entity.
- 3. The insurance and surety bond shall be written by an entity licensed to do business in this state and each licensed master shall maintain on file with the department a certificate evidencing the insurance providing that the insurance or surety bond shall not be canceled without the entity first giving fifteen days written notice to the department.

Sec. 20. <u>NEW SECTION</u>. 104C.20 RENEWAL AND REINSTATEMENT OF LICENSES — FEES AND PENALTIES — CONTINUING EDUCATION.

- 1. A license issued pursuant to this chapter shall be issued for a term of two years.
- 2. A license issued under this chapter may be renewed as provided by rule adopted by the board upon application by the licensee, without examination. Applications for renewal shall be made in writing to the department accompanied by the required renewal licensing fee at least thirty days prior to the expiration date of the license.
 - 3. A renewal license shall be displayed in connection with the original license.
- 4. The department shall notify each licensee by mail at least sixty days prior to the expiration of a license.
 - 5. Failure to renew a license within a reasonable time after the expiration of the license shall

not invalidate the license, but a reasonable penalty may be assessed as adopted by rule, in addition to the license renewal fee, to allow reinstatement of the license.

- 6. A licensee who allows a license to lapse for a period of one month or less may reinstate and renew the license without examination upon the recommendation of the board and upon payment of the applicable renewal and reinstatement fees.
- 7. A licensee who allows a license to lapse for a period of time greater than one month is required to retake and pass the applicable licensing examination in order to obtain reinstatement and renewal of that person's license.
- 8. The board shall establish continuing education requirements pursuant to section 272C.2. The basic continuing education requirement for renewal of a license shall be the completion, during the immediately preceding license term, of the number of classroom hours of instruction required by the board in courses or seminars which have been approved by the board. The board shall require at least eight classroom hours of instruction during each two-year licensing term.

Sec. 21. NEW SECTION. 104C.21 RECIPROCAL LICENSES.

The board may license without examination a nonresident applicant who is licensed under plumbing, HVAC, refrigeration, or hydronic professional licensing statutes of another state having similar licensing requirements as those set forth in this chapter and the rules adopted under this chapter if the other state grants the same reciprocal licensing privileges to residents of Iowa who have obtained Iowa plumbing or mechanical professional licenses under this chapter. The department and the board shall adopt the necessary rules, not inconsistent with the law, for carrying out the reciprocal relations with other states which are authorized by this chapter.

Sec. 22. NEW SECTION. 104C.22 GROUNDS FOR DENIAL, REVOCATION, OR SUSPENSION OF LICENSE.

A license to practice as a plumbing, HVAC, refrigeration, or hydronic professional may be revoked or suspended, or an application for licensure may be denied pursuant to procedures established pursuant to chapter 272C by the board, or the licensee may be otherwise disciplined in accordance with that chapter, when the licensee commits any of the following acts or offenses:

- 1. Fraud in procuring a license.
- 2. Professional incompetence.
- 3. Knowingly making misleading, deceptive, untrue, or fraudulent misrepresentations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
- 4. Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within the profession. A copy of the record or conviction or plea of guilty shall be conclusive evidence of such conviction.
 - 5. Fraud in representations as to skill or ability.
 - 6. Use of untruthful or improbable statements in advertisements.
 - 7. Willful or repeated violations of this chapter.
- 8. Aiding and abetting a person who is not licensed pursuant to this chapter in that person's pursuit of an unauthorized and unlicensed plumbing, HVAC, refrigeration, or hydronic professional practice.
 - 9. Failure to meet the commonly accepted standards of professional competence.
 - 10. Any other such grounds as established by rule by the board.

Sec. 23. <u>NEW SECTION</u>. 104C.23 JURISDICTION OF REVOCATION AND SUSPENSION PROCEEDINGS.

The board shall have exclusive jurisdiction of all proceedings to revoke or suspend a license issued pursuant to this chapter. The board may initiate proceedings under this chapter or

chapter 272C, following procedures set out in section 272C.6, either on its own motion or on the complaint of any person. Before scheduling a hearing, the board may request the department to conduct an investigation into the charges to be addressed at the board hearing. The department shall report its findings to the board. The board, in connection with a proceeding under this chapter, may issue subpoenas to compel attendance and testimony of witnesses and the disclosure of evidence, and may request the attorney general to bring an action to enforce the subpoena.

Sec. 24. NEW SECTION. 104C.24 NOTICE AND DEFAULT.

- 1. A written notice stating the nature of the charge or charges against a licensee and the time and place of the hearing before the board on the charges shall be served on the licensee not less than thirty days prior to the date of hearing either personally or by mailing a copy by certified mail to the last known address of the licensee.
- 2. If, after having been served with the notice of hearing, the licensee fails to appear at the hearing, the board may proceed to hear evidence against the licensee and may enter such order as is justified by the evidence.

Sec. 25. NEW SECTION. 104C.25 ADVERTISING — VIOLATIONS — PENALTIES.

- 1. Only a person who is duly licensed pursuant to this chapter may advertise the fact that the person is licensed as a plumbing, HVAC, refrigeration, or hydronic professional by the state of Iowa.
- 2. All written advertisements distributed in this state by a person who is engaged in the business of designing, installing, or repairing plumbing, HVAC, refrigeration, or hydronic systems shall include the listing of at least one master license number, as applicable. A master plumbing, HVAC, refrigeration, or hydronic professional shall not allow the master's license number to be used in connection with the advertising for more than one person engaged in the business of designing, installing, or repairing plumbing, HVAC, refrigeration, or hydronic systems.
- 3. A person who fraudulently claims to be a licensed plumbing, HVAC, refrigeration, or hydronic professional pursuant to this chapter, either in writing, cards, signs, circulars, advertisements, or other communications, is guilty of a simple misdemeanor.
- 4. A person who fraudulently lists a master plumbing, HVAC, refrigeration, or hydronic license number in connection with that person's advertising or falsely displays a master plumbing, HVAC, refrigeration, or hydronic professional license number is guilty of a simple misdemeanor. In order to be entitled to use a license number of a master plumbing, HVAC, refrigeration, or hydronic professional, the master plumbing, HVAC, refrigeration, or hydronic professional must be employed by the person in whose name the business of designing, installing, or repairing plumbing or mechanical systems is being conducted.

Sec. 26. NEW SECTION. 104C.26 INJUNCTION.

A person engaging in any business or in the practice of any profession for which a license is required by this chapter without such license may be restrained by injunction.

Sec. 27. NEW SECTION. 104C.27 CIVIL PENALTY.

- 1. In addition to any other penalties provided for in this chapter, the board may, by order, impose a civil penalty upon a person violating any provision of this chapter. Each day of a continued violation constitutes a separate offense, except that offenses resulting from the same or common facts or circumstances shall be considered a single offense. Before issuing an order under this section, the board shall provide the person written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice.
- 2. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review in accordance with section 17A.19.
- 3. If a person fails to pay a civil penalty within thirty days after entry of an order under subsection 1, or if the order is stayed pending an appeal within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney

general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

4. An action to enforce an order under this section may be joined with an action for an injunction.

Sec. 28. NEW SECTION. 104C.28 ENFORCEMENT.

The department shall enforce the provisions of this chapter and for that purpose may request the department of inspections and appeals to make necessary investigations. Every licensee and member of the board shall furnish the department or the department of inspections and appeals such evidence as the licensee or member may have relative to any alleged violation which is being investigated.

Sec. 29. NEW SECTION. 104C.29 REPORT OF VIOLATORS.

Every licensee and every member of the board shall report to the department the name of every person who is practicing as a plumber or mechanical professional without a license issued pursuant to this chapter pursuant to the knowledge or reasonable belief of the person making the report. The opening of an office or place of business for the purpose of providing any services for which a license is required by this chapter, the announcing to the public in any way the intention to provide any such service, the use of any professional designation, or the use of any sign, card, circular, device, vehicle, or advertisement, as a provider of any such services shall be prima facie evidence of engaging in the practice of a plumber or mechanical professional.

Sec. 30. NEW SECTION. 104C.30 ATTORNEY GENERAL.

Upon request of the department, the attorney general shall institute in the name of the state the proper proceedings against any person charged by the department with violating any provision of this chapter.

Sec. 31. Section 272C.1, subsection 6, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. ae. The plumbing and mechanical systems examining board, created pursuant to chapter 104C.

- Sec. 32. Section 272C.3, subsection 2, paragraph a, Code 2007, is amended to read as follows:
- a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon any of the grounds specified in section 104C.22, 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151 or 155, as applicable, or upon any other grounds specifically provided for in this chapter for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline;
 - Sec. 33. Section 272C.4, subsection 6, Code 2007, is amended to read as follows:
- 6. Define by rule acts or omissions that are grounds for revocation or suspension of a license under section 104C.22, 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151 or 155, as applicable, and to define by rule acts or omissions that constitute negligence, careless acts, or omissions within the meaning of section 272C.3, subsection 2, paragraph "b", which licensees are required to report to the board pursuant to section 272C.9, subsection 2;
- Sec. 34. Section 272C.5, subsection 2, paragraph c, Code 2007, is amended to read as follows:
 - c. Shall state whether the procedures are an alternative to or an addition to the procedures

stated in sections <u>104C.23</u> and <u>104C.24</u>, 147.58 through 147.71, 148.6 through 148.9, 152.10, 152.11, 153.33, 154A.23, 542.11, 542B.22, 543B.35, 543B.36, and 544B.16.

Sec. 35. EFFECTIVE DATE. This Act takes effect July 1, 2008.

Approved May 25, 2007

CHAPTER 199

COMPUTER-RELATED SERVICE BUSINESSES — SALES, USE, AND PROPERTY TAX EXEMPTIONS AND REFUNDS

H.F. 912

AN ACT relating to providing sales, use, and property tax exemptions and refunds for certain computer-related service businesses.

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

Section 1. Section 423.3, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 92. a. (1) The sales price from the sale or rental of computers and equipment that are necessary for the maintenance and operation of a web search portal and property whether directly or indirectly connected to the computers, including but not limited to cooling systems, cooling towers, and other temperature control infrastructure; power infrastructure for transformation, distribution, or management of electricity used for the maintenance and operation of the web search portal, including but not limited to exterior dedicated business-owned substations, back-up power generation systems, battery systems, and related infrastructure; and racking systems, cabling, and trays, which are necessary for the maintenance and operation of the web search portal.

- (2) The sales price of back-up power generation fuel, that is purchased by a web search portal business for use in the items listed in subparagraph (1).
 - (3) The sales price of electricity purchased for use in providing a web search portal.
- b. For the purpose of claiming this exemption, all of the following requirements shall be met:
 - (1) The business of the purchaser or renter shall be as a provider of a web search portal.
- (2) The web search portal business shall have a physical location in the state that is used for the operations and maintenance of the web search portal site on the internet including but not limited to research and development to support capabilities to organize information and to provide internet access, navigation, and search.
- (3) The web search portal business shall make a minimum investment in an Iowa physical location of two hundred million dollars within the first six years of operation in Iowa beginning with the date the web search portal business initiates site preparation activities. The minimum investment includes the initial investment, including land and subsequent acquisition of additional adjacent land and subsequent investment at the Iowa location.
- (4) The web search portal business shall purchase, option, or lease Iowa land not later than December 31, 2008, for any initial investment. However, the December 31, 2008, date shall not affect the future purchases of adjacent land and additional investment in the initial or adjacent land to qualify as part of the minimum investment for purposes of this exemption.
- c. This exemption applies from the date of the initial investment in or the initiation of site preparation activities for the web search portal facility as described in paragraph "b". For pur-

poses of claiming this exemption, the requirements may be met by aggregating the various Iowa investments and other requirements of the web search portal business's affiliates. This exemption applies to affiliates of the web search portal business.

- d. Failure to meet eighty percent of the minimum investment amount requirement specified in paragraph "b" within the first six years of operation from the date the web search portal business initiates site preparation activities will result in the web search portal business losing the right to claim this exemption and the web search portal business shall pay all sales or use tax that would have been due on the purchase or rental or use of the items listed in this exemption, plus any applicable penalty and interest imposed by statute.
 - e. For purposes of this subsection:
- (1) "Affiliate" means an entity that directly or indirectly controls, is controlled with or by, or is under common control with another entity.
 - (2) "Control" means any of the following:
- (a) In the case of a United States corporation, the ownership, directly or indirectly, of fifty percent or more of the voting power to elect directors.
- (b) In the case of a foreign corporation, if the voting power to elect the directors is less than fifty percent, the maximum amount allowed by applicable law.
- (c) In the case of an entity other than a corporation, fifty percent or more ownership interest in the entity, or the power to direct the management of the entity.
- (3) "Web search portal business" means an entity among whose primary businesses is to provide a search portal to organize information; to access, search, and navigate the internet, including research and development to support capabilities to organize information; and to provide internet access, navigation, and search functionalities.
 - Sec. 2. Section 423.4, Code 2007, is amended by adding the following new subsection:
- NEW SUBSECTION. 8. a. The owner of an information technology facility located in this state on July 1, 2007, and having a primary business with a North American industry classification system number 518210 or 541519 as verified by the department of economic development using nationally recognized third-party sources such as Hoovers, Harris Directory or others designated by the department of economic development, may make an annual application for up to five consecutive years to the department for the refund of the sales or use tax upon the sales price of all sales of fuel used in creating heat, power, and steam for processing or generating electrical current, or from the sale of electricity consumed by computers, machinery, or other equipment for operation of the technology facility.
- b. An information technology facility shall qualify for the refund in this subsection if all of the following criteria are met:
- (1) The facility's six-digit North American industry classification system number 518210 or 541519 indicates that the facility is primarily engaged in providing computer-related services.
- (2) The capital expenditures for computers, machinery, and other equipment used in the operation of the facility equals at least one million dollars.
- (3) The facility is certified as meeting the Leadership in Energy and Environmental Design (LEED) standards.
- c. The refund may be obtained only in the following manner and under the following conditions:
 - (1) The applicant shall use forms furnished by the department.
- (2) The applicant shall separately list the amounts of sales and use tax paid during the reporting period.
- (3) The applicant may request when the refund begins, but it must start on the first day of a month and proceed for a continuous twelve-month period.
- d. In determining the amount to be refunded, if the dates¹ of the utility billing or meter reading cycle for the sale or furnishing of metered gas and electricity is on or after the first day of the first month through the last day of the last month of the refund year, the full amount of tax charged in the billings shall be refunded. In determining the amount to be refunded, if the dates of the sale or furnishing of fuel for purposes of commercial energy and the delivery of

¹ According to enrolled Act; the word "date" probably intended

the fuel is on or after the first day of the first month through the last day of the last month of the refund year, the full amount of tax charged in the billings shall be refunded.

- e. To receive refunds during the five-year period, the applicant shall file a refund claim within three months after the end of each refund year.
- f. The refund in this subsection applies only to state sales and use tax paid and does not apply to local option sales and services taxes imposed pursuant to chapters 423B and 423E.
- Sec. 3. Section 427.1, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 35. a. Property, other than land and buildings and other improvements, that is utilized by a web search portal business as defined in and meeting the requirements of section 423.3, subsection 92, including computers and equipment that are necessary for the maintenance and operation of a web search portal and other property whether directly or indirectly connected to the computers, including but not limited to cooling systems, cooling towers, and other temperature control infrastructure; power infrastructure for transformation, distribution, or management of electricity, including but not limited to exterior dedicated business-owned substations, and power distribution systems which are not subject to assessment under chapter 437A; racking systems, cabling, and trays; and back-up power generation systems, battery systems, and related infrastructure all of which are necessary for the maintenance and operation of the web search portal site.
- b. This exemption applies beginning with the assessment year the investment in or construction of the facility utilizing the materials, equipment, and systems set forth in paragraph "a" are first assessed. For purposes of claiming this exemption, the requirements may be met by aggregating the various Iowa investments and other requirements of the web search portal business's affiliates as allowed under section 423.3, subsection 92. This exemption applies to affiliates of the web search portal business.
- Sec. 4. IMPLEMENTATION. Section 25B.7 does not apply to the property tax exemption enacted in this Act.

Approved May 25, 2007

CHAPTER 200

ROAD CONSTRUCTION AND MAINTENANCE REVENUE

H.F. 932

AN ACT relating to revenue for the construction and maintenance of roads.

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

Section 1. NEW SECTION. 312A.1 DEFINITIONS.

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

- 1. "Department" means the state department of transportation.
- 2. "Fund", or "TIME-21 fund", means the transportation investment moves the economy in the twenty-first century fund.
- Sec. 2. <u>NEW SECTION</u>. 312A.2 TRANSPORTATION INVESTMENT MOVES THE ECONOMY IN THE TWENTY-FIRST CENTURY (TIME-21) FUND.

A transportation investment moves the economy in the twenty-first century fund is created in the state treasury under the control of the department. The fund shall be known and re-

ferred to as the TIME-21 fund. The fund shall consist of any moneys appropriated by the general assembly and any revenues credited by law to the TIME-21 fund. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

Sec. 3. NEW SECTION. 312A.3 ALLOCATION AND USE OF FUNDS.

Moneys in the TIME-21 fund shall be credited and used as follows:

- 1. Sixty percent for deposit in the primary road fund to be used exclusively for highway maintenance and construction, including purchase of right-of-way but not including project planning and design. The following projects are eligible for funding under this subsection and shall have funding priority in the order listed:
- a. Completion of projects on highways designated as access Iowa highways pursuant to 2005 Iowa Acts, chapter 178, section 41.
- b. Projects on highways in the commercial and industrial highway network that are included in the department's five-year plan, or in the long-range plan, for the primary road system. Priority shall be given to projects in areas of the state that have existing biodiesel, ethanol, or other biorefinery plants.
 - c. Projects on interstate highways.
- 2. Twenty percent for deposit in the secondary road fund, for apportionment according to the methodology adopted pursuant to section 312.3C, to be used by counties for construction and maintenance projects on secondary road bridges and on highways in the farm-to-market road system. At least ten percent of the moneys allocated to a county under this subsection shall be used for bridge construction, repair, and maintenance, with priority given to projects that aid and support economic development and job creation.
- 3. Twenty percent for deposit in the street construction fund of the cities, apportioned on the basis of population in the manner provided in section 312.3, to be used to sustain and improve the municipal street system.

Sec. 4. NEW SECTION. 312A.4 FUTURE REPEAL.

This chapter is repealed June 30, 2028.

Sec. 5. <u>NEW SECTION</u>. 307.31 PERIODIC REVIEW OF REVENUES — EVALUATION OF ALTERNATIVE FUNDING SOURCES.

- 1. The department shall periodically review the current revenue levels of the road use tax fund and the sufficiency of those revenues for the projected construction and maintenance needs of city, county, and state governments in the future. The department shall submit a written report to the general assembly regarding its findings by December 31 every five years, beginning in 2011. The report may include recommendations concerning funding levels needed to support the future mobility and accessibility for users of Iowa's public road system.
- 2. The department shall evaluate alternative funding sources for road maintenance and construction and report to the general assembly at least every five years on the advantages and disadvantages and the viability of alternative funding mechanisms. The department's evaluation of alternative funding sources may be included in the report submitted to the general assembly under subsection 1.
 - Sec. 6. Section 312.2, subsections 12 and 13, Code 2007, are amended to read as follows:
- 12. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the revitalize Iowa's sound economy fund, created under section 315.2, the revenue accruing to the road use tax fund in the amount equal to the revenues collected under each of the following:
- a. From the excise tax on motor fuel and special fuel imposed under the tax rate of section 452A.3 except aviation gasoline, the amount of excise tax collected from one and eleven-twentieths three-fourths cents per gallon.
- b. From the excise tax on special fuel for diesel engines, the amount of excise tax collected from one and eleven-twentieths three-fourths cents per gallon.

- 13. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the secondary road fund the revenue accruing to the road use tax fund in the amount equal to the revenues collected under each of the following:
- a. From the excise tax on motor fuel and special fuel imposed under the tax rate of section 452A.3, except aviation gasoline, the amount of excise tax collected from nine-twentieths one-fourth cent per gallon.
- b. From the excise tax on special fuel for diesel engines, the amount of excise tax collected from nine-twentieths one-fourth cent per gallon.

Sec. 7. Section 315.4, Code 2007, is amended to read as follows: 315.4 ALLOCATION OF FUND.

Moneys credited to the RISE fund shall be allocated as follows:

- 1. Twenty thirty-firsts Four-sevenths for deposit in the primary road fund for the use of the department on primary road projects exclusively for highways which are identified under section 307A.2 as being part of the network of commercial and industrial highways. as follows:
- a. Fifty percent for highways that support the production or transport of renewable fuels, including primary highways that connect biofuel facilities to highways in the commercial and industrial highway network.
- b. Fifty percent for highways that have been designated by the state transportation commission as access Iowa highways pursuant to 2005 Iowa Acts, chapter 178, section 41.
- 2. One thirty-first One-seventh for the use of counties on secondary road projects, including secondary roads that connect biofuel facilities to highways in the commercial and industrial highway network.
 - 3. Ten thirty-firsts Two-sevenths for the use of cities on city street projects.

Commencing June 30, 1990, all uncommitted moneys in the RISE fund on June 30 of each year which are allocated under this section for the use of counties on secondary road projects shall be credited to the secondary road fund.

Sec. 8. TIME-21 REVENUE COMMITTEE.

- 1. The legislative council shall establish a study committee for the 2007 legislative interim to address the revenue needs of the TIME-21 fund created in this Act. The membership of the committee shall consist of eight members of the general assembly as follows:
- a. Four members of the senate, two appointed by the majority leader of the senate and two appointed by the minority leader of the senate.
- b. Four members of the house of representatives, two appointed by the speaker of the house and two appointed by the minority leader of the house.
- 2. The committee may consider the revenue options proposed in the 2006 report prepared by the state department of transportation entitled "study of Iowa's current road use tax funds (RUTF) and future road maintenance and construction needs", as well as any other revenue options and related issues. The committee shall report its findings and recommendations, including a proposal for funding the TIME-21 fund, to the general assembly by January 15, 2008.

Approved May 25, 2007

CHAPTER 201

CABLE OR VIDEO SERVICE FRANCHISES

S.F. 554

AN ACT relating to franchises for the provision of cable service or video service including providing for fees and providing an effective date.

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

Section 1. PURPOSE. It is the purpose of this Act to encourage competition in the provision of cable service and video service in this state, to encourage new providers of cable service and video service, and to provide consumers additional choices in cable service and video service.

Sec. 2. NEW SECTION. 477A.1 DEFINITIONS.

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

- 1. "Board" means the utilities board within the utilities division of the department of commerce.
 - 2. "Cable operator" means the same as defined in 47 U.S.C. § 522.
 - 3. "Cable service" means the same as defined in 47 U.S.C. § 522.
 - 4. "Cable system" means the same as defined in 47 U.S.C. § 522.
- 5. "Competitive cable service provider" means a person who provides cable service over a cable system in an area other than the incumbent cable provider providing service in the same area.
- 6. "Competitive video service provider" means a person who provides video service other than a cable operator.
- 7. "Franchise" means an initial authorization, or renewal of an authorization, issued by the board or a municipality, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction and operation of a cable system or video service provider's network in a public right-of-way.
 - 8. "Franchise fee" means the fee imposed under section 477A.7.
- 9. a. "Gross revenues" means all consideration of any kind or nature, including but not limited to cash, credits, property, and in-kind contributions received from subscribers for the provision of cable service over a cable system by a competitive cable service provider or for the provision of video service by a competitive video service provider within a municipality's jurisdiction. Gross revenues are limited to the following:
 - (1) Recurring charges for cable service or video service.
- (2) Event-based charges for cable service or video service, including but not limited to payper-view and video-on-demand charges.
 - (3) Rental of set-top boxes and other cable service or video service equipment.
- (4) Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.
- (5) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.
- (6) A pro rata portion of all revenue derived, less refunds, rebates, or discounts, by a cable service provider or a video service provider for advertising over the cable service or video service network to subscribers within the franchise area where the numerator is the number of subscribers within the franchise area, and the denominator is the total number of subscribers reached by such advertising. This subparagraph applies only to municipalities that include this provision in their franchise agreements as of January 1, 2007.
 - b. "Gross revenues" does not include any of the following:
 - (1) Revenues not actually received, even if billed, including bad debt.

- (2) Revenues received by any affiliate or any other person in exchange for supplying goods or services used by the person providing cable service or video service.
- (3) Refunds, rebates, or discounts made to third parties, including subscribers, leased access providers, advertisers, or any municipality or other unit of local government.
- (4) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues derived by the holder of a certificate of franchise authority from services not classified as cable service or video service, including, without limitation, revenue received from telecommunications services, revenue received from information services, revenue received in connection with home-shopping services, or any other revenues attributed by the competitive cable service provider or competitive video service provider to noncable service or nonvideo service in accordance with the holder's books and records kept in the regular course of business and any applicable rules, regulations, standards, or orders.
- (5) Revenues paid by subscribers to home-shopping programmers directly from the sale of merchandise through any home-shopping channel offered as part of the cable services or video services.
- (6) Revenues from the sale of cable services or video services for resale in which the purchaser is required to collect the franchise fee from the purchaser's customer.
- (7) Revenues from any tax of general applicability imposed upon the competitive cable service provider or competitive video service provider or upon subscribers by a city, state, federal, or any other governmental entity and required to be collected by the competitive cable service provider or competitive video service provider and remitted to the taxing entity, including but not limited to sales or use tax, gross receipts tax, excise tax, utility users tax, public service tax, and communication taxes, and including the franchise fee imposed under section 477A.7.
- (8) Revenues forgone from the provision of cable services or video services to public institutions, public schools, or governmental entities at no charge.
- (9) Revenues foregone¹ from the competitive cable service provider's or competitive video service provider's provision of free or reduced-cost video service to any person, including, without limitation, any municipality and other public institutions or other institutions.
 - (10) Revenues from sales of capital assets or sales of surplus equipment.
- (11) Revenues from reimbursements by programmers of marketing costs incurred by the competitive cable service provider or competitive video service provider for the introduction or promotion of new programming.
- (12) Directory or internet advertising revenues including but not limited to yellow page, white page, banner advertisement, and electronic publishing.
 - (13) Copyright fees paid to the United States copyright office.
 - (14) Late payment charges.
 - (15) Maintenance charges.
- 10. "Incumbent cable provider" means the cable operator serving the largest number of cable subscribers in a particular franchise service area on January 1, 2007.
- 11. "Institutional network" means the system of dedicated fibers, coaxial cables, or wires constructed and maintained by an incumbent cable provider which is reserved and dedicated by the municipality for noncommercial purposes.
 - 12. "Municipality" means a county or city.
- 13. "Percentage of gross revenues" means the percentage set by the municipality and identified in a written request made under section 477A.7, subsection 1, which shall be not greater than five percent. However, if the incumbent cable provider is a municipal utility providing telecommunications services under section 388.10, "percentage of gross revenues" means the percentage set by the municipality and identified in a written request made under section 477A.7, subsection 1, which shall not be greater than an equitable apportionment of the services and fees that the municipal utility pays to the municipality, or five percent, whichever is less.
- 14. "Public right-of-way" means the area on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, or public sidewalk in which the municipality has an interest, including other dedicated rights-of-way for travel purposes and utility easements.

¹ According to enrolled Act; the word "forgone" probably intended

"Public right-of-way" does not include the airwaves above a public right-of-way with regard to cellular or other nonwire telecommunications or broadcast services or utility poles owned by a municipality or a municipal utility.

- 15. "Video programming" means the same as defined in 47 U.S.C. § 522.
- 16. "Video service" means video programming services provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including internet protocol technology. "Video service" does not include any video programming provided by a provider of commercial mobile service as defined in 47 U.S.C. § 332, or cable service provided by an incumbent cable provider or a competitive cable service provider or any video programming provided solely as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public internet.

Sec. 3. <u>NEW SECTION</u>. 477A.2 CERTIFICATE OF FRANCHISE AUTHORITY RE-QUIREMENT.

- 1. After July 1, 2007, a person providing cable service or video service in this state shall not provide such service without a franchise. The franchise may be issued by either the board pursuant to section 477A.3 or by a municipality pursuant to section 364.2.
- 2. a. A person providing cable service or video service under a franchise agreement with a municipality prior to July 1, 2007, is not subject to this section with respect to such municipality until the franchise agreement expires or is converted pursuant to subsection 6.
- b. Upon expiration of a franchise, a person may choose to renegotiate a franchise agreement with a municipality or may choose to obtain a certificate of franchise authority under this chapter.
- c. A municipal utility that provides cable service or video service in this state is not subject to this section and shall not be required to obtain a certificate of franchise authority pursuant to this chapter in the municipality in which the provision of cable service or video service by that municipality was originally approved.
- 3. For purposes of this section, a person providing cable service or video service is deemed to have executed a franchise agreement to provide cable service or video service with a specific municipality if an affiliate or predecessor of the person providing cable service or video service has or had executed an unexpired franchise agreement with that municipality as of the effective date of this Act.
- 4. A competitive cable service provider or competitive video service provider shall provide at least thirty days' notice to each municipality with authority to grant a franchise in the service area, and to the incumbent cable provider, in which the competitive cable service provider or competitive video service provider is granted authority to provide service under a certificate of franchise authority that the competitive cable service provider or competitive video service provider will offer cable services or video services within the jurisdiction of the municipality, and shall not provide service without having provided such thirty days' notice.
- 5. As used in this section, "affiliate" includes but is not limited to a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a person receiving, obtaining, or operating under a franchise agreement with a municipality to provide cable service or video service through merger, sale, assignment, restructuring, or any other type of transaction.
- 6. If a competitive cable service provider or a competitive video service provider applies for a certificate of franchise authority to operate within a municipality, the incumbent cable provider may, at its discretion, apply for a certificate of franchise authority for that same municipality. Such application shall be automatically granted on the same day as a competitive cable service provider or competitive video service provider files a thirty days' notice of offering service as required pursuant to subsection 4. The franchise agreement with the municipality is terminated on the date the board issues the certificate of franchise authority to an incumbent cable provider. The terms and conditions of the certificate of franchise authority shall be the same as the terms and conditions of a competitive cable service provider or a competitive video service provider pursuant to this chapter and shall replace the terms and conditions of the franchise agreement previously granted by the municipality.

Sec. 4. NEW SECTION. 477A.3 APPLICATION REQUIREMENTS — CERTIFICATE OF FRANCHISE AUTHORITY.

- 1. The board shall issue a certificate of franchise authority under this chapter within fifteen business days after receipt of a completed application and affidavit submitted by the applicant and signed by an officer or general partner of the applicant. The application and affidavit shall provide all of the following information:
- a. That the applicant has filed or will timely file with the federal communications commission all forms required by the commission in advance of offering cable service or video service in this state.
- b. That the applicant agrees to comply with all applicable federal and state statutes, regulations, and rules.
- c. That the applicant agrees to comply with all applicable state laws and nondiscriminatory municipal ordinances and regulations regarding the use and occupation of a public right-of-way in the delivery of the cable service or video service, to the extent consistent with this chapter, including the police powers of the municipalities in which the service is delivered.
- d. A description of the service area to be served and the municipalities to be served by the applicant which may include certain designations of unincorporated areas. This description shall be updated by the applicant prior to the expansion of cable service or video service to a previously undesignated service area and, upon such expansion, notice shall be given to the board of the service area to be served by the applicant.
- e. The address of the applicant's principal place of business and the names of the applicant's principal executive officers.
- 2. The failure of the board to notify the applicant of the completeness of the applicant's affidavit or issue a certificate of franchise authority before the fifteenth business day after receipt of a completed affidavit shall constitute issuance of the certificate of franchise authority applied for by the applicant without further action by the applicant.
 - 3. The certificate of franchise authority issued by the board shall contain all of the following:
- a. A grant of authority to provide cable service or video service in the service area designated in the application.
- b. A grant of authority to use and occupy the public right-of-way in the delivery of cable service or video service, subject to the laws of this state, including the police powers of the municipalities in which the service is delivered.
- c. A statement that the grant of authority provided by the certificate is subject to the lawful operation of the cable service or video service by the applicant or the applicant's successor.
- d. A statement that the franchise is for a term of ten years, is renewable under the terms of this section, and is nonexclusive.
- 4. A certificate of franchise authority issued by the board is fully transferable to any successor of the applicant to which the certificate was initially issued. A notice of transfer shall be filed by the holder of the certificate of franchise authority with the board and the affected municipality and shall be effective fourteen business days after submission. The notice of transfer shall include the address of the successor's principal place of business and the names of the successor's principal executive officers. The successor shall assume all regulatory rights and responsibilities of the holder of the certificate. Neither the board nor an affected municipality shall have authority to review or require approval of such transfer.
- 5. The certificate of franchise authority issued by the board may be terminated by a person providing cable service or video service by submitting written notice to the board and any affected municipality. Neither the board nor an affected municipality shall have authority to review or require approval of such termination.
- 6. The board shall only have the authorization to issue a certificate of franchise authority as provided in this section, and shall not impose any additional requirements or regulations upon an applicant.

Sec. 5. <u>NEW SECTION</u>. 477A.4 APPLICABILITY TO FEDERAL LAW.

To the extent required by applicable law, a certificate of franchise authority issued under

this chapter shall constitute a "franchise" for the purposes of 47 U.S.C. § 541(b)(1). To the extent required for the purposes of 47 U.S.C. § 521 – 561, only the state of Iowa shall constitute the exclusive franchising authority for competitive cable service providers and competitive video service providers in this state.

Sec. 6. NEW SECTION. 477A.5 MUNICIPALITY RESTRICTIONS.

- 1. A municipality shall not require a holder of a certificate of franchise authority to do any of the following:
 - a. Comply with a mandatory build-out provision.
 - b. Obtain a separate franchise.
 - c. Pay any additional fees, except as provided in this chapter.
- d. Be subject to any additional franchise requirement by the municipality, except as provided in this chapter.
- 2. For purposes of this section, a "franchise requirement" includes any provision regulating rates or requiring build-out requirements to deploy any facilities or equipment.
- 3. Section 364.2 shall not apply to a holder of a certificate of franchise authority issued pursuant to this chapter.

Sec. 7. <u>NEW SECTION</u>. 477A.6 PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS CHANNELS.

- 1. Not later than one hundred eighty days after a request by a municipality in which a competitive cable service provider or a competitive video service provider is providing cable service or video service, the holder of the certificate of authority for that municipality shall designate a sufficient amount of capacity on the certificate holder's communications network to allow the provision of a comparable number of public, educational, and governmental channels that the incumbent cable provider in the municipality has activated and provided in the municipality under the terms of a franchise agreement with a municipality prior to July 1, 2007. If no such channels are active, the municipality may request a maximum of three public, educational, and governmental channels for a municipality with a population of at least fifty thousand, and a maximum of two public, educational, and governmental channels for a municipality with a population of less than fifty thousand.
- a. The public, educational, and governmental content to be provided pursuant to this section and the operation of the public, educational, and governmental channels shall be the responsibility of the municipality receiving the benefit of such capacity. The holder of a certificate of franchise authority shall be responsible only for the transmission of such content, subject to technological restraints.
- b. The municipality receiving capacity under this section shall ensure that all transmissions, content, or programming to be transmitted by the holder of the certificate of franchise authority are provided or submitted to the competitive cable service provider or competitive video service provider in a manner or form that is capable of being accepted and transmitted by the competitive cable service provider or competitive video service provider, without requirement for additional alteration or change in the content, over the particular network of the competitive cable service provider or competitive video service provider, which is compatible with the technology or protocol utilized by the competitive cable service provider or competitive video service provider to deliver services. At its election the municipality may reasonably request any cable service provider or video service provider to make any necessary change to the form of any programming, furnished for transmission, which shall be charged to the municipality, not to exceed the provider's incremental costs. The municipality shall have up to twelve months to reimburse the cable service provider or video service provider. The provision of such transmissions, content, or programming to the competitive cable service provider or competitive video service provider shall constitute authorization for such holder to carry such transmissions, content, or programming, at the holder's option, beyond the jurisdictional boundaries stipulated in any franchise agreement.
 - 2. Where technically feasible, a competitive cable service provider or competitive video ser-

vice provider that is a holder of a certificate of franchise authority and an incumbent cable provider shall use reasonable efforts to interconnect the cable or video communications network systems of the certificate holder and incumbent cable provider for the purpose of providing public, educational, and governmental programming. Interconnection may be accomplished by direct cable, microwave link, satellite, or other reasonable method of connection. A holder of a certificate of franchise authority and an incumbent cable provider shall negotiate in good faith and an incumbent cable provider shall not withhold interconnection of public, educational, or governmental channels.

3. A court of competent jurisdiction shall have exclusive jurisdiction to enforce any requirement under this section.

Sec. 8. NEW SECTION. 477A.7 FEES — FINANCIAL SUPPORT.

- 1. a. In any service area in which a competitive cable service provider or a competitive video service provider holding a certificate of franchise authority offers or provides cable service or video service, the competitive cable service provider or competitive video service provider shall calculate and pay a franchise fee to the municipality with authority to grant a certificate of franchise authority in that service area upon the municipality's written request. If the municipality makes such a request, the franchise fee shall be due and paid to the municipality on a quarterly basis, not later than forty-five days after the close of the quarter, and shall be calculated as a percentage of gross revenues. The municipality shall not demand any additional franchise fees from the competitive cable service provider or competitive video service provider, and shall not demand the use of any other calculation method for the franchise fee.
- b. All cable service providers and video service providers shall pay a franchise fee at the same percent of gross revenues as had been assessed on the incumbent cable provider by the municipality as of January 1, 2007, and such percentage shall continue to apply for the period of the remaining term of the existing franchise agreement with the municipality. Upon expiration of the period of the remaining term of the agreement with the incumbent cable service provider, a municipality may request an increase in the franchise fee up to five percent of gross revenues.
- c. A provider who is both a competitive cable service provider and a competitive video service provider shall be subject to and only be required to pay one franchise fee to a municipality under this subsection regardless of whether the provider provides both cable service and video service
- d. At the request of a municipality and not more than once per year, an independent auditor may perform reasonable audits of the competitive cable service provider's or competitive video service provider's calculation of the franchise fee under this subsection. The municipality shall bear the costs of any audit requested pursuant to this subsection, unless the audit discloses that the competitive cable service provider or competitive video service provider has underpaid franchise fees by more than five percent, in which case the competitive cable service provider or competitive video service provider shall pay all of the reasonable and actual costs of the audit
- e. A competitive cable service provider or competitive video service provider may identify and collect the amount of the franchise fee as a separate line item on the regular bill of each subscriber.
- 2. If an incumbent cable provider pays any fee to a municipality for public, educational, and governmental access channels, any subsequent holder of a certificate of franchise authority that includes that municipality shall pay this fee at the same rate during the remaining term of the existing franchise agreement with the municipality, even if the incumbent cable provider elects to convert to a certificate of franchise authority pursuant to section 477A.2. All fees collected pursuant to this subsection shall be used only for the support of the public, educational, and governmental access channels.
- 3. a. If an incumbent cable provider is required by a franchise agreement as of January 1, 2007, to provide institutional network capacity to a municipality for use by the municipality for noncommercial purposes, the incumbent cable provider and any subsequent holder of a

certificate of franchise authority shall provide support only for the existing institutional network on a pro rata basis per customer. Any financial support provided for an institutional network shall be limited to ongoing maintenance and support of the existing institutional network. This subsection shall be applicable only to a cable service provider's or video service provider's first certificate of franchise authority issued under this chapter, and shall not apply to any subsequent renewals. For the purposes of this subsection, maintenance and support shall only include the reasonable incremental cost of moves, changes, and restoring connectivity of the fiber or coaxial cable lines up to a demarcation point at the building.

- b. For purposes of this subsection, the number of customers of a cable service provider or video service provider shall be determined based on the relative number of subscribers in that municipality at the end of the prior calendar year as reported to the municipality by all incumbent cable providers and holders of a certificate of franchise authority. Any records showing the number of subscribers shall be considered confidential records pursuant to section 22.7. The incumbent cable provider shall provide to the municipality, on an annual basis, the maintenance and support costs of the institutional network, subject to an independent audit. A municipality acting under this subsection shall notify and present a bill to competitive cable service providers or competitive video service providers for the amount of such support on an annual basis, beginning one year after issuance of the certificate of franchise authority. The annual institutional network support shall be due and paid by the providers to the municipality in four quarterly payments, not later than forty-five days after the close of each quarter. The municipality shall reimburse the incumbent cable provider for the amounts received from competitive cable service providers or competitive video service providers.
- c. This subsection shall not apply if the incumbent cable service provider is a municipal utility providing telecommunications services under section 388.10.
- 4. A franchise fee may be assessed or imposed by a municipality without regard to the municipality's cost of inspecting, supervising, or otherwise regulating the franchise, and the fees collected may be credited to the municipality's general fund and used for municipal general fund purposes.
- 5. To the extent that any amount of franchise fees assessed by and paid to a municipality prior to the effective date of this Act, pursuant to a franchise agreement between a municipality and any person to erect, maintain, and operate plants and systems for cable television, exceeds the municipality's reasonable costs of inspecting, supervising, or otherwise regulating the franchise, such amount is deemed and declared to be authorized and legally assessed by and paid to the municipality.

Sec. 9. NEW SECTION. 477A.8 CUSTOMER SERVICE STANDARDS.

- 1. The holder of a certificate of franchise authority shall comply with customer service requirements consistent with those contained in 47 C.F.R. § 76.309, and shall maintain a local or toll-free telephone number for customer service contact.
- 2. The holder of a certificate of franchise authority shall implement an informal process for handling inquiries from municipalities and customers concerning billing events, service issues, and other complaints. If an issue is not resolved through this informal process, a municipality may request a confidential nonbinding mediation with the holder of a certificate of franchise authority, with the costs of such mediation to be shared equally between the municipality and the holder of a certificate of franchise authority.

Sec. 10. NEW SECTION. 477A.9 NONDISCRIMINATION BY MUNICIPALITY.

- 1. A municipality shall allow the holder of a certificate of franchise authority to install, construct, and maintain a communications network within a public right-of-way and shall provide the holder of a certificate of franchise authority with open, comparable, nondiscriminatory, and competitively neutral access to the public right-of-way.
- 2. A municipality shall not discriminate against the holder of a certificate of franchise authority in providing access to a municipal building or through a municipal utility pole attachment term.

Sec. 11. NEW SECTION. 477A.10 PROVIDER DISCRIMINATION PROHIBITED.

- 1. The purpose of this section is to prevent discrimination among potential residential subscribers.
- 2. A competitive cable service provider or competitive video service provider holding a certificate of franchise authority shall not deny access to any group of potential residential subscribers because of the income of residents in the local area in which such group resides.
- 3. A video service provider operating under a certificate of franchise authority that is using telecommunication facilities to provide video services and has more than five hundred thousand telecommunication access lines in this state shall extend its system to a potential subscriber, at no cost to the potential subscriber, if all of the following criteria are met:
 - a. The potential subscriber is located within its authorized service area.
- b. At least two hundred fifty dwelling units are located within two thousand five hundred feet of a remote terminal.
- c. These dwelling units do not have cable or video service available from another cable service provider or video service provider.

This subsection shall be applicable only after the first date on which the video service provider operating under a certificate of franchise authority is providing cable service or video service to more than fifty percent of all cable and video subscribers receiving cable or video service from the holders of certificates of franchise authority and any other providers of cable or video services operating under franchise agreements with a municipality.

Sec. 12. NEW SECTION. 477A.11 APPLICABILITY OF OTHER LAW.

- 1. This chapter is intended to be consistent with the federal Cable Act, 47 U.S.C. § 521 et seq.
- 2. Except as otherwise stated in this chapter, this chapter shall not be interpreted to prevent a competitive cable service provider, competitive video service provider, municipality, or other provider of cable service or video service from seeking clarification of any rights and obligations under federal law or to exercise any right or authority under federal or state law.

Sec. 13. NEW SECTION. 477A.12 RULES.

The board shall adopt rules necessary to administer this chapter.

- Sec. 14. FRANCHISES FOR PROVISION OF CABLE SERVICE OR VIDEO SERVICE SEVERABILITY. If any provision of this Act, or its application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable as provided in section 4.12.
- Sec. 15. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 29, 2007

CHAPTER 202

VETERANS AFFAIRS AND FLAG DESECRATION

H.F. 817

AN ACT concerning the flag and veterans by providing for a study of regional veterans affairs offices, providing for the duties of the department of veterans affairs and the commission on veterans affairs, prohibiting certain acts involving the flag, establishing a counseling program for veterans, and providing a penalty.

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

Section 1. NEW SECTION. 35.12 VETERANS COUNSELING PROGRAM.

- 1. The department shall coordinate with United States veterans administration hospitals, health care facilities, and clinics in this state and the department of public health to provide assistance to veterans and their families to reduce the incidence of alcohol and chemical dependency and suicide among veterans and to make mental health counseling available to veterans.
 - 2. The assistance program shall include but not be limited to the following:
- a. Public education and awareness programs for veterans, health care professionals, and the public, relative to the needs of veterans.
- b. Referral services to identify appropriate counseling and treatment programs for veterans in need of services.
- 3. Any assistance program established pursuant to this section shall be implemented in a manner that does not duplicate other services readily available to veterans.
 - Sec. 2. Section 35A.2, subsection 1, Code 2007, is amended to read as follows:
- 1. A commission of veterans affairs is created consisting of nine persons who shall be appointed by the governor, subject to confirmation by the senate. Members shall be appointed to staggered terms of four years beginning and ending as provided in section 69.19. The governor shall fill a vacancy for the unexpired portion of the term. In addition to the members appointed by the governor, the director of the department and the commandant of the Iowa veterans home shall serve as nonvoting, ex officio members of the commission.
- Sec. 3. Section 35A.3, subsections 2 and 3, Code 2007, are amended by striking the subsections and inserting in lieu thereof the following:
- 2. Review proposed rules submitted by the department concerning the management and operation of the department. Unless the commission votes to disapprove a proposed rule on a two-thirds vote at the earlier of the next regularly scheduled meeting of the commission or a special meeting of the commission called by the commission within thirty days of the date the proposed rule is submitted, the department may proceed to adopt the rule.
- 3. a. Advise and make recommendations to the department, the general assembly, and the governor, concerning issues involving and impacting veterans in this state.
- b. Advise and make recommendations to the general assembly and the governor concerning the management and operation of the department.
- Sec. 4. Section 35A.5, Code 2007, is amended by adding the following new subsections: <u>NEW SUBSECTION</u>. 0A. Maintain and disseminate information to veterans and the public regarding facilities, benefits, and services available to veterans and their families and assist veterans and their families in obtaining such benefits and services.

<u>NEW SUBSECTION</u>. 12. Adopt rules pursuant to chapter 17A and establish policy for the management and operation of the department. Prior to adopting rules, the department shall submit proposed rules to the commission for review pursuant to the requirements of section 35A.3.

<u>NEW SUBSECTION</u>. 13. Provide information requested by the commission concerning the management and operation of the department and the programs administered by the department.

- Sec. 5. Section 35A.5, subsection 8, Code 2007, is amended to read as follows:
- 8. Provide After consultation with the commission, provide training to executive directors of county commissions of veteran affairs pursuant to section 35B.6. The commission department may adopt rules in accordance with chapter 17A to provide for training of county veteran affairs executive directors.
- Sec. 6. Section 35A.8, subsection 4, paragraph a, Code 2007, is amended to read as follows: a. The executive director shall provide for the administration of the bonus authorized in this subsection. The commission department shall adopt rules, pursuant to chapter 17A, as necessary to administer this subsection including, but not limited to, application procedures, investigation, approval or disapproval, and payment of claims.
 - Sec. 7. Section 35A.13, subsection 6, Code 2007, is amended to read as follows:
- 6. It is the intent of the general assembly that beginning with the fiscal year beginning July 1, 2007 2008, appropriations be made annually to the veterans trust fund. Prior to any additional appropriations to this fund, the commission department 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. 8. Section 36.1, subsection 3, Code 2007, is amended by striking the subsection.
 - Sec. 9. Section 36.8, Code 2007, is amended to read as follows: 36.8 RULES.

The commission department shall adopt rules pursuant to chapter 17A to implement this chapter.

Sec. 10. Section 36.9, Code 2007, is amended to read as follows:

36.9 APPROPRIATIONS.

This chapter shall be implemented by the commission department each fiscal year that appropriations are made to the commission department for the implementation.

Sec. 11. Section 135.20, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The information to be distributed shall be determined by the department by rule, in consultation with the commission department of veterans affairs. The information shall, at a minimum, contain statements indicating that:

Sec. 12. Section 135.20, subsection 2, unnumbered paragraph 2, Code 2007, is amended to read as follows:

The information shall also present treatment options and shall specify a procedure to be followed for veterans desiring a medical consultation for screening and treatment purposes. The department shall cooperate with the state commission department of veterans affairs regarding distribution of the information to the veterans home, the county commissions of veteran affairs, veterans hospitals, and other appropriate points of distribution.

Sec. 13. NEW SECTION. 718A.0A DEFINITIONS.

As used in this section:

- 1. "Contempt" means an intentional lack of respect or reverence by treating in a rough manner.
 - 2. "Deface" means to intentionally mar the external appearance.

- 3. "Defile" means to intentionally make physically unclean.
- 4. "Mutilate" means to intentionally cut up or alter so as to make imperfect.
- 5. "Trample" means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.
 - Sec. 14. NEW SECTION. 718A.7 RETIREMENT CEREMONY.

This chapter does not apply to a flag retirement ceremony conducted pursuant to federal law.

- Sec. 15. Section 723.4, subsection 6, Code 2007, is amended to read as follows:
- 6. <u>a.</u> Knowingly and publicly uses the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit <u>a public offense trespass or assault</u>.
 - b. As used in this section:
 - (1) "Show disrespect" means to deface, defile, mutilate, or trample.
 - (2) "Deface" means to intentionally mar the external appearance.
 - (3) "Defile" means to intentionally make physically unclean.
- (4) "Flag" means a piece of woven cloth or other material designed to be flown from a pole or mast.
 - (5) "Mutilate" means to intentionally cut up or alter so as to make imperfect.
- (6) "Trample" means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.
- c. This subsection does not apply to a flag retirement ceremony conducted pursuant to federal law.
- Sec. 16. VETERANS COUNSELING PROGRAM REPORT. The director of the department of veterans affairs shall submit a report to the members of the general assembly by January 15, 2008, regarding the administration of the veterans counseling program established pursuant to section 35.12, as enacted by this Act.
- Sec. 17. DEPARTMENT OF VETERANS AFFAIRS REGIONAL VETERANS AFFAIRS OFFICES STUDY. The department of veterans affairs shall conduct a study and develop a plan, in collaboration with the department of workforce development, to provide regional coverage for veterans affairs services. The plan shall provide for the colocation of department of veterans affairs staff in workforce development regional offices to provide direct services to underserved veterans throughout the state. The plan shall foster the development of the county veteran affairs offices, yet ensure coverage where county services are not readily available. The department of veterans affairs and the department of workforce development shall evaluate the personnel needs to serve veterans within the regions, and identify the most efficient use of state, local, and federal resources to serve the most veterans in each region. The plan shall also consider strategies to request a waiver on the use of federal workforce development funds to increase state flexibility to utilize the funds in the most efficient ways to serve veterans. The department of veterans affairs shall submit to the general assembly by January 1, 2008, the results of its study, including its recommended plan to provide improved regional coverage for veterans services.

CHAPTER 203

SUPPLEMENTAL APPROPRIATIONS — VETERAN AND ARMED FORCES MEMBER HOME OWNERSHIP ASSISTANCE AND INJURED VETERANS GRANTS

S.F. 95

AN ACT making supplemental appropriations for the home ownership assistance and injured veterans grant programs for Iowa residents who are eligible members or military veterans of the armed forces of the United States and providing an effective date.

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

Section 1. 2006 Iowa Acts, chapter 1184, section 5, is amended by adding the following new subsections:

NEW SUBSECTION. 3. HOME OWNERSHIP ASSISTANCE PROGRAM

- 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. The home ownership assistance program shall continue to be directed to 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, 2008.
- c. Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year beginning July 1, 2008.

NEW SUBSECTION. 4. INJURED VETERANS GRANT PROGRAM

For continuation of the injured veterans grant program in accordance with section 35A.14, for providing hardship grants to military veterans seriously injured in a combat zone since September 11, 2001:

......\$ 2,000,000 Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

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

Approved February 14, 2007

¹ See chapter 218, §66, 67 herein

CHAPTER 204

FEDERAL BLOCK GRANT APPROPRIATIONS

H.F. 787

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 department of public health for the federal fiscal year beginning October 1, 2007, and ending September 30, 2008, the following amount:
- 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, 2006, 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, \S 3305, as codified in 42 U.S.C. \S 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 department of human services for the federal fiscal year beginning October 1, 2007, and ending September 30, 2008, the following amount:
- 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 es-

tablished or designated a community mental health center and has received a waiver from the mental health, 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.

2. An amount not exceeding 5 percent of the funds appropriated in subsection 1 shall be used by the department of human services for administrative expenses. From the funds set aside by this subsection for administrative expenses, the department shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the department for the costs of the audits.

Sec. 3. MATERNAL AND CHILD HEALTH SERVICES APPROPRIATIONS.

- 1. There is appropriated from the fund created by section 8.41 to the department of public health for the federal fiscal year beginning October 1, 2007, and ending September 30, 2008, the following amount:
-\$ 6,579,555
- a. 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.
- b. 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 10 percent of the funds appropriated in subsection 1 shall be used by the department of public health for administrative expenses.
- 3. 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.
- 4. 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 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.
- 5. The 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 department of public

1,881,623

health for the federal fiscal year beginning October 1, 2007, and ending September 30, 2008, the following amount:
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. 2. Of the funds appropriated in subsection 1, an amount not more than 10 percent shall be used by the department for administrative expenses. 3. 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. 4. After deducting the funds allocated in subsections 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, 2007, and ending September 30, 2008, the following amount:
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, 2007, and ending September 30, 2008, the following amount:
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, 2007, and ending September 30, 2008, the following amount:

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	appropri	ated from	n the fund	d create	ed by se	ction 8	.41 to th	ie divi	sion o	f comi	mu-
nity	act	tion agen	cies of th	ie departi	ment of h	numan	rights f	or the	federal	fiscal	year b	eginn	iing
Octo	be	r 1, 2007	, and end	ing Septe	ember 30	, 2008,	the foll	owing	amount	t :			

.....\$ 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 department of economic development for the federal fiscal year beginning October 1, 2007, and ending September 30, 2008, the following amount: 26,500,000

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 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 \$1,260,000 for the federal fiscal year beginning October 1, 2007, shall be used by the department of economic development for administrative expenses for the community development block grant. The total amount used for administrative expenses includes \$630,000 for the federal fiscal year beginning October 1, 2007, of funds appropriated in subsection 1 and a matching contribution from the state equal to \$630,000 from the appropriation of state funds for the community development block grant and state appropriations for related activities of the department of economic development. From the funds set aside for administrative expenses by this subsection, the 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, 2007, and ending September 30, 2008, the following amount:
- 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, 2007, and ending September 30, 2008, the following amount:

	\$	16,902,644
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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, 2007, for the following programs within the department of human services:

a. Field operations:		
*	\$	6,428,488
b. Child and family services:		
c. Local administrative costs and other local services:	\$	961,523
	\$	681,759
d. Volunteers:		
e. Community-based services:	\$	74,510
······································	\$	85,685
f. MH/MR/DD/BI community services (local purchase):	ф	5.505.001
	\$	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, 2007, and ending September 30, 2008, 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 A	ND DEVELOPMI	ENT APPROPE	RIATION. T	here is	appropriated
	nd created by sect					
year beginı	ning October 1, 20	007 , and ending ${f \hat{S}}$	September 30, 2	2008, the fo	llowing	g amount:
					\$	41,571,218

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.

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 3, 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, 2007, and ending June 30, 2008, 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, 2007, and ending June 30, 2008, 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, 2007, and ending June 30, 2008, 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, 2007, and ending June 30, 2008, 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, 2007, and ending June 30, 2008, 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, 2007, and ending June 30, 2008, 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, 2007, and ending June 30, 2008, 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, 2007, and ending June 30, 2008, 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, 2007, and ending June 30, 2008, 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, 2007, and ending June 30, 2008, 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. 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, 2007, and ending June 30, 2008, are appropriated to the 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, 2007, and ending June 30, 2008, 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, 2007, and ending June 30, 2008, 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. IOWA 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, 2007, and ending June 30, 2008, 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. IOWA FINANCE 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, 2007, and ending June 30, 2008, are appropriated to the Iowa finance authority for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.
- Sec. 32. 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, 2007, and ending June 30, 2008, 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. 33. 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, 2007, and ending June 30, 2008, 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. 34. 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, 2007, and ending June 30, 2008, 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. 35. 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, 2007, and ending June 30, 2008, 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. 36. 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, 2007, and ending June 30, 2008, 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. 37. 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, 2007, and ending June 30, 2008, 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. 38. DEPARTMENT OF JUSTICE. Federal grants, receipts, and funds and other non-state grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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. 39. 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, 2007, and ending June 30, 2008, 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. 40. 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, 2007, and ending June 30, 2008, 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. 41. 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, 2007, and ending June 30, 2008, 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. 42. 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, 2007, and ending June 30, 2008, 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. 43. 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, 2007, and ending June 30, 2008, 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. 44. 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, 2007, and ending June 30, 2008, 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. 45. 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, 2007, and ending June 30, 2008, are appropriated to the 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. 46. 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, 2007, and ending June 30, 2008, 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. 47. STATE BOARD OF REGENTS. Federal grants, receipts, and funds and other non-state grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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. 48. 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, 2007, and ending June 30, 2008, 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. 49. 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, 2007, and ending June 30, 2008, 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. 50. 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, 2007, and ending June 30, 2008, 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. 51. 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, 2007, and ending June 30, 2008, 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. 52. 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, 2007, and ending June 30, 2008, 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. 53. 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, 2007, and ending June 30, 2008, 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. 54. 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, 2007, and ending June 30, 2008, are appropriated to the 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. 55. 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, 2007, and ending June 30, 2008, are appropriated to the 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. 56. 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, 2007, and ending June 30, 2008, are appropriated to the department of workforce development for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Approved April 20, 2007

CHAPTER 205

STATE BOARD OF REGENTS INSTITUTIONS — BONDING — APPROPRIATIONS H.F. 920

AN ACT authorizing the state board of regents to borrow moneys and issue revenue bonds to finance the costs of certain building and facility improvement programs.

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

Section 1. STATE BOARD OF REGENTS BONDING.

- 1. FINDINGS. The general assembly finds that:
- a. The state board of regents has approved a buildings and facilities improvement program for the institutions of higher learning under the jurisdiction of the board, which the board deems necessary to further the educational objectives of the institutions, together with an estimate of the cost of each of the buildings and facilities.
- b. The projects contained in the buildings and facilities improvement program are deemed necessary for the proper performance of the instructional, research, and service functions of the institutions.
- c. Section 262A.4 provides that the state board of regents, after authorization by a constitutional majority of each house of the general assembly and approval by the governor, may undertake and carry out at the institutions of higher learning under the jurisdiction of the board any project as defined in chapter 262A.
- d. Chapter 262A authorizes the state board of regents to borrow moneys and to issue and sell negotiable revenue bonds to pay all or any part of the cost of carrying out projects at any institution payable solely from and secured by an irrevocable pledge of a sufficient portion of the student fees and charges and institutional income received by the particular institution.

- e. To further the educational objectives of the institutions, the state board of regents requests authorization to finance certain costs of the capital improvement program by borrowing moneys and issuing negotiable bonds under chapter 262A in a total amount as provided in this section, with the remaining costs of the projects to be financed by appropriations or by federal or other funds lawfully available.
- 2. AUTHORIZATION OF PROJECTS. The state board of regents is authorized to undertake, plan, construct, improve, repair, remodel, furnish, and equip, and otherwise carry out the following projects at the institutions of higher learning under the jurisdiction of the board at a cost not to exceed the following amounts:
 - a. State university of Iowa:

.....\$ 35,900,000

Of the amount authorized in this lettered paragraph, \$18,700,000 shall be allocated to the college of public health academic building.

Of the amount authorized in this lettered paragraph, \$4,200,000 shall be allocated to the renovation of the old music building.

Of the amount authorized in this lettered paragraph, \$13,000,000 shall be allocated for renewal and HVAC modernization of the pentacrest.

Any balance remaining in a project fund after a project is completed may be expended for fire and environmental safety, deferred maintenance, or campus security improvements at the buildings and facilities of the institution as deemed necessary by the state board of regents.

b. Iowa state university of science and technology:

For chemistry building facilities:

.....\$ 53,900,000

Any balance remaining in the project fund after the project is completed may be expended for fire and environmental safety, deferred maintenance, or campus security improvements at the buildings and facilities of the institution as deemed necessary by the state board of regents.

c. University of northern Iowa:

.....\$ 17,600,000

Of the amount authorized in this lettered paragraph, \$5,800,000 shall be allocated for phase II of the electrical distribution loop system load break.

Of the amount authorized in this lettered paragraph, \$11,800,000 shall be allocated for the renovation of Sabin hall.

Any balance remaining in a project fund after a project is completed may be expended for fire and environmental safety, deferred maintenance, or campus security improvements at the buildings and facilities of the institution as deemed necessary by the state board of regents.

d. For fire and environmental safety, deferred maintenance, and campus security improvements at buildings and facilities of the universities as deemed necessary by the state board of regents:

.....\$ 24,000,000

- 3. AUTHORIZATION OF BORROWING AND BONDING.
- a. The general assembly authorizes the state board of regents to borrow moneys and to issue and sell negotiable revenue bonds in the amount of \$131,400,000 in the manner provided in sections 262A.5 and 262A.6 in order to pay all or any part of the costs of carrying out the projects at the institutions approved and authorized in subsection 2, with the remaining costs of the projects to be financed by appropriations or by federal or other funds lawfully available. The amount of bonds may be exceeded by the amount the state board of regents determines to be necessary to capitalize bond reserves, interest during construction, and issuance costs. No commitment is implied or intended by approval to fund any portion of the buildings and facilities improvement program beyond the portion that is financed and approved by the Eighty-second General Assembly, 2007 Session, and the governor.
- b. In light of this bonding authorization, the state board of regents shall not request additional state capital funding for its universities for new academic buildings through the fiscal year ending June 30, 2013. Capital projects already receiving some state dollars, new infra-

8.00

structure projects resulting from economic development initiatives, completion of phase II of the college of veterinary medicine project at Iowa state university of science and technology, and projects for deferred maintenance, fire safety, or campus security improvements are excluded from this funding restriction.

Approved May 11, 2007

CHAPTER 206

MISCELLANEOUS SUPPLEMENTAL APPROPRIATIONS AND FINANCIAL REGULATION

S.F. 403

AN ACT addressing financial and regulatory matters by making and revising appropriations, providing for properly related matters, and providing effective dates.

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

DIVISION I ADMINISTRATION AND REGULATION DEPARTMENT OF ADMINISTRATIVE SERVICES UTILITY COSTS

Section 1. 2006 Iowa Acts, chapter 1177, section 1, subsection 2, is amended to read as follows:

2. For the payment of utility costs:	
	\$ 3,080,865
	4,080,865

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.

OFFICE OF GOVERNOR

Sec. 2.	2006 Iowa Acts, chapter 1177, section 10, subsection 2, is amended to read as fe	ol•
lows:		
2. TER	RACE HILL QUARTERS	

For salaries, support, maintenance, and miscellaneous purposes for the governor's q	uarters
at Terrace Hill, and for not more than the following full-time equivalent positions:	
\$	378,633
<u>.</u>	483,633

Sec. 3. 2006 Iowa Acts, chapter 1177, section 10, subsection 6, paragraph b, is amended to
read as follows: b. For payment to the governor-elect expense fund in lieu of the appropriation from the gen-
eral fund of the state under section 7.13 to the governor-elect expense fund:
\$ 100,000 170,000
DEPARTMENT OF REVENUE OPERATIONS
Sec. 4. 2006 Iowa Acts, chapter 1177, section 18, unnumbered paragraph 2, is amended to read as follows:
For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
\$ 23,138,575 23,238,575
FTEs 392.64
GOVERNOR
Sec. 5. IOWA ENERGY INDEPENDENCE OFFICE. There is appropriated from the general fund of the state to the office of the governor and lieutenant governor 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 initial implementation of an Iowa energy independence office, in lieu of any other appropriation or allocation made for this purpose for the fiscal year of the appropriation and for the succeeding fiscal year, including salaries, support, maintenance, miscellaneous purposes and for not more than the following full-time equivalent positions: \$250,000\$ FTES 3.00
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.\(^1\)
DIVISION II EDUCATION STATE BOARD OF REGENTS
Sec. 6. BIOMASS PRODUCTION PROJECT. 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 amount, or so much thereof as may be necessary, to be used for the purpose designated: For a biomass production project at the university of northern Iowa to determine the feasibility of burning prairie vegetation for electrical generation:
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.
DEPARTMENT OF CULTURAL AFFAIRS
Sec. 7. 2006 Iowa Acts, chapter 1185, section 41, subsection 1, is amended to read as fol-
lows: 1. For the African-American historical museum and cultural center of Iowa in Cedar Rapids:

¹ See chapter 209, §3; chapter 215, §132 herein

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 expended. The historical museum and cultural center shall report to the department and the members and staff of the joint appropriations subcommittee on economic development on or before December 15, 2007, detailing the planned and actual uses for the moneys appropriated in this subsection.

Sec. 8. IOWA CAUCUS PROJECT. 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:

DEPARTMENT OF EDUCATION

Sec. 9. SKILLS IOWA TECHNOLOGY GRANT PROGRAM.

1. 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 purposes designated:

For continuation of the skills Iowa technology grant program in accordance with this section:

- 2. The amount appropriated in this section shall be used to continue the skills Iowa technology grant program, previously known as the follow-the-leader technology grant program. The purpose of the program is to provide assessment and remediation tools to classrooms, to enhance teachers' ability to easily assess the skill levels of individual students and prescribe individualized instruction plans based on those assessments, and provide for professional development of teachers. The department shall contract with a not-for-profit entity with at least two years experience with the skills Iowa technology program and in providing technical assistance to schools in Iowa. The goals for the contractor shall include minimizing disruption in the use of skills Iowa in schools. Any departmental administrative expenses associated with this appropriation shall not exceed \$50,000.
- 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. 10. ASSISTIVE TECHNOLOGY LOANS.

1. 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 purposes designated:

For the division of vocational rehabilitation services to issue a grant to a foundation to provide assistive technology loans and loan guarantees in accordance with this section:

- 2. The foundation must be headquartered in Iowa and be qualified as tax exempt under section 501(c)(3) of the Internal Revenue Code; operate for the purpose of offering loans to Iowans who need to purchase assistive technology such as specialized computers or software, wheelchairs, communication devices, home modifications, vehicle modifications, and other
- wheelchairs, communication devices, home modifications, vehicle modifications, and other devices; have been in existence since 1998; have offices in Des Moines; and have experience in partnering with banks and the Iowa finance authority in providing loans.
 - 3. The grant shall require the grantee to provide a dollar-for-dollar match.

- 4. The grant shall be used to provide loans and loan guarantees to or on behalf of Iowa residents who have a disability or disabling condition, are in need of assistive technology, are able to meet lending and purpose requirements, and are able to repay the loan. Not more than 5 percent of the amount appropriated shall be used for the administrative costs of the grantee so that 95 percent of the appropriation amount is used for providing loans and loan guarantees.
- 5. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.
- Sec. 11. MOBILE PRODUCTION UNIT. 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 purposes designated:

For the public broadcasting division to purchase a mobile television production unit and digital equipment:

.....\$ 1,000,000

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 fiscal year beginning July 1, 2008.

DIVISION III HEALTH AND HUMAN SERVICES IOWACARE PROGRAM

Sec. 12. 2006 Iowa Acts, chapter 1184, section 60, is amended by adding the following new subsection:

<u>NEW SUBSECTION</u>. 4. 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:

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.

DIVISION IV JUSTICE SYSTEM DEPARTMENT OF CORRECTIONS FACILITIES

Sec. 13.	2006 Iowa Acts	, chapter 1183,	, section 4,	subsection	1, paragraph	ıs b, c, e	e, g, and
j, are ame	ended to read as fo	llows:					

b. For the operation of the Anamosa c	correctional facility,	including salaries,	support, main-
tenance, and miscellaneous purposes:			

28,903,747 29.253.747

² See chapter 218, §63, 67 herein

Moneys are provided within this appropriation for one full-time substance for the Luster Heights facility, for the purpose of certification of a substance at that facility.	
c. For the operation of the Oakdale correctional facility, including salaries,	support, mainte
nance, and miscellaneous purposes:\$	28,972,190 32,392,728
e. For the operation of the Mt. Pleasant correctional facility, including s	
maintenance, and miscellaneous purposes:	
\$	24,929,418
	<u>25,479,418</u>
g. For the operation of the Clarinda correctional facility, including salarie	s, support, main
tenance, and miscellaneous purposes:	04.051.505
\$	24,251,587
Moneys received by the department of corrections as reimbursement for s	24,651,587
to the Clarinda youth corporation are appropriated to the department and sha	
purpose of operating the Clarinda correctional facility.	in be used for the
j. For reimbursement of counties for temporary confinement of work release	se and parole vio
lators, as provided in sections 901.7, 904.908, and 906.17 and for offenders co	
to section 904.513:	•
\$	799,954 1,199,954
DEPARTMENT OF CORRECTIONS	
ADMINISTRATION	
Sec. 14. 2006 Iowa Acts, chapter 1183, section 5, subsection 1, paragraph paragraph 1, is amended to read as follows:	h a, unnumbered
For general administration, including salaries, support, maintenance, empl	lovment of an ed
ucation director to administer a centralized education program for the cornand miscellaneous purposes:	
\$	3,928,438 4,128,438
DEPARTMENT OF PUBLIC SAFETY DIVISION OF CRIMINAL INVESTIGATION	
Sec. 15. 2006 Iowa Acts, chapter 1183, section 16, subsection 2, unnumber	ered paragraph 1
is amended to read as follows:	
For the division of criminal investigation, including the state's contribution	
cers' retirement, accident, and disability system provided in chapter 97A in percent of the salaries for which the funds are appropriated, to meet federa	
requirements, and for not more than the following full-time equivalent posi	
\$	18,673,875
	19,140,375
ETEC	270.50

DEPARTMENT OF PUBLIC SAFETY STATE FIRE MARSHAL

Sec. 16. 2006 Iowa Acts, chapter 1183, section 16, subsection 5, paragraph a, is amended to read as follows:

a. For the division of state fire marshal, including the state's contribution to the peace offi-

cers' 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 2,613,247
FTEs 41.00
DEPARTMENT OF PUBLIC SAFETY STATE PATROL
Sec. 17. 2006 Iowa Acts, chapter 1183, section 16, subsection 6, unnumbered paragraph 1, is amended to read as follows:
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 45,335,618
FTEs 531.00
Sec. 18. EQUIPMENT. 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 amount, or so much thereof as is necessary, to be used for the purposes designated: For equipment costs:
Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.
DIVISION V INFRASTRUCTURE, TECHNOLOGY, AND EQUIPMENT REBUILD IOWA INFRASTRUCTURE FUND
Sec. 19. IOWA JUVENILE HOME. There is appropriated from the rebuild Iowa infrastructure fund to the department of administrative 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 Iowa juvenile home powerhouse:
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 fiscal year that begins July 1, 2010, or until the project for which the appropriation was made is completed, whichever is earlier.

TOBACCO SETTLEMENT TRUST FUND AND ROAD USE TAX FUND

Sec. 20. FY 2006-2007. 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, 2006, and ending June 30, 2007, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

 DEPARTMENT OF ADMINISTRATIVE SERVICES For costs associated with the replacement of the roof at the governor's mansion at Terrace Hill:
b. For upgrades to the electrical distribution system serving the capitol complex:
2. DEPARTMENT OF PUBLIC SAFETY For costs associated with the acquisition and maintenance of property, the purchase and installation of radio consoles at public safety facilities, and the purchase of equipment:
CHANGES TO PRIOR APPROPRIATIONS DEPARTMENT OF ADMINISTRATIVE SERVICES FY 2004-2005
Sec. 21. 2004 Iowa Acts, chapter 1175, section 304, subsection 1, paragraph a, is amended to read as follows:
a. For the payment of claims relating to the purchase and implementation of an integrated information for Iowa system, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):
\$ 6,049,284 4,549,284
DEPARTMENT OF PUBLIC SAFETY FY 2005-2006
Sec. 22. 2006 Iowa Acts, chapter 1179, section 12, subsection 1, paragraph e, is amended to read as follows: e. DEPARTMENT OF PUBLIC SAFETY
For construction of an Iowa state patrol post in district 8:
OFFICE OF TREASURER OF STATE
Sec. 23. There is appropriated from the road use tax fund to the office of the 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 information technology-related expenses:
\$ 93,148
DIVISION VI OTHER APPROPRIATIONS

OTHER APPROPRIATIONS

Sec. 24. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOP-MENTAL DISABILITIES FUNDING. There is appropriated from the property tax relief fund created in section 426B.1 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 payment to a county with a population of more than 8,650 but less than 9,000, according to the 2005 population estimate issued by the federal government, of an amount equal to the second property tax relief fund distribution that was payable to the county in January 2006, not to exceed the amount appropriated in this section, had the county met the requirement under section 331.439, subsection 1, paragraph "a", to report by December 1, 2005, expenditures for mental health, mental retardation, and developmental disabilities for the previous fiscal year:

.....\$ 121,124

The county shall credit the amount received by the county pursuant to the appropriation made in this section to the county's mental health, mental retardation, and developmental disabilities services fund created under section 331.424A, for expenditure from the services fund as provided by law.

Sec. 25. ALLOWED GROWTH FUNDING.

1. There is appropriated from the property tax relief fund created in section 426B.1 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 allocation to a county as provided in this section:

.....\$ 121,960

2. 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 allocation to a county as provided in this section:

.....\$ 52,265

3. The appropriations made in this section shall be allocated to a county with a general population of more than 10,500 but less than 10,600, according to the most recent population estimate issued by the federal government, and that met the requirements for distribution in January 2007 of allowed growth factor adjustment funding under the per capita expenditure target pool provisions in accordance with sections 331.438 and 426B.5 and 2005 Iowa Acts, chapter 179, section 1, as amended by 2006 Iowa Acts, chapter 1184, section 73, except that the county's per capita expenditure amount was in excess of the statewide per capita expenditure target amount.

The county receiving the allocation made in this section shall credit the allocation to the county's mental health, mental retardation, and developmental disabilities services fund under section 331.424A.

DIVISION VII REAL ESTATE EDUCATION

*Sec. 26. NEW SECTION. 268.6 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, 2008, and for each succeeding fiscal year, one hundred sixty thousand dollars for allocation to the university of northern Iowa to be used for continuation of the real estate education program.*

Sec. 27. Section 543B.54, Code 2007, is amended to read as follows:

543B.54 REAL ESTATE EDUCATION FUND.

1. The Iowa real estate education fund is created as a financial assurance mechanism to assist in the establishment and maintenance of a college credit real estate education program at the university of northern Iowa programs at Iowa community colleges and other Iowa colleges and universities, 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.

<u>2.</u> 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 real estate commission for the purpose of establishing and maintaining a real estate education program at the university of northern Iowa a program to provide grants to community

^{*} Item veto; see message at end of the Act

colleges and other colleges and universities in the state providing programs under this section and using the curriculum maintained by the commission. Grants shall be awarded by a grant committee established by the real estate commission. The committee shall consist of seven members: two members of the commission, four members of the Iowa association of realtors, and one member of the general public. The commission shall promulgate rules relating to the organization and operation of the committee, which shall include the term of membership, and establishing standards for awarding grants. The members of the committee may be reimbursed for actual and necessary expenses incurred in the performance of their duties but shall not receive a per diem payment.

- <u>3.</u> 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. 28. 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, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For allocation to the university of northern Iowa for the real estate education program for expenditure after June 30, 2007:

Sec. 29. EFFECTIVE DATE. The sections of this division of this Act enacting section 268.6 and amending section 534B.543 take effect July 1, 2007.

DIVISION VIII DISPOSAL OF STATE REAL PROPERTY

- *Sec. 30. Section 8D.11, subsection 1, Code 2007, is amended to read as follows:
- 1. The commission may purchase, lease, and improve property, equipment, and services for telecommunications for public and private agencies and may dispose of property and equipment when not necessary for its purposes. However, the commission shall not enter into a contract for the purchase, lease, or improvement of property, equipment, or services for telecommunications pursuant to this subsection in an amount greater than one million dollars without prior authorization by a constitutional majority of each house of the general assembly, or approval by the legislative council if the general assembly is not in session. The sale, exchange, or other means of disposal of property with a fair market value of five million dollars or more requires the prior authorization of a constitutional majority of each house of the general assembly and approval by the governor. The commission shall not issue any bonding or other longterm financing arrangements as defined in section 12.30, subsection 1, paragraph "b". Real or personal property to be purchased by the commission through the use of a financing agreement shall be done in accordance with the provisions of section 12.28, provided, however, that the commission shall not purchase property, equipment, or services for telecommunications pursuant to this subsection in an amount greater than one million dollars without prior authorization by a constitutional majority of each house of the general assembly, or approval by the legislative council if the general assembly is not in session.*
 - *Sec. 31. Section 29A.57, subsection 2, Code 2007, is amended to read as follows:
- 2. The board may acquire land or real estate by purchase, contract for purchase, gift, or bequest and acquire, own, contract for the construction of, erect, purchase, maintain, alter, operate, and repair installations and facilities of the Iowa national guard and the Iowa air national guard when funds for the installations and facilities are made available by the federal govern-

³ See chapter 215, §261 herein

^{*} Item veto; see message at end of the Act

ment, the state of Iowa, municipalities, corporations or individuals. The title to the property so acquired shall be taken in the name of the state of Iowa and the real estate. If recommended by the board and authorized by a constitutional majority of each house of the general assembly and approved by the governor, real property with a fair market value of five million dollars or more may be sold or exchanged by the executive council, upon recommendation of the board, when it is no longer needed for the purpose for which it was acquired. Income or revenue derived from the sale of the real estate shall be credited to the national guard facilities improvement fund and used for the purposes specified in section 29A.14, subsection 2.*

- *Sec. 32. Section 99G.21, subsection 3, Code 2007, is amended to read as follows:
- 3. Notwithstanding any other provision of law, any purchase of real property and any borrowing of more than one million dollars by the authority shall require written notice from the authority to the legislative government oversight committees and the prior approval of the executive council. The sale, exchange, or other means of disposal of real property with a fair market value of five million dollars or more requires the authorization of a constitutional majority of each house of the general assembly and approval by the governor.*
 - *Sec. 33. Section 173.14, subsection 8, Code 2007, is amended to read as follows:
- 8. Take, acquire, hold, and dispose of property by deed, gift, devise, bequest, lease, or eminent domain. The title to real estate acquired under this subsection and improvements erected on the real estate shall be taken and held in the name of the state of Iowa and shall be under the custody and control of the board. The sale, exchange, or other means of disposal of real property with a fair market value of five million dollars or more requires the prior authorization of a constitutional majority of each house of the general assembly and approval by the governor. In the exercise of the power of eminent domain the board shall proceed in the manner provided in chapters 6A and 6B.*
 - *Sec. 34. Section 260C.14, subsection 6, Code 2007, is amended to read as follows:
- 6. Have authority to sell a student-constructed building and the property on which the student-constructed building is located or any article resulting from any vocational program or course offered at a community college by any procedure which may be adopted by the board. However, the sale, exchange, or other means of disposal of real property with a fair market value of five million dollars or more requires the prior authorization of a constitutional majority of each house of the general assembly and approval by the governor. Governmental agencies and governmental subdivisions of the state within the merged areas shall be given preference in the purchase of such articles. All revenue received from the sale of any article shall be credited to the funds of the board of the merged area.*4
 - *Sec. 35. Section 262.9, subsection 7, Code 2007, is amended to read as follows:
- 7. Acquire real estate for the proper uses of institutions under its control, and dispose of real estate belonging to the institutions when not necessary for their purposes. The sale, exchange, or other means of disposal of real property with a fair market value of five million dollars or more requires the prior authorization of a constitutional majority of each house of the general assembly and approval by the governor. The disposal of real estate shall be made upon such terms, conditions, and consideration as the board may recommend. If real estate subject to sale has been purchased or acquired from appropriated funds, the proceeds of such sale shall be deposited with the treasurer of state and credited to the general fund of the state. There is hereby appropriated from the general fund of the state a sum equal to the proceeds so deposited and credited to the general fund of the state to the state board of regents, which may be used to purchase other real estate and buildings and for the construction and alteration of buildings and other capital improvements. All transfers shall be by state patent in the manner provided by law. The board is also authorized to grant easements for rights-of-way over, across, and under the surface of public lands under its jurisdiction when in the board's judgment such easements are desirable and will benefit the state of Iowa. *

^{*} Item veto; see message at end of the Act

⁴ See chapter 131, §5, 7; chapter 215, §133 herein

*Sec. 36. Section 313.2, unnumbered paragraph 5, Code 2007, is amended to read as follows:

The department, either alone or in co-operation cooperation with any county, shall have the authority to may utilize any land acquired incidental to the acquisition of land for highway right of way and to also accept by gift, lands not exceeding two acres in area for roadside parks and parking areas. The department may furnish necessary maintenance. The department shall also have authority to may accept by gift, equipment or other installations incidental to the use of said such parks and parking areas. Said Such parks and parking areas shall be a part of the primary road system and the department may at its discretion sell or otherwise dispose of said such lands. The sale, exchange, or other means of disposal of any real property with a fair market value of five million dollars or more requires the prior authorization of a constitutional majority of each house of the general assembly and approval by the governor.*5

- *Sec. 37. Section 455A.5, subsection 6, paragraph c, Code 2007, is amended to read as follows:
- c. Approve or disapprove proposals for the acquisition or disposal of state lands and waters relating to state parks, recreational facilities, and wildlife programs, submitted by the director. The sale, exchange, or other means of disposal of real property with a fair market value of five million dollars or more requires the authorization of a constitutional majority of each house of the general assembly and approval by the governor.*
 - *Sec. 38. Section 904.317, Code 2007, is amended to read as follows: 904.317 DIRECTOR MAY BUY AND SELL REAL ESTATE OPTIONS.
- 1. The director, subject to the approval of the board, may secure options to purchase real estate and acquire and sell real estate for the proper uses of the institutions. Real estate shall be acquired and sold upon terms and conditions the director recommends subject to the approval of the board. However, the sale, exchange, or other means of disposal of real property with a fair market value of five million dollars or more requires the authorization of a constitutional majority of each house of the general assembly and approval by the governor. Upon sale of the real estate, the proceeds shall be deposited with the treasurer of state and credited to the general fund of the state. There is appropriated from the general fund of the state to the department a sum equal to the proceeds so deposited and credited to the general fund of the state which may be used to purchase other real estate or for capital improvements upon property under the director's supervision.
- <u>2.</u> The costs incident to the securing of options and acquisition and sale of real estate including, but not limited to, appraisals, invitations for offers, abstracts, and other necessary costs, may be paid from moneys appropriated for support and maintenance to the institution at which the real estate is located. The fund shall be reimbursed from the proceeds of the sale.*

DIVISION IX EFFECTIVE DATE

Sec. 39. EFFECTIVE DATE. Except as provided otherwise, this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 21, 2007, with exceptions noted.

CHESTER J. CULVER, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 403, an Act addressing financial and regulatory matters by mak-

^{*} Item veto; see message at end of the Act

⁵ See chapter 131, §5, 7 herein

ing and revising appropriations, providing for properly related matters, and providing effective dates.

Senate File 403 is approved on this date, with the exceptions noted below, which I hereby disapprove.

I am unable to approve the item designated as Section 26 in its entirety, which provides a standing limited General Fund appropriation of \$160,000 to fund the operational expenses of the Real Estate Education Program at the University of Northern Iowa. Funding the day-to-day expenses of this program with a standing appropriation effectively removes this function from annual oversight by the Governor, the Board of Regents and the Legislature. I recommend that the Board of Regents or the presidents of the Iowa community colleges provide funding for this program from the General Fund appropriations for their operating budgets if the Real Estate Education Fund is insufficient to cover the expansion of this program contained in other sections of Division VII of Senate File 403 and if the program fits within the mission of the respective institution.

Finally, I am unable to approve the item designated as Division VIII in its entirety, including Sections 30, 31, 32, 33, 34, 35, 36, 37 and 38. This division deals with the Executive Branch's authority to dispose of real property with a fair market value of at least \$5,000,000 and imposes an additional requirement that such transactions must be approved by not only the Governor but also by a majority of each House of the General Assembly. It imposes an unnecessary legislative requirement on the Executive Branch's authority to manage state property in the best interests of the State and could, for instance, adversely affect the timing of certain transactions for the Department of Transportation and the Department of Natural Resources. For this reason, these sections of this division are unacceptable.

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 Senate File 403 are hereby approved this date.

Sincerely, CHESTER J. CULVER, Governor

CHAPTER 207

TARGETED SMALL BUSINESS ASSISTANCE — PROGRAMS AND APPROPRIATIONS

H.F. 890

AN ACT relating to assistance for small businesses, making appropriations, and providing an effective date provision.

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

Section 1. Section 8A.311, subsection 10, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The director shall adopt rules providing that any state agency may, upon request, purchase directly from a vendor if the direct purchasing is as economical or more economical than pur-

chasing through the department, or upon a showing that direct purchasing by the state agency would be in the best interests of the state due to an immediate or emergency need. The rules shall include a provision permitting a state agency to purchase directly from a vendor, on the agency's own authority, if the purchase will not exceed five ten thousand dollars and the purchase will contribute to the agency complying with or exceeding the targeted small business procurement goals under sections 73.15 through 73.21.

Sec. 2. NEW SECTION. 11.46 TARGETED SMALL BUSINESS.

After the conclusion of each fiscal year, the auditor of state shall annually conduct a review of whether state agencies are meeting their goal for procurement activities conducted pursuant to sections 73.15 through 73.21, and compliance with the forty-eight hour notice provision in section 73.16, subsection 2. By December 31 of each year, the auditor of state shall file a written report with the governor and the general assembly which shall include the findings of the review. The auditor of state may charge a fee to cover the costs of conducting activities under this section. The first report filed pursuant to this section shall be for the fiscal year beginning July 1, 2007. However, the auditor of state shall file a report pursuant to this section by March 1, 2008, for the time period beginning July 1, 2007, and ending September 30, 2007.

- Sec. 3. Section 15.102, subsection 4, Code 2007, is amended to read as follows:
- 4. "Small business" means any enterprise which is located in this state, which is operated for profit and under a single management, and which has either fewer than twenty employees or an annual gross income of less than three four million dollars computed as the average of the three preceding fiscal years. This definition does not apply to any program or activity for which a definition for small business is provided for the program or activity by federal law or regulation or other state law.
- Sec. 4. Section 15.102, subsection 5, paragraph a, subparagraph (3), Code 2007, is amended to read as follows:
- (3) Has an annual gross income of less than three <u>four</u> million dollars computed as an average of the three preceding fiscal years.
- Sec. 5. Section 15.102, subsection 5, paragraph b, subparagraph (3), Code 2007, is amended to read as follows:
- (3) "Minority person" means an individual who is a Black, Hispanic Latino, Asian or Pacific Islander, American Indian, or Alaskan native American.
- Sec. 6. Section 15.108, subsection 7, paragraph c, Code 2007, is amended to read as follows:
- c. Aid for the development and implementation of the Iowa targeted small business procurement Act established in sections 73.15 through 73.21 and the targeted small business financial assistance program established in section 15.247. The duties of the director under this paragraph include the following:
- (1) (a) By December 1 of each year, the department of administrative services shall file a written report with the department of economic development regarding the Iowa targeted small business procurement Act activities during the previous fiscal year. At a minimum, the report shall include a summary of all activities undertaken by the department of administrative services in an effort to maximize the utilization of the targeted small business procurement Act.
- (b) By December 1 of each year, the department of inspections and appeals shall file a written report with the department of economic development regarding certifications of targeted small businesses. At a minimum, the report shall include the number of certified targeted small businesses for the previous year and the increase or decrease in that number during the previous fiscal year compared to the prior fiscal year, the number of targeted small businesses that have been decertified over the previous fiscal year, and a summary of all activities undertaken by the department of inspections and appeals regarding targeted small business certification.

- (c) By December 1 of each year, the department of economic development shall compile an internal report regarding the targeted small business financial assistance program. At a minimum, the report shall contain the number of loans, loan guarantees, and grants distributed during the previous fiscal year, the individual amounts provided to targeted small businesses during the previous fiscal year, and how many financial assistance awards to targeted small businesses were the subject of repayment or collection activity during the previous fiscal year.
- (d) By December 1 of each year, the targeted small business marketing and compliance manager of the department of economic development shall compile a list of the procurement goals established pursuant to section 73.16, subsection 2, and the performance of each agency in meeting the goals. The compilation of the performance of each agency shall be based upon the reports required to be filed under section 73.16, subsection 2.
- (e) By January 15 of each year, the department of economic development shall submit to the governor and the general assembly a compilation of reports required under this subparagraph.
- (1) (2) The director, in conjunction with cooperation from the director of the department of management other state agencies, shall publicize the procurement goal program for established in sections 73.15 through 73.21 to targeted small businesses and to agencies of state government, attempt to locate targeted small businesses able to perform contracts, and encourage program participation. The director may request the cooperation of the department of administrative services, the state department of transportation, the state board of regents, or any other agency of state government in publicizing this program.
- (2) (3) The director, in conjunction with the director of the department of management other state agencies, shall publicize the financial assistance program established in section 15.247 to targeted small businesses.
- (3) (4) When the director determines, or is notified by the head of another agency of state government, that a targeted small business is unable to perform a procurement contract, the director shall assist the small business in attempting to remedy the causes of the inability to perform. In assisting the small business, the director may use any management or financial assistance programs available through state or governmental agencies or private sources.
- (4) (5) The director, in conjunction with the director of the department of management and jointly with the universities under the jurisdiction of the state board of regents, and the community colleges, shall develop and make available in all areas of the state, programs to offer and deliver concentrated, in-depth advice and services to assist targeted small businesses. The department of economic development shall establish targeted small business advocate service providers for purposes of providing mentoring, outreach, and professional development services to targeted small businesses certified pursuant to section 10A.104. Targeted small businesses ness advocate service providers shall be established through a request for proposals process. Entities eligible to bid under the request for proposals process shall include but not be limited to a business accelerator, a small business development center, or any organization that provides mentoring, outreach, and professional development services to businesses. A person serving on or staffing a governor's task force on targeted small businesses during calendar year 2006 shall not be eligible to be part of a bid under the request for proposals process until after July 1, 2009. A person serving on or staffing a governor's targeted small business advisory council shall not be eligible to be part of a bid under the request for proposals process until three years following the termination of service or staffing the advisory council. The advice and services provided by providers shall extend to all areas of business management in its practical application, including but not limited to accounting, engineering, drafting, grant writing, obtaining financing, locating bond markets, market analysis, and projections of profit and loss.
 - Sec. 7. Section 15.247, subsection 2, Code 2007, is amended to read as follows:
- 2. A "targeted small business financial assistance program account" is established within the strategic investment fund created in section 15.313, to provide for loans, loan guarantees, revolving loans, loans secured by accounts receivable, or grants to targeted small businesses

and to low-income persons establishing or expanding small business ventures. A targeted small business or low-income person in any year shall receive under this program not more than fifty thousand dollars in a loan, grant, or guarantee, or a combination of loans, grants, or guarantees. A grant shall only be awarded when additional financing is secured by the applicant. In order to receive a grant, the applicant must demonstrate a minimum of ten percent cash investment in the project. A targeted small business shall not receive a grant, loan, or guarantee, or a combination of grants, loans, or guarantees under the program that provide more than ninety percent funding of a project. The program shall provide guarantees not to exceed seventy-five eighty percent for loans of up to seven years made by qualified lenders. The department shall establish a financial assistance reserve account from funds allocated to the program account, from which any default on a guaranteed loan under this section shall be paid. In administering the program the department shall not guarantee loan values in excess of the amount credited to the reserve account and only moneys set aside in the loan reserve account may be used for the payment of a default. The department shall maintain records of all financial assistance approved pursuant to this section and information regarding the effectiveness of the financial assistance in establishing or expanding small business ventures.

Sec. 8. Section 15.247, Code 2007, is amended by adding the following new subsections: <u>NEW SUBSECTION</u>. 7. In order to receive financial assistance under this section a targeted small business shall participate in mentoring services from a targeted small business advocate service provider.

<u>NEW SUBSECTION</u>. 8. a. In order to receive financial assistance under this section, an application for financial assistance submitted on or after July 1, 2007, must be approved by the targeted small business financial assistance board created in this subsection.

- b. The targeted small business financial assistance board shall consist of seven members appointed by the director representing backgrounds in the areas of finance, insurance, or banking. The members shall be successful business owners in the private, for-profit sector. At least one member shall be a member of the economic development board appointed by the economic development board. All of the following populations shall be represented separately by at least one member:
 - (1) Latino.
 - (2) Black.
 - (3) Asian or Pacific Islander.
 - (4) Caucasian woman.
 - (5) Native American.
 - (6) A person with a disability as defined in section 15.102.
- c. A person within the third degree of consanguinity of an employee of the department, a person within the third degree of consanguinity of a member of the targeted small business financial assistance board or member's relative, or a business with any financial ties to a member shall not be eligible for financial assistance under the program during the employee's employment or the member's tenure on the board, as applicable. Members shall serve two year terms and may be reappointed. A member shall not serve more than two terms.
- d. The targeted small business financial assistance board shall consider all applications for financial assistance under the program submitted on or after July 1, 2007.
- Sec. 9. Section 19B.7, subsection 1, paragraph d, Code 2007, is amended to read as follows: d. Report results under the contract compliance policy to the governor and the general assembly on an annual basis. Any information reported by the department of administrative services to the department of economic development pursuant to section 15.108 shall not be required to be part of the report under this paragraph. The report shall detail specific efforts to promote equal opportunity through state contracts and services and efforts to promote, develop, and stimulate the utilization of minority, women's, and disadvantaged business enterprises in programs receiving or benefiting from state financial assistance.

Sec. 10. Section 73.16, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The Prior to the commencement of a fiscal year, the director of each agency or department of state government having purchasing authority, in cooperation with the targeted small business marketing and compliance manager of the department of economic development, shall establish for that fiscal year a procurement goal from certified targeted small businesses identified pursuant to section 10A.104, subsection 8, of at least ten percent of the value of anticipated procurements of. The procurement goal shall include the procurement of all goods and services, including construction, but not including utility services, each fiscal year. A procurement goal shall be stated in terms of a dollar amount of certified purchases and shall be established at a level that exceeds the procurement levels from certified targeted small businesses during the previous fiscal year. The director of an agency or department of state government that has established a procurement goal as required under this subsection shall provide a report within fifteen business days following the end of each calendar quarter to the targeted small business marketing and compliance manager of the department of economic development, providing the total dollar amount of certified purchases from certified targeted small businesses during the previous calendar quarter. The required report shall be made in a form approved by the targeted small business marketing and compliance manager. The first quarterly report shall be for the calendar quarter ending September 30, 2007. The director of each department and agency of state government shall cooperate with the director of the department of inspections and appeals, the director of the department of economic development, and the director of the department of management and do all acts necessary to carry out the provisions of this division.

- Sec. 11. Section 262.34A, subsection 2, Code 2007, is amended to read as follows:
- 2. Notwithstanding section 73.16, subsection 2, <u>and due to the high volume of bids issued</u> by the board and the need to coordinate bidding of three institutions of higher learning, the board <u>may shall</u> issue electronic bid notices for distribution to the targeted small business internet site through internet links to each of the regents institutions.
- Sec. 12. APPLICATION REVIEW. For applications for financial assistance under section 15.247 received on or before June 30, 2007, the department of economic development shall use the same review and approval process used prior to the effective date of this Act.

Sec. 13. TARGETED SMALL BUSINESS ADVOCATE SERVICE PROVIDERS.

1. 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 amount, or so much thereof as is necessary, to be used for the purposes designated:

For the establishment of targeted small business advocate service providers, including salaries, support, maintenance, and miscellaneous purposes:

- 2. Of the moneys appropriated under this section, not more than \$150,000 shall be expended on one targeted small business advocate service provider.
- 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. TARGETED SMALL BUSINESS FINANCIAL ASSISTANCE PROGRAM. 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 amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the targeted small business financial ass	sistance program account of the strate-
gic investment fund:	

.....\$ 2,500,000

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. 15. MARKETING AND COMPLIANCE MANAGER.

1. 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 amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of marketing and compliance activities and for administrative costs related to the targeted small business financial assistance program and the Iowa targeted small business procurement Act, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

- 2. From moneys appropriated under this section, the department shall create a full-time position for a targeted small business marketing and compliance manager. The position shall be responsible, at a minimum, for coordinating the establishment of the targeted small business advocate service providers, providing marketing support for the Iowa targeted small business procurement Act and targeted small business financial assistance program, providing state agencies with Iowa targeted small business procurement Act assistance, and providing any related services.
- 3. The department may use moneys appropriated under this section for purposes of paying fees associated with services provided by the auditor of state pursuant to section 11.46.
- 4. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.
- Sec. 16. PROCESS IMPROVEMENT MARKETING ACTIVITIES. 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 amount, or so much thereof as is necessary, to be used for the purposes designated:

For implementing process improvement activities and for administrative costs for the targeted small business financial assistance program and the Iowa targeted small business procurement Act, for developing and conducting a vendor fair to increase awareness of the targeted small business financial assistance program and the Iowa targeted small business procurement Act, and for an awards banquet to recognize the accomplishments under the Iowa targeted small business procurement Act:

The department may use moneys appropriated under this section for purposes of paying fees associated with services provided by the auditor of state pursuant to section 11.46.

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. 17. CERTIFICATION.

1. 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 amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of a dedicated targeted small business certification employee, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

......\$ 150,000FTEs 1.00

2. From moneys appropriated under this section, the department shall create a full-time

position for a targeted small business certification employee. The position shall be responsible, at a minimum, for processing applications for targeted small business applications, conducting on-site visits, maintaining a publicly available active directory of certified targeted small businesses, organizing and participating in educational meetings for certified targeted small businesses and potential targeted small businesses, coordinating activities with other state agencies to promote the Iowa targeted small business procurement Act, and any other related responsibilities.

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

Approved May 22, 2007

CHAPTER 208

HEALTHY IOWANS TOBACCO TRUST AND TOBACCO SETTLEMENT TRUST FUND — APPROPRIATIONS

H.F. 907

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 DEPART-MENTS. 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, 2007, and ending June 30, 2008, 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, 2007, and ending June 30, 2008; 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, 2007, and ending June 30, 2008; 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":

b. For child and family services including for reimbursement of adoption, independent living, shelter care, and home studies services providers, and other service providers under the purview of the department of human services:
c. To continue supplementation of the state supplementary assistance program including reimbursements for residential care facilities and in-home health services:
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
(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. $\S 300x-26$ and section 453A.2.
(2) Of the full-time equivalent positions funded in this paragraph "a", two full-time equiva-
lent positions shall be utilized to provide for enforcement of tobacco laws, regulations, and or- dinances 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 expend-
ed 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 expend-
ed in the fiscal year beginning July 1, 2007, for that purpose.* b. For additional substance abuse treatment under the substance abuse treatment program:\$ 13,800,000
*(1) The department shall use funds appropriated in this paragraph "b" to enhance the quali-
ty of and to expand the capacity to provide 24-hour substance abuse treatment programs.
(2) The department shall use funds appropriated in this paragraph "b" 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 "b" to share research-based best practices for treatment with substance abuse treatment facilities.
(4) The department shall use funds appropriated in this paragraph "b" to develop a results-based funding approach for substance abuse treatment services.
(5) The department shall use funds appropriated in this paragraph "b" 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 property of the substance of th
al assembly delineating the success rates of the substance abuse treatment programs that receive funding under this paragraph "b".*
c. 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 "c", not more than \$1,157,482 shall be used
for essential public health services that promote healthy aging throughout the lifespan, con-
tracted through a formula for local boards of health, to enhance health promotion and disease prevention services.

^{*} Item veto; see message at end of the Act

- (2) Of the funds appropriated in this paragraph "c", 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 "c", not more than \$600,000 shall be used for the state poison control center.
- (4) Of the funds appropriated in this paragraph "c", 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 "c", not more than \$76,388 shall be used for the childhood lead poisoning prevention program.
- d. For the automated external defibrillator grant program established pursuant to section 135.26:
- f. For a grant program to provide substance abuse prevention programming for children:

 1,050,000
- (1) Of the funds appropriated in this paragraph "f", \$500,000 shall be utilized to provide funding for organizations that provide programming for children by utilizing mentors. 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 "f", \$500,000 shall be utilized to provide funding for organizations that provide programming that includes youth development and leadership. 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 "f".
- (4) All grant recipients under this paragraph "f" shall participate in a program evaluation as a requirement for receiving grant funds.
- (5) Of the funds appropriated in this paragraph "f", \$50,000 shall be used to administer substance abuse prevention grants and for program evaluations.
- g. For providing grants to individual patients who have phenylketonuria (PKU) to assist with the costs of necessary special foods:
- h. For additional funding to leverage federal funding through the federal Ryan White Care Act, Title II, AIDS drug assistance program supplemental drug treatment grants:
- i. For a grant to an existing national-affiliated organization to provide education, client-centered programs, and client and family support for people living with an illustrated their family
- tered programs, and client and family support for people living with epilepsy and their families:
- 3. To the department of corrections: \$ 100,000 \$ 4,006,474
- 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 dis-

146,750

trict 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, \$494,741 is allocated to the sixth judicial district department of correctional services. Of the funds allocated, \$100,000 shall be used for community-based corrections, \$64,741 shall be used to replace expired federal funding for dual diagnosis offenders, and \$330,000 shall be used to establish drug court programs in Johnson and Linn counties.
- 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.
- 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, 2007, and ending June 30, 2008, 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:

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, 2007, and ending June 30, 2008, 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, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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 begin-

ning 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:

To continue the competitive grants program to expand the availability of before and after school programs as provided in section 256.26, if enacted by the Eighty-second General Assembly, 2007 Session:¹

.....\$ 305,000

- Sec. 6. ENDOWMENT FOR IOWA'S HEALTH ACCOUNT TRANSFER. In addition to the amount transferred pursuant to section 12E.12, subsection 1, paragraph "b", subparagraph (2), subparagraph subdivision (b), \$9,100,000 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, 2007, and ending June 30, 2008.
- Sec. 7. 2006 Iowa Acts, chapter 1181, section 1, subsection 2, paragraph e, is amended to read as follows:
- e. For the automated external defibrillator grant program established pursuant to section 135.26:
- Notwithstanding section 8.33, moneys appropriated in this paragraph "e" 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. 8. EFFECTIVE DATE. The section of this Act amending 2006 Iowa Acts, chapter 1181, being deemed of immediate importance, takes effect upon enactment.

Approved May 23, 2007, with exceptions noted.

CHESTER J. CULVER, Governor

Dear Mr. Secretary:

I hereby transmit House File 907, 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 907 is approved on this date, with the exceptions noted below, which I hereby disapprove.

I am unable to approve item designated as Section 1, subsection 2, paragraph a, subparagraph (4) in its entirety. This designated language continues general language on substance abuse treatment expenditures. These directives are already in place and, therefore, this language is not needed.

Finally, I am unable to approve item designated as Section 1, subsection 2, paragraph b, subparagraphs (1) through (6) in their entirety. This designated language continues general language on substance abuse treatment expenditures. These directives are in place and, therefore, this annual report language is not needed.

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 907 are hereby approved this date.

Sincerely, CHESTER J. CULVER, Governor

¹ See chapter 214, §19 herein; see also chapter 215, §34 herein

CHAPTER 209

ENERGY-RELATED APPROPRIATIONS

H.F. 927

AN ACT making appropriations for specified energy-related purposes and providing an effective date.

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

Section 1. NEW SECTION. 469.10 IOWA POWER FUND — APPROPRIATION.

- 1. There is appropriated from the general fund of the state to the office of energy independence, if enacted by 2007 Iowa Acts, House File 918,¹ or its successor, for each fiscal year of the fiscal period beginning July 1, 2008, and ending June 30, 2011, the sum of twenty-five million dollars to be used for awarding grants and making loans from the Iowa power fund, if enacted by 2007 Iowa Acts, House File 918,² or its successor.
- 2. Of the moneys appropriated to the office and deposited in the fund, the office shall utilize up to one and five-tenths percent of the amount appropriated from the fund for a fiscal year for administrative costs.³
- 3. Of the moneys appropriated to the office and deposited in the fund, there shall be allocated on an annual basis two million five hundred thousand dollars to the department of economic development for deposit into the workforce training and economic development funds of the community colleges created pursuant to section 260C.18A. Of the funds so deposited into the workforce training and economic development funds of the community colleges, two million five hundred thousand dollars shall be used each year in the development and expansion of energy industry areas and for the department's north American industrial classification system for targeted industry areas established pursuant to section 260C.18A.
- 4. Notwithstanding section 8.33, amounts appropriated pursuant to this section shall not revert but shall remain available for the purposes designated for the following fiscal year. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the funds⁴ shall be credited to the fund.
- Sec. 2. IOWA POWER FUND. There is appropriated from the general fund of the state to the office of energy independence, if enacted by 2007 Iowa Acts, House File 918,⁵ or its successor, 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 deposit in the Iowa power fund, if enacted by 2007 Iowa Acts, House File 918,6 or its successor:

-\$ 24,670,000
- 1. Of the moneys appropriated to the office and deposited in the fund, the office shall utilize up to one and five-tenths percent of the amount appropriated from the fund for administrative purposes. 7
- 2. Of the moneys appropriated to the office and deposited in the fund, there shall be allocated two million five hundred thousand dollars to the department of economic development for deposit into the workforce training and economic development funds of the community colleges created pursuant to section 260C.18A. Of the funds so deposited into the workforce training and economic development funds of the community colleges, two million five hundred thousand dollars shall be used each year in the development and expansion of energy industry areas and for the department's north American industrial classification system for targeted industry areas established pursuant to section 260C.18A.

¹ Chapter 168 herein

² Chapter 168 herein

³ See chapter 215, §63 herein

⁴ According to enrolled Act; the word "fund" probably intended

⁵ Chapter 168 herein

⁶ Chapter 168 herein

⁷ See chapter 215, §53 herein

- 3. Notwithstanding section 8.33, amounts appropriated pursuant to this section shall not revert but shall remain available for the purposes designated for the following fiscal year. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the funds⁸ shall be credited to the fund.
 - Sec. 3. 2007 Iowa Acts, Senate File 403,9 section 5, if enacted, is repealed.
- Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 23, 2007

CHAPTER 210

APPROPRIATIONS — JUDICIAL BRANCH S.F.~563

AN ACT relating to and making appropriations to the judicial branch.

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

Section 1. JUDICIAL BRANCH.

1. There is appropriated from the general fund of the state to the judicial branch 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 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, 2007, and maintenance, equipment, and miscellaneous purposes:

 $123,974,074^{1}$

Of the amount appropriated in this subsection, \$736,664 shall be used to implement the children's justice initiative. The following additional court employees are authorized for implementation of the children's justice initiative: two court reporters, one and one-half full-time equivalent court attendants, four juvenile court officers, and two juvenile court technicians. Notwithstanding the district associate judgeship apportionment formula in section 602.6301, two additional district associate judgeships are authorized for implementation of the initiative, with one district associate judgeship allocated to the fourth judicial district and one district associate judgeship allocated to election district 5B of the fifth judicial district.

- 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

 $^{^{8}\,}$ According to enrolled Act; the word "fund" probably intended

⁹ Chapter 206 herein; see also chapter 215, §132 herein

¹ See chapter 215, §37 herein

2,000,000

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 99 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 continue studying 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. In addition, and as part of the best practices and efficiencies study, the judicial branch shall study the number of judicial officers needed throughout the state to manage current caseloads and anticipated caseloads in the future, and shall make recommendations, if any, as to changes in judgeship and magistrate apportionment formulas in sections 602.6201, 602.6301, and 602.6401. The judicial branch shall file a report regarding the study made, recommendations presented, and actions taken pursuant to this subsection with the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and to the legislative services agency by January 1, 2008.
- 7. In addition to the requirements for transfers under section 8.39, the judicial branch shall not change the appropriations from the amounts appropriated to the judicial branch in this Act, unless notice of the revisions is given prior to their effective date to the legislative services agency. The notice shall include information on the branch's rationale for making the changes and details concerning the workload and performance measures upon which the changes are based.
- 8. The judicial branch shall submit a semiannual update to the legislative services agency specifying the amounts of fines, surcharges, and court costs collected using the Iowa court information system since the last report. The judicial branch shall continue to facilitate the sharing of vital sentencing and other information with other state departments and governmental agencies involved in the criminal justice system through the Iowa court information system.
- 9. The judicial branch shall provide a report to the general assembly by January 1, 2008, 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, 2006, and ending June 30, 2007, and the plans for expenditures from each fund during the fiscal year beginning July 1, 2007, and ending June 30, 2008. A copy of the report shall be provided to the legislative services agency.

Sec. 2. JUDICIAL RETIREMENT FUND.

1. There is appropriated from the general fund of the state to the judicial retirement fund 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:

Notwithstanding section 602.9104, for the state's contribution to the judicial retirement fund in the amount of 22.5 percent of the basic salaries of the judges covered under chapter 602, article 9:

article 3.	
\$	3,450,963
2. There is appropriated from the revolving fund created in section 602.1302 to	the judicial
retirement fund for the fiscal year beginning July 1, 2007, and ending June 30, 2008,	, the follow-
ng amount, or so much thereof as is necessary, to be used for the purposes desig	gnated:
As part of the state's contribution to the judicial retirement fund in accordance w	ith the con-
ditions specified in subsection 1:	

- Sec. 3. 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 2007-2008 to the legislative services agency shall be provided in an electronic format. The legislative services agency shall post the reports on its internet website and shall notify by electronic means all the members of the joint appropriations subcommittee on the justice system when a report is posted. Upon request, copies of the reports may be mailed to members of the joint appropriations subcommittee on the justice system.
- Sec. 4. Section 607A.8, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

607A.8 FEES AND EXPENSES FOR JURORS.

- 1. A grand juror and a petit juror in all courts shall receive thirty dollars as compensation for each day's service or attendance, including attendance required for the purpose of being considered for service. The supreme court may adopt rules that allow additional compensation for jurors whose attendance and service exceeds seven days.
- 2. A grand juror and a petit juror in all courts shall receive reimbursement for mileage expenses at the rate specified in section 602.1509 for each mile traveled each day to and from the residence of the juror to the place of service or attendance, and shall receive reimbursement for actual expenses of parking, as determined by the clerk of the district court. A juror who is a person with a disability may receive reimbursement for the costs of alternate transportation from the residence of the juror to the place of service or attendance. A juror shall not receive reimbursement for mileage expenses or actual expenses of parking when the juror travels in a vehicle for which another juror is receiving reimbursement for mileage and parking expenses.
- 3. A grand juror or a petit juror in all courts may waive the right of the juror to receive compensation under subsection 1 or reimbursement under subsection 2.

Sec. 5. NEW SECTION. 607A.47 JUROR QUESTIONNAIRE.

The court may, on its own motion, or upon the motion of a party to the case or upon the request of a juror, order the sealing or partial sealing of a completed juror questionnaire, if the court finds that it is necessary to protect the safety or privacy of a juror or a family member of a juror.

Approved May 24, 2007

CHAPTER 211

APPROPRIATIONS — AGRICULTURE AND NATURAL RESOURCES $S.F.\ 551$

AN ACT relating to and making appropriations involving state government, by providing for agriculture, natural resources, and environmental protection.

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

DIVISION I 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, 2007, 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 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: 18,384,862 FTEs 444.60 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, 2007, 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 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: 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, 2007, 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 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, 2007, 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 supporting the operations of the dairy products control bureau, including for salaries, support, maintenance, and miscellaneous purposes: 951,666 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, 2007, and ending June 30, 2008, 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:

DESIGNATED APPROPRIATION — PLANT PROTECTION AND CROP PRODUCTION

to be used for the continued testing and monitoring of avian influenza.

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

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, 2007, 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 administering and enforcing apiary law as provided in chapter 160, including for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:
\$ 40,000 FTEs 1.00
Sec. 7. GYPSY MOTH 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, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purposes designated:
For the control of the pest commonly referred to as the gypsy moth, including but not limited to the detection, surveillance, and eradication of the gypsy moth:
\$ 50,000
Sec. 8. EMERALD ASH BORER PUBLIC AWARENESS PROJECT. 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, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purposes designated: For the support of a public awareness project to inform persons regarding the presence and danger of the pest commonly known as the emerald ash borer:
50,000 ± 50,000
Sec. 9. 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, 2007, 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 reimbursing commissioners of soil and water conservation districts for administrative expenses including but not limited to travel expenses, technical training, and professional dues:
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, 2008, 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.
DESIGNATED APPROPRIATIONS — FOOD MARKETING AND SECURITY
Sec. 10. 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, 2007, 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 administering a senior farmers market nutrition program, including salaries, support, maintenance, and miscellaneous purposes:
Sec. 11. EMERGENCY VETERINARIAN RAPID RESPONSE SERVICES 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, 2007, 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 supporting veterinary emergency preparedness and response services nec-

essary to prevent or control a serious threat to the public health, public economy caused by the transmission of disease among livestock or agricluding as provided in section 163.3A:	cultural anii	mals, in-
	Ф	130,000
Sec. 12. ORGANIC AGRICULTURAL PRODUCTS. There is approprial fund of the state to the department of agriculture and land stewardsh beginning July 1, 2007, and ending June 30, 2008, the following amount as is necessary, to be used for the purposes designated: For purposes of supporting the department's regulation and promotio tural products as provided in chapter 190C, including salaries, support, naneous purposes, and for not more than the following full-time equivalents.	ip for the fis , or so much n of organic naintenance	scal year thereof agricul- , miscel-
	\$	54,671
FT		1.00
Sec. 13. GRAPE AND WINE DEVELOPMENT FUND. There is approper al fund of the state to the grape and wine development fund created in sefiscal year beginning July 1, 2007, and ending June 30, 2008, the following thereof as is necessary, to be used for the purposes designated: For carrying out the purposes of the fund:	ection 175A.	5 for the
	\$	283,000

DESIGNATED APPROPRIATION — MISCELLANEOUS

Sec. 14. 2006 Iowa Acts, chapter 1175, section 22, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. 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 in this section until the close of the succeeding fiscal year.

EFFECTIVE DATE

Sec. 15. EFFECTIVE DATE. The section of this division of this Act amending 2006 Iowa Acts, chapter 1175, section 22, being deemed of immediate importance, takes effect upon enactment.

DIVISION II DEPARTMENT OF NATURAL RESOURCES GENERAL APPROPRIATIONS

Sec. 16. 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, 2007, 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 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:

 \$	19,137,968
 FTE	s 1,143.43

- Sec. 17. 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, 2007, 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 supporting the division of fish and wildlife, including for administration, regulation, and programs, and for salaries, support, maintenance, equipment, and miscellaneous purposes:
b. Notwithstanding section 455A.10, the department may use the unappropriated balance remaining in the state 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 state fish and game protection fund than provided in this section, unless the expenditure derives from contributions made by a private entity, or a grant or moneys received from the federal government, and is approved by the natural resource commission. The department of natural resources shall promptly notify the legislative services agency and the chairpersons and ranking members of the joint appropriations subcommittee on agriculture and natural resources concerning the commission's approval.
Sec. 18. GROUNDWATER PROTECTION FUND — WATER QUALITY. 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, 2007, and ending June 30, 2008, 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
Sec. 19. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FUND. 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, 2007, 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 expediting the department's processing of national pollutant discharge elimination system applications and the issuance of permits, including salaries, support, maintenance, and miscellaneous purposes: \$700,000
DESIGNATED APPROPRIATIONS — MISCELLANEOUS
Sec. 20. SPECIAL SNOWMOBILE FUND — SNOWMOBILE PROGRAM. There is transferred on July 1, 2007, 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, 2007, and ending June 30, 2008, 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:
Sec. 21. 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, 2007, and ending June 30, 2008, 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
\$ 200,000

Sec. 22. STORM WATER DISCHARGE PERMIT FEES — SUPPORT FOR SPECIAL PUR-
POSES. 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 storm water discharge permit fees as pro-
vided in section 455B.103A or 455B.197 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
2. For purposes of implementing the federal total maximum daily load program:	
FTEs	2.00

DIVISION III IOWA STATE UNIVERSITY

Sec. 23. 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, 2007, 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 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. 24. 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, 2007, 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 supporting the college of veterinary medicine for the operation of the veterinary diagnostic laboratory:

-\$ 2,000,000
- 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. 25. 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 2008-2009	 \$	3.000.000
		4,000,000

DIVISION IV ENVIRONMENT FIRST FUND

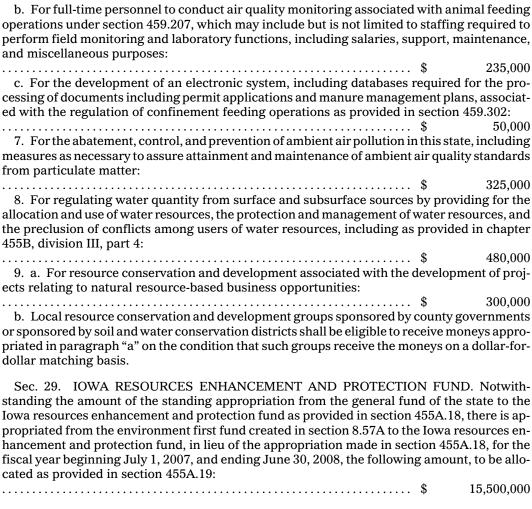
Sec. 26. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP. There is ap-

propriated from the environment first fund created in section 8.57A to the department of agriculture and land stewardship 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. a. For the conservation reserve enhancement program (CREP) to restore and construct wetlands for the purposes of intercepting tile line runoff, reducing nutrient loss, improving water quality, and enhancing agricultural production practices:
- b. Not more than 5 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.
- 2. a. For continuation of a program that provides multiobjective resource protections for flood control, water quality, erosion control, and natural resource conservation:
- b. Not more than 5 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.
- 3. a. 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:
- b. Not more than 5 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.
- c. Of the amount appropriated in paragraph "a", \$400,000 shall be allocated to the Iowa soybean association's agriculture and environment performance program.
- 4. a. For deposit in the agricultural drainage well water quality assistance fund created in section 460.303 to be used for purposes of supporting the agricultural drainage well water quality assistance program as provided in section 460.304:
- b. Not more than 5 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.
- 5. a. For use by the soil conservation division, to provide financial assistance for the establishment of permanent soil and water conservation practices:
- b. Not more than 5 percent of the moneys appropriated in paragraph "a" may be allocated for cost-sharing to abate complaints filed under section 161A.47.
- c. Of the moneys appropriated in paragraph "a", 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.
- d. 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.
- e. The state soil conservation committee created in section 161A.4 may allocate moneys appropriated in paragraph "a" to conduct research and demonstration projects to promote conservation tillage and nonpoint source pollution control practices.
- f. The allocation of moneys as financial incentives as provided in section 161A.73 may be used in combination with moneys allocated by the department of natural resources.
- g. Not more than 10 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.
- 6. a. 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:
- b. Not more than 5 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.

7. a. For deposit in the loess hills development and conservation fund created in section 161D.2:	
b. (1) Of the amount appropriated in paragraph "a", \$386,667 shall be allocated to the	
fund's hungry canyons account. (2) Not more than 10 percent of the moneys allocated to the hungry canyons account as provided in subparagraph (1) may be used for administrative costs.	
vided in subparagraph (1) may be used for administrative costs. c. (1) Of the amount appropriated in paragraph "a", \$193,333 shall be allocated to the fund's loess hills alliance account.	
(2) Not more than 10 percent of the moneys allocated to the loess hills alliance account as provided in subparagraph (1) may be used for administrative costs.	
8. a. For deposit in the southern Iowa development and conservation fund created in section 161D.12:	
b. Not more than 5 percent of the moneys appropriated in paragraph "a" may be used for administrative costs.	
9. For purposes of supporting a farm-to-school program, as provided in chapter 190A, if enacted by 2007 Iowa Acts, Senate File 601, including salaries, support, maintenance, and miscellaneous purposes:	
\$ 80,000	
10. For purposes of supporting the office of state apiarist, including the state apiarist who shall be appointed by the secretary of agriculture pursuant to section 160.1, and for carrying out the duties of the state apiarist as provided in chapter 160:	
\$ 40,000	
Sec. 27. DEPARTMENT OF ECONOMIC DEVELOPMENT. There is appropriated from the environment first fund created in section 8.57A to the department of economic development 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 brownfield redevelopment fund created in section 15.293 to provide financial and technical assistance under the brownfield redevelopment program as provided in section 15.292:	
\$ 500,000	
Sec. 28. DEPARTMENT OF NATURAL RESOURCES. There is appropriated from the environment first fund created in section 8.57A to the department of natural resources 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. For statewide coordination of volunteer efforts under the water quality and keepers of the land programs:	
2. For regular maintenance of state parks and staff time associated with these activities:	
3. To provide local watershed managers with geographic information system data for their use in developing, monitoring, and displaying results of their watershed work:	
4. For continuing the establishment and operation of water quality monitoring stations:	
5. For deposit in the public water supply system account of the water quality protection fund created in section 455B.183A:	
6. a. For the regulation of animal feeding operations, including as provided for in chapters 459 and 459A:	
459 and 459A:\$ 360,000	

¹ Chapter 215, §93 – 96



Sec. 30. REVERSION.

- 1. Except as provided in subsection 2, and 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 beginning July 1, 2008, 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 beginning July 1, 2010.

DIVISION V CODE LANGUAGE — EMERGENCY PLANNING

Sec. 31. Section 30.5, subsection 2, Code 2007, is amended to read as follows:

2. The commission may enter into agreements pursuant to chapter 28E to accomplish any duty imposed upon the commission by the Emergency Planning and Community Right-to-know Act, but the commission shall not compensate any governmental unit for the performance of duties pursuant to such an agreement. Funding for administering the duties of the

commission under sections 30.7, 30.8, and 30.9 shall be included in the budgets of the department of workforce development, the department of natural resources, and the department of public defense, respectively.

- Sec. 32. Section 30.7, Code 2007, is amended to read as follows:
- 30.7 DUTIES TO BE ALLOCATED TO DEPARTMENT OF WORKFORCE DEVELOPMENT NATURAL RESOURCES EMERGENCY AND HAZARDOUS CHEMICALS.

Agreements negotiated by the commission and the department of workforce development natural resources shall provide for the allocation of duties to the department of workforce development natural resources as follows:

- 1. Material safety data sheets or a list for chemicals required to be submitted to the commission under section 311 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11021, shall be submitted to the department of workforce development natural resources. Submission to that department constitutes compliance with the requirement for notification to the commission.
- 2. Emergency and hazardous chemical inventory forms required to be submitted to the commission under section 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022, shall be submitted to the department of workforce development natural resources. Submission to that department constitutes compliance with the requirement for notification to the commission.
- 3. The department of workforce development <u>natural resources</u> shall advise the commission of the failure of any facility owner or operator to submit information as required under sections 311 and 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11021 and 11022.
- 4. The department of workforce development <u>natural resources</u> shall make available to the public upon request during normal working hours the information forms in its possession pursuant to sections 312 and 324 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022 and 11044.
- 5. The department of <u>workforce development natural resources</u> shall compile data or information from the emergency and hazardous chemical inventory forms required to be submitted to the commission under section 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022.
 - Sec. 33. Section 84A.5, subsection 3, Code 2007, is amended to read as follows:
- 3. The division of labor services is responsible for the administration of the laws of this state under chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 92, and 94A, and sections 30.7 and section 85.68. The executive head of the division is the labor commissioner, appointed pursuant to section 91.2.
 - Sec. 34. Section 91.4, subsection 5, Code 2007, is amended to read as follows:
- 5. The director of the department of workforce development, in consultation with the labor commissioner, shall, at the time provided by law, make an annual report to the governor setting forth in appropriate form the business and expense of the division of labor services for the preceding year, the number of disputes or violations processed by the division and the disposition of the disputes or violations, and other matters pertaining to the division which are of public interest, together with recommendations for change or amendment of the laws in this chapter and chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91A, 91C, 91D, 91E, 92, and 94A, and sections 30.7 and section 85.68, and the recommendations, if any, shall be transmitted by the governor to the first general assembly in session after the report is filed.

DIVISION VI IOWA HORSE AND DOG BREEDERS FUND

Sec. 35. Section 99D.22, subsection 5, Code 2007, is amended to read as follows:

5. To qualify for the Iowa horse and dog breeders fund, a dog shall have been whelped in

Iowa and raised for the first six months of its life in Iowa in a state inspected licensed facility. In addition, the owner of the dog shall have been a resident of the state for at least two years prior to the whelping. The department of agriculture and land stewardship shall adopt rules and prescribe forms to bring Iowa breeders into compliance with residency requirements of dogs and breeders in this subsection.

DIVISION VII CODE LANGUAGE — WATER QUALITY INITIATIVES

- Sec. 36. Section 159.5, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 15. In the administration of programs relating to water quality improvement and watershed improvements, cooperate with the department of natural resources in order to maximize the receipt of federal funds.
- Sec. 37. Section 455A.4, subsection 1, Code 2007, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. j. In the administration of programs relating to water quality improvement and watershed improvements, cooperate with the department of agriculture and land stewardship in order to maximize the receipt of federal funds.

- Sec. 38. Section 466A.2, subsection 2, paragraph a, Code 2007, is amended to read as follows:
- a. Enhancement of water quality in the state through a variety of impairment-based, locally directed watershed improvement grant projects. <u>Innovative water quality projects shall be encouraged.</u>
- Sec. 39. Section 466A.4, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 1A. Public water supply utilities, county conservation boards, and cities may also be eligible and apply for and receive local watershed improvement grants for water quality improvement projects. An applicant shall coordinate with a local watershed improvement committee or a soil and water conservation district and shall include in the application a description of existing projects and any potential impact the proposed project may have on existing or planned water quality improvement projects.
- Sec. 40. 2006 Iowa Acts, chapter 1145, section 4, subsection 1, unnumbered paragraph 1, is amended to read as follows:

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, January 1, 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:

DIVISION VIII CODE LANGUAGE — GRAPE AND WINE DEVELOPMENT

- Sec. 41. Section 123.183, subsection 3, Code 2007, is amended to read as follows:
- 3. The revenue collected from the wine gallonage tax on wine imported into this state for sale at wholesale and sold in this state at wholesale shall be deposited as follows:
- a. Five percent of the revenue collected from the wine gallonage tax on wine imported into this state for sale at wholesale and sold in this state at wholesale shall be deposited in the grape and wine development fund as created in section 175A.5.
- b. The remaining revenue collected from the wine gallonage tax on wine imported into this state for sale at wholesale and sold in this state at wholesale shall be deposited in the beer and liquor control fund created in section 123.53.

- Sec. 42. Section 175A.5, subsection 1, Code 2007, is amended to read as follows:
- 1. A grape and wine development fund is created 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 the wine gallonage tax as provided in section 123.183.

DIVISION IX CODE LANGUAGE — LOESS HILLS DEVELOPMENT AND CONSERVATION AUTHORITY

Sec. 43. Section 161D.1, subsection 1, Code 2007, is amended to read as follows:

1. A loess hills development and conservation authority is created. The counties of <u>Adams</u>, <u>Adair</u>, <u>Adair</u>, <u>Adubon</u>, <u>Carroll</u>, <u>Cass</u>, <u>Cherokee</u>, <u>Crawford</u>, <u>Fremont</u>, <u>Guthrie</u>, <u>Harrison</u>, <u>Ida</u>, <u>Lyon</u>, <u>Mills</u>, <u>Monona</u>, <u>Montgomery</u>, <u>Page</u>, <u>Plymouth</u>, <u>Pottawattamie</u>, <u>Sac</u>, <u>Shelby</u>, <u>Sioux</u>, <u>Plymouth</u>, <u>Cherokee</u>, <u>Taylor</u>, <u>and</u> Woodbury, <u>Ida</u>, <u>Sac</u>, <u>Monona</u>, <u>Crawford</u>, <u>Carroll</u>, <u>Harrison</u>, <u>Shelby</u>, <u>Audubon</u>, <u>Pottawattamie</u>, <u>Cass</u>, <u>Adair</u>, <u>Mills</u>, <u>Montgomery</u>, <u>Adams</u>, <u>Fremont</u>, <u>Page</u>, and <u>Taylor</u> are entitled to one voting member each on the authority, but membership or participation in projects of the authority is not required. Each member of the authority shall be appointed by the respective board of supervisors for a term to be determined by each board of supervisors, but the term shall not be for less than one year. An appointee shall serve without compensation, but an appointee may be reimbursed for actual expenses incurred while performing the duties of the authority as determined by each board of supervisors. The authority shall meet, organize, and adopt rules of procedures as deemed necessary to carry out its duties. The authority may appoint working committees that include other individuals in addition to voting members.

DIVISION X CODE LANGUAGE — MARINE FUEL TAX FUND

- Sec. 44. Section 452A.79A, subsection 1, as enacted by 2006 Iowa Acts, chapter 1179, section 60, is amended to read as follows:
- $1. \ A \, marine \, fuel \, tax \, fund \, is \, created \, under \, the \, authority \, of \, the \, department \, of \, natural \, resources$
- <u>a.</u> 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.
- b. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund. Notwithstanding section 8.33, any moneys credited to the fund from another fund shall not revert to the fund from which appropriated at the close of a fiscal year.
- Sec. 45. Section 452A.79A, subsection 2, unnumbered paragraph 1, as enacted by 2006 Iowa Acts, chapter 1179, section 60, is amended to read as follows:

Moneys in the <u>marine fuel tax</u> fund in a fiscal year shall be used as appropriated by the general assembly are appropriated to the department of natural resources for use by the department of natural resources in its recreational boating program, which may include but is not limited to <u>any of the following</u>:

DIVISION XI CODE LANGUAGE — E-85 GASOLINE STORING AND DISPENSING INFRASTRUCTURE

Sec. 46. Section 15G.203, subsection 7, Code 2007, is amended to read as follows:

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 contrib-

utes a percentage of the total costs related to improving the retail motor fuel site.

- a. The Except as provided in paragraph "b", a participating person may be awarded standard financial incentives. The standard 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.
- b. In addition to any standard financial incentives awarded to a participating person under paragraph "a", the participating person may be awarded supplemental financial incentives to upgrade or replace a dispenser which is part of gasoline storage and dispensing infrastructure used to store and dispense E-85 gasoline as provided in section 455G.31. The person is only eligible to receive the supplemental financial incentives if the person installed the dispenser not later than sixty days after the date of the publication in the Iowa administrative bulletin of the state fire marshal's order providing that a commercially available dispenser is listed as compatible for use with E-85 gasoline by an independent testing laboratory as provided in section 455G.31. The supplemental financial incentives awarded to the participating person shall not exceed seventy-five percent of the actual cost of making the improvement or thirty thousand dollars, whichever is less.
- Sec. 47. Section 455G.31, subsection 1, paragraph a, Code 2007, is amended to read as follows:
- a. "E-85 gasoline", "ethanol blended gasoline", and "retail dealer" mean the same as defined in section 214A.1.
- Sec. 48. Section 455G.31, subsection 2, paragraph b, Code 2007, is amended to read as follows:
 - b. (1) For a dispenser, the manufacturer must state all of the following shall apply:
- (1) (a) That the dispenser is, in the opinion of the manufacturer, not incompatible with E-85 gasoline. The dispenser must be listed by an independent testing laboratory as compatible with ethanol blended gasoline.
- (2) (b) 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. The owner or operator or a person authorized by the owner or operator must visually inspect the dispenser and the dispenser sump daily for leaks and equipment failure and maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the retail dealer and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to section 455B.386.

(2) The state fire marshal shall issue an order as soon as practicable after determining that a commercially available dispenser is listed as compatible for use with E-85 gasoline by an independent testing laboratory. The state fire marshal shall publish the order in the Iowa administrative bulletin. A person shall not install a dispenser which would otherwise be permitted under subparagraph (1) after sixty days following the date that the order is published. A person who installed such dispenser before the sixty-day period expired may use the dispenser as provided in subparagraph (1) until four years after the date that the order is published.

Sec. 49. Section 455G.31, subsection 3, Code 2007, is amended to read as follows:

3. This section is repealed July 1, 2009 four years following the date that the order issued by the state fire marshal is published in the Iowa administrative bulletin as provided in this section.

DIVISION XII STATE EMPLOYEE TELECOMMUTING

*Sec. 50. STATE EMPLOYEE TELECOMMUTING — POLICY DEVELOPMENT — IMPLEMENTATION.

- 1. The director of a department or state agency to which appropriations are made pursuant to the provisions of this Act shall assess the extent to which job classifications or individual employment positions with the department or agency might be effectively performed from an employee's residence or other remote location through telecommuting, thereby increasing office space within the department or agency and reducing administrative costs. The assessment shall include an estimate of the number of department or agency employees whose job responsibilities could be effectively performed on a telecommuting basis, projected costs of establishing and maintaining work stations at an employee's residence or other remote location and providing telecommuter support, anticipated savings to the department or agency through a reduction in the office-based workforce, and anticipated time and cost savings to telecommuting employees. A report summarizing the assessment shall be submitted to the director of the department of administrative services, and the members of the general assembly, by November 1, 2007.
- 2. Based on the assessment conducted pursuant to subsection 1, the director shall develop a telecommuter employment policy for the department or agency and a timeline for initial policy implementation and plans for expanding the number of telecommuting employees. Specific office-based workforce reduction percentages shall be left to the discretion of the director, but the director shall implement a policy transferring some number of office-based employees to telecommuter status by January 1, 2008. The director shall report to the director of the department of administrative services and the members of the general assembly on an annual basis beginning January 1, 2009, the number of telecommuting employees, cost savings achieved by the department or agency, and plans for continued transfer of office-based employees to telecommuter status.*

Approved May 29, 2007, with exception noted.

CHESTER J. CULVER, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 551, an Act relating to and making appropriations involving state government, by providing for agriculture, natural resources, and environmental protection. Senate File 551 is approved on this date, with the exception noted below, which I hereby disapprove.

I am unable to approve the item designated as Division XII, Section 50 in its entirety. This provision requires the director of a department or state agency included in Senate File 551 to examine employee telecommuting options, develop a telecommuter employment policy, and implement a plan designed to increase the number of telecommuting employees. Many departments maintain employee telecommuting policies currently. These policies and procedures have been in place for several years and are well established. The designated language

^{*} Item veto; see message at end of the Act

58.08

in Section 50 directing a department or state agency to conduct an assessment of its telecommuting policy is duplicative and unnecessary and introduces a legislatively mandated management process into what is appropriately an executive branch decision. I will direct the Department of Administrative Services and the Department of Management to review the current state government telecommuting policy and make recommendations for any improvements as part of our overall executive branch strategic planning process.

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 Senate File 551 are hereby approved this date.

Sincerely, CHESTER J. CULVER, Governor

CHAPTER 212

APPROPRIATIONS — ECONOMIC DEVELOPMENT S.F.~562

AN ACT relating to and making appropriations to the department of cultural affairs, 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.

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

Section 1. 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, 2007, and ending June 30, 2008, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

be used for the purposes designated:	
1. ADMINISTRATION	
For salaries, support, maintenance, miscellaneous purposes, and for not more	than the fol-
lowing full-time equivalent positions:	
\$	245,101
FTEs	2.35
The department of cultural affairs shall coordinate activities with the tourism	office of the
department of economic development to promote attendance at the state histor	rical building
and at this state's historic sites.	
2. COMMUNITY CULTURAL GRANTS	
For planning and programming for the community cultural grants program est	tablished un-
der section 303.3:	
\$	299,240
3. HISTORICAL DIVISION	,
For salaries, support, maintenance, miscellaneous purposes, and for not more	than the fol-
lowing full-time equivalent positions:	
\$	3.542.865
·····································	o,o ==,ooo

From the moneys appropriated under this subsection, the department shall use \$100,000 for purposes of administering chapter 404A.

From the moneys appropriated under this subsection, the department shall use \$50,000 for purposes of planning commemoration activities for the sesquicentennial anniversary of the civil war and Iowa's participation in the civil war. Such activities may include activities in Iowa, activities through partnerships with other states, and activities on a national level.

4. HISTORIC SITES

For salaries, support, maintenance,	miscellaneous purposes,	and for not more than the fol-
lowing full-time equivalent positions:		

10 11 11 10 10 10 10 10 10 10 10 10 10 1	
\$	554,166
FTEs	8.25
5. ARTS DIVISION	
For salaries, support, maintenance, miscellaneous purposes, including fund	
eral grants and for not more than the following full-time equivalent positions	:
\$	1,207,611
FTEs	11.12
6. GREAT PLACES	
For salaries, support, maintenance, miscellaneous purposes, and for not mo	re than the fol-
lowing full-time equivalent positions:	
\$	305,794
FTEs	3.00^{1}
7. ARCHIVE IOWA GOVERNORS' RECORDS	

For archiving the records of Iowa governors and for not more than the following full-time equivalent position:

\$	77,348
FTEs	0.97
8. RECORDS CENTER RENT	

For payment of rent for the state records center:

185,768\$

Sec. 2. GOALS AND ACCOUNTABILITY — ECONOMIC DEVELOPMENT.

- 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. 3. 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, 2007, and ending June 30, 2008, 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:

2,044,529 27.75 FTEs

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

¹ See chapter 215, §46 herein

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, the film office, 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:

- 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. The department shall commission a study to analyze the tax structures and economic development incentives and financing on a comparative basis between Iowa and states bordering Iowa.
- h. From the moneys appropriated under this subsection, the department shall use not more than \$25,000 for purposes of conducting a microenterprise study. The study shall include identification of current programs designed to assist microenterprises and of any gaps in providing assistance to microenterprises. The study shall examine the experiences and best practices of microenterprise assistance in other states. By January 1, 2008, the department shall submit a report to the general assembly and the governor regarding the findings of the study and any recommendations which result from the study.
- i. 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 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:

- 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. From the moneys appropriated in this subsection, the department shall use at least \$1,046,000 for purposes of the mainstreet and rural mainstreet programs.³
- e. From the moneys appropriated in this subsection, the department shall use at least \$3,794,443 for purposes of tourism operations.
- f. 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.
- 4. For allocating moneys for the world food prize:
 \$ 650,000⁴

By January 1, 2008, the entity receiving moneys allocated for the world food prize under this subsection shall submit a written report to the chairpersons and ranking members of the joint appropriations subcommittee on economic development regarding the expenditure of moneys received from the state. The report shall include an itemization of expenditures of moneys received from the state during the fiscal year beginning July 1, 2007, and ending June 30, 2008, and an itemization of expenditures of moneys received from the state during the fiscal year beginning July 1, 2008, and ending June 30, 2009, as well as all projected expenditures of such moneys during the fiscal year beginning July 1, 2008, and ending June 30, 2009.

- Sec. 4. 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. 5. RURAL COMMUNITY 2000 PROGRAM. There is appropriated from loan repayments on loans made 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, 2007, and ending June 30, 2008, any funds available in the rural community 2000 fund. Moneys appropriated under this section shall be used for providing financial assistance to Iowa's councils of governments that provide technical and planning assistance to local governments.
- Sec. 6. INSURANCE ECONOMIC DEVELOPMENT. From the moneys collected by the division of insurance in excess of the anticipated gross revenues under section 505.7, subsection 3, during the fiscal year beginning July 1, 2007, \$100,000 shall be transferred to the department of economic development for insurance economic development and international insurance economic development.
- Sec. 7. 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, 2007, and ending June 30, 2008, to

² See chapter 215, §71 herein

³ See chapter 215, §71 herein

⁴ See chapter 215, §72 herein

the department of economic development for the community development program to be used by the department for the purposes of the program.

Sec. 8. WORKFORCE DEVELOPMENT FUND. There is appropria	ted from	the workforce
development fund account created in section 15.342A, to the workforce	developr	nent fund cre-
ated in section 15.343, for the fiscal year beginning July 1, 2007, and en	ding June	e 30, 2008, the
following amount, for the purposes of the workforce development fund	l, and for	not more than
the following full-time equivalent positions:		
	¢	4 000 000

- Sec. 9. 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, 2007, and ending June 30, 2008, 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. 10. JOB TRAINING FUND. Notwithstanding section 15.251, all remaining moneys in the job training fund on July 1, 2007, and any moneys appropriated or credited to the fund during the fiscal year beginning July 1, 2007, shall be transferred to the workforce development fund established pursuant to section 15.343.
- Sec. 11. 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, 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 entrepreneurs with disabilities program:
.....\$ 200,000

Sec. 12. 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, 2007, and ending June 30, 2008, 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 technology, and for not more than the following full-time equivalent positions:

- 2. Of the moneys appropriated in subsection 1, Iowa state university shall allocate at least \$900,000 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. 13. 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, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the state 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 state 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. 14. 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, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the metal casting institute, for the myentrenet internet application, and for the institute of decision making, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

 \$	661,291
 FTEs	6.75^{5}

- 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. From the moneys appropriated in this section, the university of northern Iowa shall use at least \$300,000 for purposes of expanding the service area of the myentrenet internet application.⁶
- 4. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.
- Sec. 15. 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, 2008.

⁵ See chapter 215, §73 herein

⁶ See chapter 215, §73 herein

Sec. 16. 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, 2007, and ending June 30, 2008, 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, new Iowans centers, salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

.....\$ 6,096,762FTEs 96.45

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.

Of the moneys appropriated in this subsection, the department shall allocate at least \$528,000 for purposes of increasing the number of occupational safety and health inspectors.

2. There is appropriated from the general fund of the state to the department of workforce development 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 operation of field offices and for not more than the following full-time equivalent positions:

- 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 new Iowans centers that offer one-stop services to deal with the multiple issues related to immigration and employment. The 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 centers shall seek to provide a seamless service delivery system for new Iowans. From the moneys appropriated under this section, for the fiscal year beginning July 1, 2007, for purposes of maintaining the new Iowans centers, the department shall use at least \$75,000 more for the new Iowans centers than was used during the fiscal year beginning July 1, 2006.
- 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. 17. ACCOUNTABILITY — AUDIT.

- 1. The department of workforce development shall establish accountability measures for all subcontractors. By January 15, 2008, the department shall submit a written report to the chair-persons 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. 18. 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, 2007, and ending June 30, 2008, 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:

Any remaining additional penalty and interest revenue may be allocated and used to accomplish the mission of the department.

Sec. 19. 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, 2007, and ending June 30, 2008, the following amount for the operation of field offices:

5,800,000

Sec. 20. 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, 2007, and ending June 30, 2008, 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:

-\$ 1,170,486FTEs 11.00
- Sec. 21. VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES FINANCIAL ASSISTANCE FUND MONEYS. The office of renewable fuels and coproducts may apply to the department of economic development for moneys in the value-added agricultural products and processes financial assistance fund for deposit in the renewable fuels and coproducts fund created in section 159A.7.
- Sec. 22. 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.
- Sec. 23. APPLICATION FOR DEPARTMENT OF ECONOMIC DEVELOPMENT MON-EYS. For the fiscal year beginning July 1, 2007, 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, 2007, may apply to the department for assistance through the appropriate program. The department shall provide application criteria necessary to implement this section.
- Sec. 24. SHELTER ASSISTANCE FUND. In providing moneys from the shelter assistance fund to homeless shelter programs in the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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. 25. 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, 2007.

*Sec. 26. STATE EMPLOYEE TELECOMMUTING — POLICY DEVELOPMENT — IMPLEMENTATION.

- 1. The director of a department or state agency to which appropriations are made pursuant to the provisions of this Act shall assess the extent to which job classifications or individual employment positions with the department or agency might be effectively performed from an employee's residence or other remote location through telecommuting, thereby increasing office space within the department or agency and reducing administrative costs. The assessment shall include an estimate of the number of department or agency employees whose job responsibilities could be effectively performed on a telecommuting basis, projected costs of establishing and maintaining work stations at an employee's residence or other remote location and providing telecommuter support, anticipated savings to the department or agency through a reduction in the office-based workforce, and anticipated time and cost savings to telecommuting employees. A report summarizing the assessment shall be submitted to the director of the department of administrative services, and the members of the general assembly, by November 1, 2007.
- 2. Based on the assessment conducted pursuant to subsection 1, the director shall develop a telecommuter employment policy for the department or agency and a timeline for initial policy implementation and plans for expanding the number of telecommuting employees. Specific office-based workforce reduction percentages shall be left to the discretion of the director, but the director shall implement a policy transferring some number of office-based employees to telecommuter status by January 1, 2008. The director shall report to the director of the department of administrative services and the members of the general assembly on an annual basis beginning January 1, 2009, the number of telecommuting employees, cost savings achieved by the department or agency, and plans for continued transfer of office-based employees to telecommuter status.*

Approved May 29, 2007, with exception noted.

CHESTER J. CULVER, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 562, an Act relating to and making appropriations to the Department of Cultural Affairs, 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. Senate File 562 is approved on this date, with the exception noted below, which I hereby disapprove.

I am unable to approve the item designated as Section 26 in its entirety. This provision requires the directors of a department or state agency included in Senate File 562 to examine employee telecommuting options, develop telecommuter employment policies, and implement plans designed to increase the number of telecommuting employees. Many departments maintain employee telecommuting policies currently. These policies and procedures have been in place for several years and are well established. The designated language in Section 26 directing a department or state agency to conduct an assessment of its telecommuting policy is duplica-

^{*} Item veto; see message at end of the Act

tive and unnecessary and introduces a legislatively mandated management process into what is appropriately an executive branch decision. I will direct the Department of Administrative Services and the Department of Management to review the current state government telecommuting policy and make recommendations for any improvements as part of our overall executive branch strategic planning process.

For the above reasons, I respectfully disapprove the designated item in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in Senate File 562 are hereby approved this date.

Sincerely, CHESTER J. CULVER, Governor

CHAPTER 213

APPROPRIATIONS — JUSTICE SYSTEM S.F. 575

AN ACT relating to and making appropriations to the justice system.

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, 2007, and ending June 30, 2008, 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:

.....\$ 8,907,205FTEs 225.50

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:

.....\$ 150,000

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.

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.

As a condition of receiving the appropriation in this subsection, 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.

43,008,741

c. For legal services for persons in poverty grants as provided in section 13.34:
\$ 1,550,000 ¹
d. For the purpose of funding farm mediation services and other farm assistance program provisions in accordance with sections 13.13 through 13.24:
\$ 150,0002
e. For a grant to be determined by the attorney general or the attorney general's designee through a competitive bidding process under procedures established by the office of attorney general, for the establishment of a pilot project with a nonprofit agency that focuses primarily on the representation of children in dissolution proceedings:
\$ 50,000
The nonprofit agency shall be an agency that provides a support group for school-age children whose parents are involved in a dissolution of marriage proceeding and shall provide an alternative dispute resolution family coordinator for families where one parent has contemplated filing a petition for dissolution of marriage or has filed such a petition. The nonprofit agency shall provide a report to the attorney general on the number of children and families
served under the pilot project and any other measures used to determine the success of the
pilot project by December 15, 2007. The attorney general shall provide the report prepared
by the nonprofit agency to the co-chairpersons and ranking members of the joint appropria-
tions subcommittee on the justice system and the legislative services agency by January 15, 2008.
2. a. The department of justice, in submitting budget estimates for the fiscal year commenc-
ing July 1, 2008, 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 jus-
tice or to the office of consumer advocate. These funding sources shall include but are not lim-
ited 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 also report actual reimbursements for the fiscal year com-
mencing July 1, 2006, and actual and expected reimbursements for the fiscal year commencing July 1, 2007.
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 re-
ceived 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 agen-
cy. The department of justice shall submit the report on or before January 15, 2008.
Sec. 2. 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, 2007, and ending June 30, 2008, 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 fol-
lowing full-time equivalent positions:
\$ 2,985,115 FTEs 27.00
Sec. 3. 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, 2007, and ending June 30, 2008, 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,
a. To the operation of the Fore management,

maintenance, and miscellaneous purposes:

¹ See chapter 215, §40 herein

² See chapter 215, §35 herein

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, and miscellaneous purposes:
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:
d. For the operation of the Newton correctional facility, including salaries, support, maintenance, and miscellaneous purposes:
e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, and miscellaneous purposes:
f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, and miscellaneous purposes:
g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, and miscellaneous purposes:
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:
i. For the operation of the Fort Dodge correctional facility, including salaries, support, maintenance, and miscellaneous purposes:
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:
k. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:
2. The department of corrections shall use funds appropriated in subsection 1 to continue to contract for the services of a Muslim imam. 3. As a condition of the appropriations in subsection 1, the department shall hire 37 full-time equivalent correctional officer positions that were vacant on March 13, 2007.
Sec. 4. 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, 2007, and ending June 30, 2008, 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:
(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

³ See chapter 215, §39 herein

of an existing contract, for the expenditure of moneys in excess of \$100,000 during the fiscal year beginning July 1, 2007, for the privatization of services performed by the department using state employees as of July 1, 2007, 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:
 \$ 2,070,3584

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:

.....\$ 30,000 The department of corrections shall contract with a private nonprofit substance abuse treat-

ment 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, 2008, 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.

⁴ See chapter 215, §74 herein

- 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, 2007, 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, 2007, 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 of corrections shall submit a report to the general assembly by January 1, 2008, concerning moneys recouped from inmate earnings for the reimbursement of operational expenses of the applicable facility during the fiscal year beginning July 1, 2006, 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.
- 4. 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.

Sec. 5. 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, 2007, and ending June 30, 2008, for the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, 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:		
	\$	12,012,728
b. For the second judicial district department of correctional services:	ф	0.500.050
c. For the third judicial district department of correctional services:	\$	9,526,073
•	\$	5,664,144
d. For the fourth judicial district department of correctional services:	Ψ	0,001,111
	\$	5,054,664
e. For the fifth judicial district department of correctional services, inc	cluding t	funding for
electronic monitoring devices for use on a statewide basis:		
	\$	17,115,974
f. For the sixth judicial district department of correctional services:	\$	12 202 0005
The sixth judicial district department of correctional services shall main	•	12,203,009 ⁵
ship model program to help at-risk youth. As a part of the program, the		
may recruit college or high school students in the judicial district to work		
The student workers shall be recruited regardless of gender and be recom-		
spective schools as good role models, including but not limited to students		
bilities in one or more of the following areas of ability: intellectual capac	ity, athle	etics, visual
arts, or performing arts.		
g. For the seventh judicial district department of correctional services:	φ	6 712 412
h. For the eighth judicial district department of correctional services:	Φ	6,713,412
ii. For the eighth judicial district department of correctional services.	\$	6,794,585
	Τ	2,122,000

⁵ See chapter 215, §75 herein

- 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. 6. 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 complying with 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 of an appropriation made pursuant to this section. The department shall not reallocate an appropriation or allocation for the purpose of eliminating any program.

Sec. 7. INTENT — REPORTS.

- 1. The department in cooperation with townships, the Iowa cemetery associations, and other nonprofit or governmental entities may use inmate labor during the fiscal year beginning July 1, 2007, 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.
- 2. Each month the department shall provide a status report regarding private-sector employment to the legislative services agency beginning on July 1, 2007. The report shall include the number of offenders employed in the private sector, the combined number of hours worked by the offenders, and the total amount of allowances, and the distribution of allowances pursuant to section 904.702, including any moneys deposited in the general fund of the state.
- Sec. 8. ELECTRONIC MONITORING REPORT. The department of corrections shall submit a report on electronic monitoring to the general assembly, to the co-chairpersons and the ranking members of the joint appropriations subcommittee on the justice system, and to the legislative services agency by January 15, 2008. The report shall specifically address the number of persons being electronically monitored and break down the number of persons being electronically monitored by offense committed. The report shall also include a comparison of any data from the prior fiscal year with the current year.

Sec. 9. STATE AGENCY PURCHASES FROM PRISON INDUSTRIES.

- 1. As used in this section, unless the context otherwise requires, "state agency" means the government of the state of Iowa, including but not limited to all executive branch departments, agencies, boards, bureaus, and commissions, the judicial branch, the general assembly and all legislative agencies, institutions within the purview of the state board of regents, and any corporation whose primary function is to act as an instrumentality of the state.
- 2. State agencies are hereby encouraged to purchase products from Iowa state industries, as defined in section 904.802, when purchases are required and the products are available from Iowa state industries. State agencies shall obtain bids from Iowa state industries for pur-

chases of office furniture during the fiscal year beginning July 1, 2007, exceeding \$5,000 or in accordance with applicable administrative rules related to purchases for the agency.

- Sec. 10. STATE PUBLIC DEFENDER. There is appropriated from the general fund of the state to the office of the state public defender of the department of inspections and appeals for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:

As a condition of receiving moneys under this subsection the state public defender shall make recommendations about containing the costs incurred by the office of the state public defender and court-appointed attorneys for providing legal representation of indigent persons. The state public defender shall report the recommendations to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system, and to the legislative services agency by December 15, 2007.

2. For the fees of court-appointed attorneys for indigent adults and juveniles, in accordance with section 232.141 and chapter 815:

.....\$ 28,282,538

Sec. 11. IOWA LAW ENFORCEMENT ACADEMY.

1. There is appropriated from the general fund of the state to the Iowa law enforcement academy for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:

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. 12. BOARD OF PAROLE. There is appropriated from the general fund of the state to the board of parole for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:

......\$ 1,177,849FTEs 17.50

Sec. 13. DEPARTMENT OF PUBLIC DEFENSE. There is appropriated from the general fund of the state to the department of public defense for the fiscal year beginning July 1, 2007,

123,343

and ending June 30, 2008, 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:\$ 6.003.767 FTEs 316.85 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: 2,101,033 FTEs 35.00 b. For the Iowa civil air patrol: 120,000 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. 14. DEPARTMENT OF PUBLIC SAFETY. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:\$ 4,097,900 FTEs 37.00 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: 20.512.962 FTEs 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, 2007, and one special agent for each racing facility which becomes operational during the fiscal year which begins July 1, 2007. 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 691.9: 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: 5,963,415 FTEs 87.00 b. For the division of narcotics enforcement for undercover purchases:

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 o 17 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:
\$ 3,157,454
FTEs 47.00
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 no
more than the following full-time equivalent positions:
\$ 804,110
6. For the division of state patrol, for salaries, support, maintenance, workers' compensa
tion 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 per cent of the salaries for which the funds are appropriated, and for not more than the following
full-time equivalent positions:
48,126,059
FTEs 533.00
It is the intent of the general assembly that members of the state patrol be assigned to patro the highways and roads in lieu of assignments for inspecting school buses for the school dis tricts.
7. For deposit in the sick leave benefits fund established under section 80.42, for all depart
mental employees eligible to receive benefits for accrued sick leave under the collective bar gaining agreement:
\$ 316,179
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 unen
cumbered or unobligated at the close of the fiscal year shall not revert but shall remain avail able for expenditure only for the purpose designated in this subsection until the close of the
succeeding fiscal year.
Notwithstanding section 8.39, within the funds appropriated in this section the departmen
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 de
partment 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 elimi
nating any program.
Sec. 15. CIVIL RIGHTS COMMISSION. There is appropriated from the general fund o
the state to the Iowa state civil rights commission 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 salaries, support, maintenance, miscellaneous purposes, and for not more than the fol
lowing full-time equivalent positions:
\$ 1,412,647
The Iowa state civil rights commission may enter into a contract with a nonprofit organiza
tion to provide legal assistance to resolve civil rights complaints.
Sec. 16. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION —
F911 There is appropriated from the wireless F911 emergency communications fund in sec

E911. There is appropriated from the wireless E911 emergency communications fund in section 34A.7A to the homeland security and emergency management division of the department

of public defense 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 distribution on an equal basis to each public safety answering point for wireless E911 phase 2 upgrades and equipment purchases:

Each joint E911 service board shall report to the E911 program manager, the wireless E911 phase 2 upgrade and equipment expenditures for each public safety answering point within the board's E911 service area by December 15, 2007. The E911 program manager shall compile the reports from each joint E911 service board into one expenditure report and provide the expenditure report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative services agency by January 15, 2008.

- Sec. 17. 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, 2007, and ending June 30, 2008, 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. 18. IOWA LAW ENFORCEMENT ACADEMY FEES. Notwithstanding section 80B.11B, the Iowa law enforcement academy may charge more than one-half the cost of providing the basic training course if a majority of the Iowa law enforcement academy council authorizes charging more than one-half of the cost of providing basic training. This section is repealed on June 30, 2008.
- Sec. 19. STATE PATROL VEHICLES DIGITAL CAMERA STUDY. The department of public safety shall study and make recommendations regarding the benefits as well as the disadvantages of converting the recording equipment in the state patrol enforcement motor vehicles to digital camera recording technology for use in such vehicles. The study shall include an estimate of the cost of converting to the technology, an assessment of issues related to data storage and the rules of evidence, implementation concerns, and if a conversion is recommended, a timeline for acquiring and deploying the digital camera recording technology in the motor vehicles of the state patrol. The department of public safety shall report the department's recommendations to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative services agency by December 15, 2007.

*Sec. 20. STATE EMPLOYEE TELECOMMUTING — POLICY DEVELOPMENT — IMPLEMENTATION.

1. The director of a department or state agency to which appropriations are made pursuant to the provisions of this Act shall assess the extent to which job classifications or individual employment positions with the department or agency might be effectively performed from an employee's residence or other remote location through telecommuting, thereby increasing office space within the department or agency and reducing administrative costs. The assessment shall include an estimate of the number of department or agency employees whose job responsibilities could be effectively performed on a telecommuting basis, projected costs of establishing and maintaining work stations at an employee's residence or other remote location and providing telecommuter support, anticipated savings to the department or agency through a reduction in the office-based workforce, and anticipated time and cost savings to telecommuting employees. A report summarizing the assessment shall be submitted to the director of the department of administrative services, and the members of the general assembly, by November 1, 2007.

^{*} Item veto; see message at end of the Act

- 2. Based on the assessment conducted pursuant to subsection 1, the director shall develop a telecommuter employment policy for the department or agency and a timeline for initial policy implementation and plans for expanding the number of telecommuting employees. Specific office-based workforce reduction percentages shall be left to the discretion of the director, but the director shall implement a policy transferring some number of office-based employees to telecommuter status by January 1, 2008. The director shall report to the director of the department of administrative services and the members of the general assembly on an annual basis beginning January 1, 2009, the number of telecommuting employees, cost savings achieved by the department or agency, and plans for continued transfer of office-based employees to telecommuter status.*
- Sec. 21. Section 34A.7A, subsection 2, paragraph f, subparagraph (2), unnumbered paragraph 1, Code 2007, is amended to read as follows:

Upon retirement of outstanding obligations referred to in paragraph "e", the amount allocated under this paragraph "f" shall be twenty-four twenty-five percent of the total amount of surcharge generated per calendar quarter allocated as follows:

Sec. 22. <u>NEW SECTION</u>. 455B.112A ENVIRONMENTAL CRIMES INVESTIGATION AND PROSECUTION FUND.

- 1. An environmental crimes investigation and prosecution fund is created as a separate fund in the state treasury to be administered by the attorney general. Moneys credited to the fund shall include court-ordered fines and restitution awarded to the attorney general as part of a judgment in an environmental criminal case.
- 2. For each fiscal year not more than twenty thousand dollars is appropriated from the fund to the department of justice to be used for the investigation and prosecution of environmental crimes, including the reimbursement of expenses incurred by county, municipal, and other local government agencies cooperating with the attorney general in the investigation and prosecution of environmental crimes.
- 3. Not more than twenty thousand dollars shall be credited to the fund in a fiscal year and any moneys in excess of this amount shall be credited to the general fund of the state.
- 4. Notwithstanding section 8.33, moneys credited to the fund shall not revert to any other fund. Notwithstanding section 12C.7, interest or earnings deposited in the fund shall be credited to the fund.

Sec. 23. NEW SECTION. 553.19 ANTITRUST FUND.

- 1. An antitrust fund is created as a separate fund in the state treasury to be administered by the attorney general. Moneys credited to the fund shall include amounts received as a result of a state or federal civil antitrust judgment or settlement which are based on damages sustained by the state, civil penalties, costs, or attorney fees, and amounts which are specifically directed to the credit of the fund by the judgment or settlement, and amounts which are designated by the judgment or settlement for use by the attorney general for antitrust enforcement or education. Amounts based upon damages sustained by individuals or entities outside of state government not designated for antitrust enforcement purposes or amounts based upon actual damages awarded to the state which would not otherwise be deposited in the general fund of the state shall not be credited to the fund.
- 2. For each fiscal year, not more than five hundred thousand dollars is appropriated from the fund to the department of justice to be used for enforcement of this chapter and chapter 551, and for enforcement of federal antitrust laws and for public education about state and federal antitrust laws.
- 3. Notwithstanding section 8.33, moneys credited to the fund shall not revert to any other fund. Notwithstanding section 12C.7, interest or earnings on the moneys in the fund shall be credited to the fund.

Sec. 24. <u>NEW SECTION</u>. 714.16C CONSUMER EDUCATION AND LITIGATION FUND.

1. A consumer education and litigation fund is created as a separate fund in the state trea-

^{*} Item veto; see message at end of the Act

sury to be administered by the attorney general. Moneys credited to the fund shall include amounts received as a result of a state or federal civil consumer fraud judgment or settlement, civil penalties, costs, or attorney fees, and amounts which are specifically directed to the credit of the fund by the judgment or settlement, and amounts which are designated by the judgment or settlement for use by the attorney general for consumer litigation or education purposes. Moneys designated for consumer reimbursement shall not be credited to the fund, except to the extent that such moneys are permitted to be used for enforcement of section 714.16.

- 2. For each fiscal year, not more than one million one hundred twenty-five thousand dollars is appropriated from the fund to the department of justice to be used for public education relating to consumer fraud and for enforcement of section 714.16 and federal consumer laws, and not more than seventy-five thousand dollars is appropriated from the fund to the department of justice to be used for investigation, prosecution, and consumer education relating to consumer and criminal fraud committed against older Iowans.
- 3. Notwithstanding section 8.33, moneys credited to the fund shall not revert to any other fund. Notwithstanding section 12C.7, interest or earnings on the moneys in the fund shall be credited to the fund.

Sec. 25. Section 815.7, Code 2007, is amended to read as follows: 815.7 FEES TO ATTORNEYS.

- <u>1.</u> 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 pursuant to section 814.11 or 815.10 shall be entitled to reasonable compensation and expenses.
- 2. 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.
- <u>3.</u> For appointments made on or after July 1, 2006, <u>through June 30, 2007</u>, 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.
- 4. For appointments made on or after July 1, 2007, the reasonable compensation shall be calculated on the basis of seventy dollars per hour for class "A" felonies, sixty-five dollars per hour for class "B" felonies, and sixty dollars per hour for all other cases.
- <u>5.</u> 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.

Approved May 29, 2007, with exception noted.

CHESTER J. CULVER, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 575, an Act relating to and making appropriations to the justice system. Senate File 575 is approved on this date, with the exception noted below, which I hereby disapprove.

I am unable to approve the item designated as Section 20 in its entirety. This provision requires the director of a department or a state agency included in Senate File 575 to examine employee

telecommuting options, develop a telecommuter employment policy, and implement a plan designed to increase the number of telecommuting employees. Many departments maintain employee telecommuting policies currently. These policies and procedures have been in place for several years and are well established. The designated language in Section 20 directing a department or state agency to conduct an assessment of its telecommuting policy is duplicative and unnecessary and introduces a legislatively mandated management process into what is appropriately an executive branch decision. I will direct the Department of Administrative Services and the Department of Management to review the current state government telecommuting policy and make recommendations for any improvements as part of our overall executive branch strategic planning process.

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 Senate File 575 are hereby approved this date.

Sincerely, CHESTER J. CULVER, Governor

CHAPTER 214

APPROPRIATIONS — EDUCATION

S.F. 588

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 education, and the state board of regents, providing for related matters concerning the Iowa learning technology commission, providing for a related matter concerning participation in an instructional support program by school districts, and providing effective dates.

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

DEPARTMENT FOR THE BLIND

Section 1. ADMINISTRATION. There is appropriated from the general fund of the state to the department for the blind for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:

 · · · · Þ	2,404,747
 FTEs	97.00

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, 2007, and ending June 30, 2008, 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 fol-
lowing full-time equivalent positions:
\$ 376,053
The commission shall conduct a study of the estimated family contribution limit eligibility requirement for Iowa tuition grants to determine whether the current requirement is fair and equitable for prospective recipients and their families. The findings and recommendations, which the commission shall submit in a report to the general assembly by January 14, 2008, shall include transition plans to ensure that students with the greatest financial need receive full grants. 2. STUDENT AID PROGRAMS
For payments to students for the Iowa grant program:
3. DES MOINES UNIVERSITY — OSTEOPATHIC MEDICAL CENTER a. For forgivable loans to Iowa students attending 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 Des Moines university — osteopathic medical center for an initiative in primary health care to direct primary care physicians to shortage areas in the state:
4. NATIONAL GUARD EDUCATIONAL ASSISTANCE PROGRAM
For purposes of providing national guard educational assistance under the program established in section 261.86:
\$ 3,800,000
5. TEACHER SHORTAGE PROGRAMS For the teacher shortage programs established in section 261.111 and section 261.112, as enacted in this Act:
\$ 485,400
It is the intent of the general assembly that appropriations made for teacher shortage pro-
gram purposes for the fiscal year beginning July 1, 2007, and each succeeding fiscal year, be
distributed under the teacher shortage loan forgiveness program created pursuant to section 261.112, as enacted by this Act.
6. ALL IOWA OPPORTUNITY ASSISTANCE PROGRAM
For purposes of the all Iowa opportunity assistance program, which includes the all Iowa opportunity foster care grant program established pursuant to section 261.6, as enacted by this
Act, and the all Iowa opportunity scholarship program established pursuant to section 261.88, as enacted by this Act:
From the funds appropriated pursuant to this subsection, up to \$500,000 shall be used for
purposes of the all Iowa opportunity foster care grant program established pursuant to section
261.6, as enacted by this Act, and at least \$500,000 shall be used for purposes of the all Iowa
opportunity scholarship program as established in section 261.88, as enacted by this Act.
If the funds appropriated by the general assembly to the college student aid commission for the 2007-2008 fiscal year for purposes of the all Iowa opportunity scholarship program exceed
\$500,000, "eligible institution" as defined in section 261.88, as enacted by this Act, shall, during

Sec. 3. WORK-STUDY APPROPRIATION FOR FY 2007-2008. Notwithstanding section 261.85, for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the amount appro-

the 2007-2008 fiscal year, include accredited private institutions as defined in section 261.9,

subsection 1.

¹ See chapter 215, §33 herein

priated from the general fund of the state to the college student aid commission for the work-study program under section 261.85 shall be \$295,600, and from the moneys appropriated in this section, \$162,508 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 AND NURSE EDUCATOR LOAN FORGIVENESS 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, 2007, up to \$100,000 shall be used to provide loan forgiveness as provided in section 261.23, as amended in this Act. The college student aid commission shall submit in a report to the chairpersons and ranking members of the joint appropriations subcommittee on education by January 1, 2009, the number of registered nurses and nurse educators who received loan forgiveness in the fiscal year beginning July 1, 2007, pursuant to section 261.23, as amended in this Act, and the amount paid to each of the registered nurses and nurse educators.

It is the intent of the general assembly that appropriations made for purposes of the registered nurse and nurse educator loan forgiveness program for the fiscal year beginning July 1, 2007, and each succeeding fiscal year, be distributed under the program created pursuant to section 261.23, as amended in this Act, for registered nurses and nurse educators.

Sec. 5. SCHOLARSHIP AND TUITION GRANT RESERVE FUND APPROPRIATION — BARBER SCHOOL AND SCHOOL OF COSMETOLOGY ARTS AND SCIENCES TUITION GRANTS. Notwithstanding the maximum allowed balance requirement of the scholarship and tuition grant reserve fund as provided in section 261.20, there is appropriated from the scholarship and tuition grant reserve fund to the college student aid commission for the fiscal year beginning July 1, 2007, and ending June 30, 2008, an amount up to \$100,000 to be used to award Iowa vocational-technical tuition grants to residents of Iowa who establish financial need and are admitted and in attendance as a full-time or part-time student in a course of study at a school of cosmetology arts and sciences licensed under chapter 157 or a barber school licensed pursuant to section 158.7 and accredited by a national accrediting agency recognized by the United States department of education. If the grant recipient discontinues attendance before the end of any term after receiving payment of the grant, the entire amount of any refund due that student, up to the amount of any payments made under the annual grant, shall be paid by the institution to the state. Funds appropriated in this section are in addition to funds appropriated in section 261.25, subsection 3, as amended in this Act.

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, 2007, and ending June 30, 2008, 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:

U	•	•		
			 \$	7,919,382
			 . FTEs	85.37

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.

Of the full-time equivalent positions authorized in this subsection, 10.00 full-time equivalent positions are allocated to support management of the community college management information system; for the expansion of the state board of education model core curriculum; for

^{*} Item veto; see message at end of the Act

the development and implementation of strategic educational goals; for the implementation of the grant request for proposals, technical assistance, and monitoring provisions in the student advancement policy; for the collection and dissemination of resources related to human growth and development curriculum; for district sharing incentive purposes; and for the senior year plus program study.

Of the full-time equivalent positions authorized in this subsection, 1.00 full-time equivalent position is allocated for district sharing incentive purposes and 4.00 full-time equivalent positions are allocated for purposes of the student achievement and teacher quality program.

The director of the department of education shall ensure that all school districts are aware of the state education resources available on the state website for listing teacher job openings and shall make every reasonable effort to enable qualified practitioners to post their resumes on the state website. The department shall administer the posting of job vacancies for school districts, accredited nonpublic schools, and area education agencies on the state website. The department may coordinate this activity with the Iowa school board association or other interested education associations in the state. The department shall strongly encourage school districts to seek direct claiming under the medical assistance program for funding of school district nursing services for students.

2. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

\$\$	553,758
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:

 		. \$ 5,419,890
 	F	TEs 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, 2008, 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:

 	 	\$	54,709
 	 	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:

	1,801,761
FTEs	19.00

of staff.

b. 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 com-

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

munity 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.

- c. 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.
- d. 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 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.
- e. 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. BIRTH TO AGE THREE SERVICES

For expansion of the federal Individuals With Disabilities Education Improvement Act of 2004, Pub. L. No. 108-446, as amended to January 1,2007, birth through age three services due to increased numbers of children qualifying for those services:

From the funds appropriated in this subsection, \$421,400 shall be allocated to the child

health specialty clinic at the state university of Iowa to provide additional support for infants and toddlers who are born prematurely, drug-exposed, or medically fragile.

12. EARLY HEAD START PILOT PROJECTS

For transfer to the department of human services for implementation of early head start pilot projects addressing the comprehensive cognitive, social, emotional, and developmental needs of children from birth to age three, including prenatal support for qualified families:

.....\$ 400,000

Early head start pilot projects shall promote healthy prenatal outcomes, healthy family functioning, and strengthen the development of infants and toddlers in low-income families.

13. FOUR-YEAR-OLD PRESCHOOL PROGRAM

From the moneys appropriated pursuant to this subsection, not more than \$330,000 shall be used by the department for administration of the four-year-old preschool program established pursuant to chapter 256C, if enacted.³

14. TEXTBOOKS OF NONPUBLIC SCHOOL PUPILS

To provide funds for costs of providing textbooks to each resident pupil who attends a non-public 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:

.....\$ 664,165

² See chapter 148, §1 – 6 herein

³ See chapter 148, §1 - 6 herein

8,544,806

15. 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\$ 16. 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:\$ 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. 17. STATEWIDE EDUCATION DATA WAREHOUSE For the implementation of an educational data warehouse that will be utilized by teachers, parents, school district administrators, area education agency staff, department of education staff, and policymakers, and for not more than the following full-time equivalent positions:\$ FTEs 4.00 The department may use a portion of these funds for administrative purposes. Notwithstanding section 8.33, moneys appropriated under this subsection which remain unobligated or unexpended on June 30, 2008, shall not revert but shall remain available to be used for the purposes designated in the following fiscal year. 18. ADVANCED PLACEMENT For distribution to the Connie Belin & Jacqueline N. Blank international center for gifted education and talent development located at the state university of Iowa for purposes of increasing student participation in advanced placement courses and exams in Iowa high schools through support of the Iowa online advanced placement academy: 400,000 State funds shall not be used by the center for reimbursement of advanced placement examination fees for students participating in advanced placement courses and exams through the online academy. 19. SUPPLEMENTAL STRATEGIES AND EDUCATIONAL SERVICES GRANT PRO-For purposes of the supplemental strategies and educational services grant program established pursuant to section 279.65, if enacted by this Act:4 2,500,000 20. BEFORE AND AFTER SCHOOL PROGRAMS For the before and after school grant program established pursuant to section 256.26, if enacted by this Act:5\$ 400.000621. BEGINNING ADMINISTRATOR MENTORING AND INDUCTION PROGRAM For purposes of administering the beginning administrator mentoring and induction program established pursuant to chapter 284A: 250,000 22. COMMUNITY COLLEGES For general state financial aid to merged areas as defined in section 260C.2 in accordance with chapters 258 and 260C: Notwithstanding the allocation formula in section 260C.18C, the funds appropriated in this subsection shall be allocated as follows: a. Merged Area I \$ 8,472,001 b. Merged Area II \$ 9,282,134

c. Merged Area III\$

⁴ See this chapter, §37

⁵ See this chapter, §19

⁶ See chapter 215, §34 herein

d.	Merged Area IV	\$ 4,200,810
e.	Merged Area V	\$ 9,408,978
f.	Merged Area VI	\$ 8,169,643
g.	Merged Area VII	\$ 12,077,303
h.	Merged Area IX	\$ 15,025,656
i.	Merged Area X	\$ 25,854,970
j.	Merged Area XI	\$ 25,758,739
k.	Merged Area XII	\$ 9,918,232
1.	Merged Area XIII	\$ 10,041,096
m.	Merged Area XIV	\$ 4,251,743
n.	Merged Area XV	\$ 13,348,554
0.	Merged Area XVI	\$ 7,607,749

Sec. 7. DEPARTMENT OF EDUCATION VOLUNTARY MODEL CORE CURRICULUM REPORT. The department of education shall evaluate the readiness of school districts to adopt and support the voluntary model core curriculum established pursuant to section 256.7, subsection 26; assess the professional development necessary in order for school districts to support teachers in improved instruction; identify the barriers to full adoption of the voluntary model core curriculum by school districts statewide; and develop the technical assistance required to assist all school districts to implement the voluntary model core curriculum. The department shall submit a report summarizing its activities, findings, and recommendations, including recommendations for action by the general assembly, to assist school districts in delivering the voluntary model core curriculum to students, in a report to the general assembly by January 14, 2008.

Sec. 8. DEPARTMENT OF EDUCATION — COMMUNITY COLLEGE QUALITY FACULTY WORKING GROUP. The department of education shall convene a working group to study comprehensive community college quality faculty issues. The working group shall include but is not limited to equal numbers of community college faculty and administrators. The director of the department of education may appoint additional education stakeholders if appropriate. The Iowa association of community college trustees shall appoint community college administrators to the working group and the Iowa state education association shall appoint college faculty to the working group. The working group shall submit its findings and recommendations in a report to the general assembly by January 14, 2008.

STATE BOARD OF REGENTS

Sec. 9. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:

 \$ 1,16	7,137
 FTEs	16.00

The state board of regents, the department of management, and the legislative services agency shall cooperate to determine and agree upon, by November 15, 2007, the amount that needs to be appropriated for tuition replacement for the fiscal year beginning July 1, 2008.

The state board of regents shall conduct a detailed study examining campus security protocols, processes, procedures, technologies, and prevention counseling techniques in use at each of the institutions of higher learning the board governs. The study shall also explore process, protocol, and technology improvements, as well as any other improvements which may lead to significant improvements in campus safety and security. The study shall include a review of arming campus security officers. The board shall complete the study by October 1, 2007, and shall submit its findings and recommendations in a report to the governor and the general assembly by October 15, 2007.

2,657,335

38.25

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 leg committee on government oversight during the legislative interim. b. For allocation by the state board of regents to the state university of low university of science and technology, and the university of northern Iowa to	gislative standing va, the Iowa state
stitutions for deficiencies in their operating funds resulting from the pledgin dent fees and charges, and institutional income to finance the cost of providi administrative buildings and facilities and utility services at the institutions	ng of tuitions, stu- ing academic and s:
Notwithstanding section 8.33, funds appropriated for the purposes in the graph remaining unencumbered or unobligated at the end of the fiscal year shall be available for expenditure for the purposes specified in this lettered purposes the subsequent fiscal year. c. For funds to be allocated to the southwest Iowa graduate studies center.	hall not revert bu paragraph during
d. For funds to be allocated to the siouxland interstate metropolitan planni tristate graduate center under section 262.9, subsection 21:	
e. For funds to be allocated to the quad-cities graduate studies center:	77,941
f. For funds for regents universities general operating budgets for strategic tives that enhance salaries, support, maintenance, equipment, and for misce es:	
g. For funds to be distributed to the midwestern higher education comp member state annual obligation:	
2. STATE UNIVERSITY OF IOWA a. General university, including lakeside laboratory For salaries, support, maintenance, equipment, miscellaneous purposes, than the following full-time equivalent positions:	90,000 and for not more
\$FTEs	230,843,903 5,058.55
b. Psychiatric hospital For salaries, support, maintenance, equipment, miscellaneous purposes, f ment, and maintenance of committed and voluntary public patients, and for a following full-time equivalent positions:	
\$	7,043,056 269.65
c. Center for disabilities and development For salaries, support, maintenance, miscellaneous purposes, and for not n	
lowing full-time equivalent positions:	6 262 261
\$	6,363,265 130.37
From the funds appropriated in this lettered paragraph, \$200,000 shall be poses of the employment policy group. d. Oakdale campus	
For salaries, support, maintenance, miscellaneous purposes, and for not not not not not form full-time equivalent positions:	nore than the fol

.....\$

..... FTEs

e. State hygienic laboratory	
For salaries, support, maintenance, miscellaneous purposes, and for not more lowing full-time equivalent positions:	than the fol-
\$	3,849,461
FTEs	102.50
f. Family practice program For allocation by the dean of the college of medicine, with approval of the adv to qualified participants, to carry out chapter 148D for the family practice progra	m, including
salaries and support, and for not more than the following full-time equivalent p	
\$	2,075,948 190.40
For specialized child health care services, including childhood cancer diagnos ment network programs, rural comprehensive care for hemophilia patients, a	
high-risk infant follow-up program, including salaries and support, and for not metallowing full-time equivalent positions:	nore than the
\$	649,066
h. Statewide cancer registry	57.97
For the statewide cancer registry, and for not more than the following full-time positions:	ne equivalent
\$	178,739
i. Substance abuse consortium	2.10
For funds to be allocated to the Iowa consortium for substance abuse research tion, and for not more than the following full-time equivalent position:	n and evalua-
\$	64,871
j. Center for biocatalysis	1.00
For the center for biocatalysis, and for not more than the following full-time equations:	iivaient posi-
tions:\$	881,384
FTEs	6.28
k. Primary health care initiative For the primary health care initiative in the college of medicine and for not m	
following full-time equivalent positions:	
\$FTEs	759,875 5.89
From the funds appropriated in this lettered paragraph, \$330,000 shall be allo	
department of family practice at the state university of Iowa college of medicin practice faculty and support staff. 1. Birth defects registry	
For the birth defects registry and for not more than the following full-time equation:	iivalent posi-
\$	44,636
m. Larned A. Waterman Iowa nonprofit resource center For the Larned A. Waterman Iowa nonprofit resource center:	1.00
n. Agricultural health and safety programs	200,000
For a program for farmers with disabilities:	
\$ 5 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	130,000
Funds appropriated for purposes of this lettered paragraph shall be used for a a tional nonprofit organization with over eighty years of experience in assisting	

adults with disabilities and special needs. The funds shall be used for a nationally recognized program that began in 1986 and has been replicated in at least thirty 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. 3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY a. General university

a. General university For salaries, support, maintenance, equipment, miscellaneous purposes, a	and for not more
than the following full-time equivalent positions:	
\$	180,198,164
h Agricultural consciences station	3,647.42
 b. Agricultural experiment station For salaries, support, maintenance, miscellaneous purposes, and for not m 	ore than the fol-
lowing full-time equivalent positions:	
\$	32,984,653
FTEs	546.98
c. Cooperative extension service in agriculture and home economics	ore then the fel
For salaries, support, maintenance, miscellaneous purposes, and for not make lowing full-time equivalent positions:	ore man me ioi-
\$	21,232,579
FTEs	383.34
d. Leopold center	303.31
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 se	ction 267.8:
\$	220,708
4. UNIVERSITY OF NORTHERN IOWA	
a. General university	1.0
For salaries, support, maintenance, equipment, miscellaneous purposes, a than the following full-time equivalent positions:	ind for not more
\$\$	82,701,063
FTEs	1,449.48
b. Recycling and reuse center	
For purposes of the recycling and reuse center, and for not more than the fo	llowing full-time
equivalent positions:	
\$	211,858
FTEs	3.00
5. STATE SCHOOL FOR THE DEAF	
For salaries, support, maintenance, miscellaneous purposes, and for not m	ore than the fol-
lowing full-time equivalent positions:	0.520.007
\$	9,530,007
6. IOWA BRAILLE AND SIGHT SAVING SCHOOL	126.60
For salaries, support, maintenance, miscellaneous purposes, and for not m	ore than the fol-
lowing full-time equivalent positions:	
\$	5,332,607
7. TUITION AND TRANSPORTATION COSTS	62.87

For payment to local school boards for the tuition and transportation costs of students resid-

ing 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. 10. STATE BOARD OF REGENTS — GEORGE WASHINGTON CARVER ENDOWED CHAIR. There is appropriated from the general fund of the state to the state board of regents for the fiscal period beginning July 1, 2007, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For purposes of recruiting and retaining high-quality faculty and to support their academic pursuits and endeavors through the establishment of the George Washington Carver endowed chair at the Iowa state university of science and technology:

FY 2007-2008	 \$	250,000
FY 2008-2009	 \$	250,000

Moneys appropriated for purposes of the George Washington Carver endowed chair as provided by this section shall be allocated only to the extent that the state moneys are matched from other sources by the Iowa state university of science and technology on a basis of a two dollar university contribution for every one dollar appropriated under this section.

- Sec. 11. For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the state board of regents may use notes, bonds, or other evidences of indebtedness issued under section 262.48 to finance projects that will result in energy cost savings in an amount that will cause the state board to recover the cost of the projects within an average of six years.
- Sec. 12. Notwithstanding section 270.7, the department of 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, 2007, for expenses relating to prescription drug costs for students attending the state school for the deaf and the Iowa braille and sight saving school.
- Sec. 13. 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, 2006, and ending June 30, 2007, may continue to participate in the board-approved instructional support program for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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, 2007, 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. 14. The Iowa learning technology commission shall submit a report by January 1, 2008, to the general assembly which shall include a description and the results of the pilot programs which received funding pursuant to section 280A.4 and, based on the findings resulting from implementation of the programs, the commission's recommendations for funding and implementing statewide learning technology initiatives.

*Sec. 15. STATE EMPLOYEE TELECOMMUTING — POLICY DEVELOPMENT — IMPLE-MENTATION.

- 1. The director of a department or state agency to which appropriations are made pursuant to the provisions of this Act shall assess the extent to which job classifications or individual employment positions with the department or agency might be effectively performed from an employee's residence or other remote location through telecommuting, thereby increasing office space within the department or agency and reducing administrative costs. The assessment shall include an estimate of the number of department or agency employees whose job responsibilities could be effectively performed on a telecommuting basis, projected costs of establishing and maintaining work stations at an employee's residence or other remote location and providing telecommuter support, anticipated savings to the department or agency through a reduction in the office-based workforce, and anticipated time and cost savings to telecommuting employees. A report summarizing the assessment shall be submitted to the director of the department of administrative services, and the members of the general assembly, by November 1, 2007.
- 2. Based on the assessment conducted pursuant to subsection 1, the director shall develop a telecommuter employment policy for the department or agency and a timeline for initial policy implementation and plans for expanding the number of telecommuting employees. Specific office-based workforce reduction percentages shall be left to the discretion of the director, but the director shall implement a policy by January 1, 2008. The director shall report to the director of the department of administrative services and the members of the general assembly on an annual basis beginning January 1, 2009, the number of telecommuting employees, cost savings achieved by the department or agency, and plans for continued transfer of office-based employees to telecommuter status.*

Sec. 16. Section 256.7, subsection 26, Code 2007, is amended to read as follows:

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 curriculum 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, Adopt rules that establish a voluntary model core curriculum and requiring, beginning with the students in the 2010 - 2011 school year graduating class, the requirements for high school graduation requirements for all students in school districts shall be and accredited nonpublic schools that include at a minimum satisfactory completion of four years of English and language arts, three years of mathematics, three years of science, and three years of social studies. The voluntary model core curriculum adopted shall address the core content standards in subsection 27 and the skills and knowledge students need to be successful in the twenty-first century. The voluntary model core curriculum shall include social studies and twenty-first century learning skills which include but are not limited to civic literacy, health literacy, technology literacy, financial literacy, and employability skills; and shall address the curricular needs of students in kindergarten through grade twelve in those areas. The state board shall continue the inclusive process begun during the initial development of a voluntary model core curriculum for grades nine through twelve including stakeholder involvement, including but not limited to representatives from the private sector and the business community, and alignment of the voluntary model core curriculum to other recognized sets of national and international standards. The state board shall also recommend quality

^{*} Item veto; see message at end of the Act

assessments to school districts and accredited nonpublic schools to measure the voluntary model core curriculum.

- Sec. 17. Section 256.7, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 27. Adopt a set of core content standards applicable to all students in kindergarten through grade twelve in every school district and accredited nonpublic school. For purposes of this subsection, "core content standards" includes reading, mathematics, and science. The core content standards shall be identical to the core content standards included in Iowa's approved 2006 standards and assessment system under Title I of the federal Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended by the federal No Child Left Behind Act of 2001, Pub. L. No. 107-110. School districts and accredited nonpublic schools shall include, at a minimum, the core content standards adopted pursuant to this subsection in any set of locally developed content standards. School districts and accredited nonpublic schools are strongly encouraged to include the voluntary model core curriculum or set higher expectations in local standards. As changes in federal law or regulation occur, the state board is authorized to amend the core content standards as appropriate.
- Sec. 18. Section 256.9, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 55. Establish and maintain a process and a procedure, in cooperation with the board of educational examiners, to compare a practitioner's teaching assignment with the license and endorsements held by the practitioner. The director may report noncompliance issues identified by this process to the board of educational examiners pursuant to section 272.15, subsection 3.
 - Sec. 19. NEW SECTION. 256.26 BEFORE AND AFTER SCHOOL GRANT PROGRAM.
- 1. There is established a before and after school grant program to provide competitive grants to school districts and other public and private organizations to expand the availability of before and after school programs, including but not limited to summer programs.
- 2. Grant applications shall be assessed by the department based on the targeted student population and whether the application meets all of the following conditions:
- a. Demonstrates partnerships and collaboration with not-for-profit community organizations.
 - b. Indicates that the applicant has a plan for continually improving quality in the program.
 - c. Provides for a safe and engaging environment.
 - d. Combines academic, enrichment, cultural, and recreational activities.
- e. Provides for not less than a twenty percent match of any state funds received for purposes of the program.
- f. Demonstrates that the applicant is able to sustain the program after the grant is exhausted.
- 3. 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; supervised recreation programs; and health and nutrition programs.
- 4. The department shall make every effort to award grants to a balance of rural and urban programs.
- 5. The department shall make every effort to leverage additional funding from other public and private sources to support the grant program.
- 6. From funds appropriated for a fiscal year for purposes of this section, not more than one hundred thousand dollars may be used to retain a contractor to work with the department on long-term planning and development of a statewide infrastructure to provide coordination, support, and technical assistance to before and after school programs. The contractor shall

be qualified to provide services in policy development, before and after school funding mechanisms, public and private partnerships, data collection, the promotion of quality, and working with various state and local interests.⁷

- Sec. 20. Section 257.11, subsection 6, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
 - 6. SHARED CLASSES DELIVERED OVER THE IOWA COMMUNICATIONS NETWORK.
- a. A school district that provides a virtual class to a pupil in another school district and the school district receiving that virtual class for a pupil shall each receive a supplemental weighting of one-twentieth of the percentage of the pupil's school day during which the pupil attends the virtual class.
- b. Fifty percent of the funding the school district providing the virtual class receives as a result of this subsection shall be reserved as additional pay for the virtual classroom instructor. If an instructor's contract provides additional pay for teaching a virtual class, the instructor shall receive the greater amount of either the amount provided for in this paragraph or the amount provided for in the instructor's contract.
- c. A school district receiving a virtual class for a pupil from a community college, which class meets the sharing agreement requirements in section 257.11, subsection 3, shall receive a supplemental funding weighting of one-twentieth of the percentage of the pupil's school day during which the pupil attends the virtual class.
 - d. For the purposes of this subsection, "virtual class" means either of the following:
- (1) A class provided by a school district to a pupil in another school district via the Iowa communications network's video services.
- (2) A class provided by a community college to a pupil in a school district via the Iowa communications network's video services.
- Sec. 21. Section 260C.36, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

By October 1, 2002, the The community college administration shall establish a committee consisting of instructors and administrators, equally representative of the arts and sciences faculty and the vocational-technical faculty, which has no more than a simple majority of members of the same gender. The faculty members shall be appointed by the certified employee organization if one exists and if not, by the college administration. The administrators shall be appointed by the college administration. The committee shall develop and maintain a plan for hiring and developing quality faculty that includes all of the following:

- Sec. 22. Section 260C.36, subsection 3, Code 2007, is amended by striking the subsection.
- Sec. 23. Section 260C.48, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The state board shall develop standards and rules for the accreditation of community college programs. Except as provided in this subsection and subsection 4, standards developed shall be general in nature so as to apply to more than one specific program of instruction. With regard to community college-employed instructors, the standards adopted shall at a minimum require that <u>full-time</u> community college instructors <u>who are under contract for at least half-time or more</u> meet the following requirements:

- Sec. 24. Section 261.2, subsection 6, Code 2007, is amended to read as follows:
- 6. Develop and implement, in cooperation with the department of human services and the judicial branch, a program to assist juveniles who are sixteen years of age or older and who have a case permanency plan under chapter 232 or 237 or are otherwise under the jurisdiction of chapter 232 in applying for federal and state aid available for higher education. The commission shall also develop and implement the all Iowa opportunity foster care grant program in accordance with section 261.6.

⁷ See chapter 208, §5; chapter 215, §34 herein

Sec. 25. <u>NEW SECTION</u>. 261.6 ALL IOWA OPPORTUNITY FOSTER CARE GRANT PROGRAM.

- 1. The commission shall develop and implement, in cooperation with the department of human services and the judicial branch, the all Iowa opportunity foster care grant program in accordance with this section.
- 2. The program shall provide financial assistance for postsecondary education or training to persons who have a high school diploma or a high school equivalency diploma under chapter 259A, are age eighteen through twenty-three, and are described by any of the following:
- a. On the date the person reached age eighteen or during the thirty calendar days preceding or succeeding that date, the person was in a licensed foster care placement pursuant to a court order entered under chapter 232 under the care and custody of the department of human services or juvenile court services.
- b. On the date the person reached age eighteen or during the thirty calendar days preceding or succeeding that date, the person was under a court order under chapter 232 to live with a relative or other suitable person.
- c. The person was in a licensed foster care placement pursuant to an order entered under chapter 232 prior to being legally adopted after reaching age sixteen.
- d. On the date the person reached age eighteen or during the thirty calendar days preceding or succeeding that date, the person was placed in the state training school or the Iowa juvenile home pursuant to a court order entered under chapter 232 under the care and custody of the department of human services.
 - 3. The program requirements shall include but are not limited to all of the following:
- a. Program assistance shall cover a program participant's expenses associated with attending an approved postsecondary education or training program in this state. The expenses shall include tuition and fees, books and supplies, child care, transportation, housing, and other expenses approved by the commission. If a participant is attending on less than a full-time basis, assistance provisions shall be designed to cover tuition and fees and books and supplies, and assistance for other expenses shall be prorated to reflect the hours enrolled.
- b. If the approved education or training program is more than one year in length, the program assistance may be renewed. To renew the assistance, the participant must annually reapply for the program and meet the academic progress standards of the postsecondary educational institution or make satisfactory progress toward completion of the training program.
- c. A person shall be less than age twenty-three upon both the date of the person's initial application for the program and the start date of the education or training program for which the assistance is provided. Eligibility for program assistance shall end upon the participant reaching age twenty-four.
- d. Assistance under the program shall not be provided for expenses that are paid for by other programs for which funding is available to assist the participant.
- e. The commission shall implement assistance provisions in a manner to ensure that the total amount of assistance provided under the program remains within the funding available for the program.
- 4. The commission shall develop and implement a tracking system that maintains a record of the postsecondary and workforce participation for those assisted under the program. The system shall maintain a record for each participant for up to ten years after the first year of assistance. The commission shall deliver a report on the outcomes of the program to the governor and general assembly by January 1 annually.8
- Sec. 26. Section 261.23, Code 2007, is amended by striking the section and inserting in lieu thereof the following:
- 261.23 REGISTERED NURSE AND NURSE EDUCATOR LOAN FORGIVENESS PROGRAM.
- 1. A registered nurse and nurse educator loan forgiveness program is established to be administered by the commission. The program shall consist of loan forgiveness for eligible federally guaranteed loans for registered nurses and nurse educators who practice or teach in this

⁸ See chapter 215, §33 herein

state. For purposes of this section, unless the context otherwise requires, "nurse educator" means a registered nurse who holds a master's degree or doctorate degree and is employed as a faculty member who teaches nursing as provided in 655 IAC 2.6(152) at an accredited private institution or an institution of higher education governed by the state board of regents.

- 2. Each applicant for loan forgiveness shall, in accordance with the rules of the commission, do the following:
- a. Complete and file an application for registered nurse or nurse educator loan forgiveness. The individual shall be responsible for the prompt submission of any information required by the commission.
- b. File a new application and submit information as required by the commission annually on the basis of which the applicant's eligibility for the renewed loan forgiveness will be evaluated and determined.
- c. Complete and return on a form approved by the commission an affidavit of practice verifying that the applicant is a registered nurse practicing in this state or a nurse educator teaching at an accredited private institution or an institution of higher learning governed by the state board of regents.
- 3. a. The annual amount of registered nurse loan forgiveness for a registered nurse who completes a course of study which leads to a baccalaureate or associate degree of nursing, diploma in nursing, or a graduate or equivalent degree in nursing, and who practices in this state, shall not exceed the resident tuition rate established for institutions of higher learning governed by the state board of regents for the first year following the registered nurse's graduation from a nursing education program approved by the board of nursing pursuant to section 152.5, or twenty percent of the registered nurse's total federally guaranteed Stafford loan amount under the federal family education loan program or the federal direct loan program, including principal and interest, whichever amount is less. A registered nurse shall be eligible for the loan forgiveness program for not more than five consecutive years.
- b. The annual amount of nurse educator loan forgiveness shall not exceed the resident tuition rate established for institutions of higher learning governed by the state board of regents for the first year following the nurse educator's graduation from an advanced formal academic nursing education program approved by the board of nursing pursuant to section 152.5, or twenty percent of the nurse educator's total federally guaranteed Stafford loan amount under the federal family education loan program or the federal direct loan program, including principal and interest, whichever amount is less. A nurse educator shall be eligible for the loan forgiveness program for not more than five consecutive years.
- 4. A registered nurse and nurse educator loan forgiveness repayment fund is created for deposit of moneys appropriated to or received by the commission for use under the program. Notwithstanding section 8.33, moneys deposited in the fund shall not revert to any fund of the state at the end of any fiscal year but shall remain in the loan forgiveness repayment fund and be continuously available for loan forgiveness under the program. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund
- 5. The commission shall submit in a report to the general assembly by January 1, annually, the number of individuals who received loan forgiveness pursuant to this section, where the participants practiced or taught, the amount paid to each program participant, and other information identified by the commission as indicators of outcomes from the program.
 - 6. The commission shall adopt rules pursuant to chapter 17A to administer this section.
- Sec. 27. Section 261.25, subsections 1, 2, and 3, Code 2007, are amended to read as follows:

 1. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of forty-six forty-eight million five three hundred six seventy-three thousand two seven hundred eighteen dollars for tuition grants.
- 2. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of five million one <u>three</u> hundred <u>sixty-seven seventy-four</u> thousand <u>three eight</u> hundred fifty-eight dollars for tuition grants for students attending for-profit accredited pri-

vate 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) of the Internal Revenue Code 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.

3. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of two million five seven hundred thirty-three eighty-three thousand one hundred fifteen dollars for vocational-technical tuition grants.

Sec. 28. <u>NEW SECTION</u>. 261.88 ALL IOWA OPPORTUNITY SCHOLARSHIP PROGRAM AND FUND.

- 1. DEFINITIONS. As used in this division, unless the context otherwise requires:
- a. "Commission" means the college student aid commission.
- b. "Eligible institution" means a community college established under chapter 260C or an institution of higher learning governed by the state board of regents.
- c. "Financial need" means the difference between the student's financial resources available, including those available from the student's parents as determined by a completed parents' confidential statement, and the student's anticipated expenses while attending an eligible institution.
- d. "Full-time resident student" means an individual resident of Iowa who is enrolled at an eligible institution in a program of study including at least twelve semester hours or the trimester or quarter equivalent.
- e. "Part-time resident student" means an individual resident of Iowa who is enrolled at an eligible institution in a program of study including at least three semester hours or the trimester or quarter equivalent.
- f. "Qualified student" means a resident student who has established financial need and who is meeting all program requirements.
- 2. PROGRAM ELIGIBILITY. An all Iowa opportunity scholarship program is established to be administered by the commission. The awarding of scholarships under the program is subject to appropriations made by the general assembly. A person who meets all of the following requirements is eligible for the program:
- a. Is a resident of Iowa and a citizen of the United States or a lawful permanent resident.
- b. Achieves a cumulative high school grade point average upon graduation of at least two point five on a four-point grade scale, or its equivalent if another grade scale is used.
- c. Applies in a timely manner for admission to an eligible institution and is accepted for admission.
- d. Applies in a timely manner for any federal or state student financial assistance available to the student to attend an eligible institution.
- e. Files a new application and parents' confidential statement, as applicable, annually on the basis of which the applicant's eligibility for a renewed scholarship will be evaluated and determined.
- f. Maintains satisfactory academic progress during each term for which a scholarship is awarded.
- g. Begins enrollment at an eligible institution within two academic years of graduation from high school and continuously receives awards as a full-time or part-time student to maintain eligibility. However, the student may defer participation in the program for up to two years

in order to pursue obligations that meet conditions established by the commission by rule or to fulfill military obligations.

- 3. EXTENT OF SCHOLARSHIP.
- a. A qualified student at a two-year eligible institution may receive scholarships for not more than the equivalent of four full-time semesters of undergraduate study, or the trimester or quarter equivalent.
- b. A qualified student at a four-year eligible institution may receive scholarships for not more than the equivalent of two full-time semesters of undergraduate study, or the trimester or quarter equivalent.
- c. Scholarships awarded pursuant to this section shall not exceed the student's financial need, as determined by the commission, the average resident tuition rate and mandatory fees established for institutions of higher learning governed by the state board of regents, or the resident tuition and mandatory fees charged for the program of enrollment by the eligible institution at which the student is enrolled, whichever is least.
- 4. DISCONTINUANCE OF ATTENDANCE REMITTANCE. If a student receiving a scholarship pursuant to this section discontinues attendance before the end of any academic term, the entire amount of any refund due to the student, up to the amount of any payments made by the state, shall be remitted by the eligible institution to the commission. The commission shall deposit refunds paid to the commission in accordance with this subsection into the fund established pursuant to subsection 5.
- 5. FUND ESTABLISHED. An all Iowa opportunity scholarship fund is created in the state treasury as a separate fund under the control of the commission. All moneys deposited or paid into the fund are appropriated and made available to the commission to be used for scholarships for students meeting the requirements of this section. Notwithstanding section 8.33, any balance in the fund on June 30 of each fiscal year shall not revert to the general fund of the state, but shall be available for purposes of this section in subsequent fiscal years.⁹
 - Sec. 29. Section 261.111, subsection 9, Code 2007, is amended to read as follows:
- 9. The commission shall submit in a report to the chairpersons and ranking members of the joint appropriations subcommittee on education general assembly 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 and the total amount of loans outstanding, including a schedule of years remaining on the outstanding loans.
 - Sec. 30. Section 261.111, subsection 10, Code 2007, is amended by striking the subsection.

Sec. 31. <u>NEW SECTION</u>. 261.112 TEACHER SHORTAGE LOAN FORGIVENESS PROGRAM.

- 1. A teacher shortage loan forgiveness program is established to be administered by the commission. A teacher is eligible for the program if the teacher is practicing in a teacher shortage area as designated by the department of education pursuant to subsection 2. For purposes of this section, "teacher" means an individual holding a practitioner's license issued under chapter 272, who is employed in a nonadministrative position in a designated shortage area by a school district or area education agency pursuant to a contract issued by a board of directors under section 279.13.
- 2. The director of the department of education shall annually designate the geographic or subject areas experiencing teacher shortages. The director shall periodically conduct a survey of school districts, accredited nonpublic schools, and approved practitioner preparation programs to determine current shortage areas.
- 3. Each applicant for loan forgiveness shall, in accordance with the rules of the commission, do the following:
 - a. Complete and file an application for teacher shortage loan forgiveness. The individual

⁹ See chapter 215, §33 herein

shall be responsible for the prompt submission of any information required by the commission.

- b. File a new application and submit information as required by the commission annually on the basis of which the applicant's eligibility for the renewed loan forgiveness will be evaluated and determined.
- c. Complete and return on a form approved by the commission an affidavit of practice verifying that the applicant is a teacher in an eligible teacher shortage area.
- 4. The annual amount of teacher shortage loan forgiveness shall not exceed the resident tuition rate established for institutions of higher learning governed by the state board of regents for the first year following the teacher's graduation from an approved practitioner preparation program, or twenty percent of the teacher's total federally guaranteed Stafford loan amount under the federal family education loan program or the federal direct loan program, including principal and interest, whichever amount is less. A teacher shall be eligible for the loan forgiveness program for not more than five consecutive years.
- 5. A teacher shortage loan forgiveness repayment fund is created for deposit of moneys appropriated to or received by the commission for use under the program. Notwithstanding section 8.33, moneys deposited in the fund shall not revert to any fund of the state at the end of any fiscal year but shall remain in the loan forgiveness repayment fund and be continuously available for loan forgiveness under the program. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.
- 6. The commission shall submit in a report to the general assembly by January 1, annually, the number of individuals who received loan forgiveness pursuant to this section, which shortage areas the teachers taught in, the amount paid to each program participant, and other information identified by the commission as indicators of outcomes from the program.
 - 7. The commission shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 32. Section 262.9, subsection 18, Code 2007, is amended to read as follows:

- 18. <u>a.</u> Not less than thirty days prior to action by the board on any proposal to increase tuition, fees, or charges at one or more of the institutions of higher education under its control, send written notification of the amount of the proposed increase including a copy of the proposed tuition increase docket memorandum prepared for its consideration to the presiding officers of the student government organization of the affected institutions. The final decision on an increase in tuition or mandatory fees charged to all students at an institution for a fiscal year shall be made at a regular meeting and shall be reflected in a final docket memorandum that states the estimated total cost of attending each of the institutions of higher education under the board's control. The regular meeting shall be held in Ames, Cedar Falls, or Iowa City and shall not be held during a period in which classes have been suspended for university holiday or break.
- b. Authorize, at its discretion, each institution of higher education to retain the student fees and charges it collects to further the institution's purposes as authorized by the board. Notwithstanding any provision to the contrary, student fees and charges, as defined in section 262A.2, shall not be considered repayment receipts as defined in section 8.2.

Sec. 33. Section 272.15, Code 2007, is amended to read as follows: 272.15 SCHOOL REPORTING REQUIREMENT REQUIREMENTS — COMPLAINTS.

1. The board of directors of a school district or area education agency, the superintendent of a school district or the chief administrator of an area education agency, and the authorities in charge of a nonpublic school shall report to the board the nonrenewal or termination, for reasons of alleged or actual misconduct, of a person's contract executed under sections 279.12, 279.13, 279.15 through 279.21, 279.23, and 279.24, and the resignation of a person who holds a license, certificate, or authorization issued by the board as a result of or following an incident or allegation of misconduct that, if proven, would constitute a violation of the rules adopted by the board to implement section 272.2, subsection 14, paragraph "b", subparagraph (1), when the board or reporting official has a good faith belief that the incident occurred or the

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allegation is true. Information reported to the board in accordance with this section is privileged and confidential, and except as provided in section 272.13, is not subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than the respondent and the board and its employees and agents involved in licensee discipline, and is not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. The board shall review the information reported to determine whether a complaint should be initiated. In making that determination, the board shall consider the factors enumerated in section 272.2, subsection 14, paragraph "a". For purposes of this section, unless the context otherwise requires, "misconduct" means an action disqualifying an applicant for a license or causing the license of a person to be revoked or suspended in accordance with the rules adopted by the board to implement section 272.2, subsection 14, paragraph "b", subparagraph (1).

- 2. If, in the course of performing official duties, an employee of the department becomes aware of any alleged misconduct by an individual licensed under this chapter, the employee shall report the alleged misconduct to the board of educational examiners under rules adopted pursuant to subsection 1.
- 3. If the executive director of the board verifies through a review of official records that a teacher who holds a practitioner's license under this chapter is assigned instructional duties for which the teacher does not hold the appropriate license or endorsement, either by grade level or subject area, by a school district or accredited nonpublic school, the executive director may initiate a complaint against the teacher and the administrator responsible for the inappropriate assignment of instructional duties.
 - Sec. 34. Section 275.15, subsection 4, Code 2007, is amended to read as follows:
- 4. 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 <u>not</u> subject to appeal under procedures set forth in chapter 290.

Sec. 35. <u>NEW SECTION</u>. 279.43 REPORTING INAPPROPRIATE TEACHING ASSIGNMENTS.

An employee licensed by the board of educational examiners and holding a contract as described in section 279.13 shall disclose any occurrence of a teaching assignment for which that employee is not properly licensed to the school official responsible for determining teaching assignments. Failure of the employee to disclose this occurrence or failure of the school official responsible for determining teaching assignments to make appropriate adjustments to the employee's teaching assignment once the employee discloses the occurrence shall constitute an incident of misconduct as provided in section 272.2, subsection 14, and is actionable by the board. If the school official fails to make appropriate adjustments to the teaching assignment once disclosure by the employee is made, the employee shall report this occurrence to the department or to the board for further action.

Sec. 36. Section 279.61, Code 2007, is amended to read as follows: 279.61 STUDENT PLAN FOR PROGRESS TOWARD UNIVERSITY ADMISSIONS — RE-

1. For the school year beginning July 1, 2006 2007, 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 <u>voluntary</u> 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 The student'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 <u>cumulative</u> records.

2. For the school year beginning July 1, 2006 2007, 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 high school graduation requirements adopted by the state board of education pursuant to section 256.7, subsection 26.

Sec. 37. <u>NEW SECTION</u>. 279.65 STUDENT ADVANCEMENT POLICY — FINDINGS — SUPPLEMENTAL STRATEGIES AND EDUCATIONAL SERVICES GRANT PROGRAM.

- 1. The general assembly finds and declares that students should be able to meet or exceed the expectations established by the school district of enrollment in order to advance to the next grade level.
- 2. The board of directors of each school district shall adopt a student advancement policy which provides for the following:
- a. Supplemental strategies to be provided to all students in kindergarten through grade five who do not meet the grade level expectations established by the school district for English-language arts, social studies, mathematics, and science.
- b. A requirement that students in grades six through eight who fail one or more of the core courses make up deficiencies before advancing to the next level in the subject area. "Core course", for purposes of this section, means a course in the following subject areas: Englishlanguage arts, social studies, mathematics, and science.
- c. Opportunities for students to meet the school district's expectations as provided in paragraphs "a" and "b" which shall include but not be limited to supplemental educational services such as tutoring that may be offered before and after school or during the summer and that may be provided by private service providers.
- 3. If a student in kindergarten through grade eight does not meet the grade level core course expectations established by the school district as provided in this section, the school district shall develop a plan for supplemental strategies or supplemental educational services, and for measuring student progress, in consultation with the student's parent or guardian.
- 4. In deciding student placement and advancement, the board of directors of a school district shall make every effort to reach agreement with parents and guardians.
- 5. A supplemental strategies and educational services grant program is established to be administered by the department of education to award grants to school districts for purposes of providing supplemental strategies and educational services to students who do not meet the grade level expectations established by the school district for English-language arts, social studies, mathematics, and science. The department shall develop the criteria and a process for awarding supplemental strategies and educational services grants to school districts when moneys are appropriated for the grant program. By January 15 of the fiscal year following each fiscal year for which the general assembly appropriated funds to the department of education for purposes of this subsection, the department shall assess the effectiveness of the program and shall submit its findings and recommendations in a report to the general assembly.

Sec. 38. <u>NEW SECTION</u>. 279.66 DISCIPLINE AND PERSONAL CONDUCT STAN-DARDS.

The board of directors of a school district shall review and modify existing policies related to student discipline and student conduct that are designed to promote responsible behavior on school property and at school functions in order that the policy shall govern the conduct of students, teachers and other school personnel, and visitors; provide opportunities for students to exercise self-discipline and practice cooperative classroom behavior; and encourage

students and practitioners to model fairness, equity, and respect. The policy shall specify the responsibilities of students, parents and guardians, and practitioners in creating an atmosphere where all individuals feel a sense of respect, safety, and belonging, and shall set forth the consequences for unacceptable behavior. The policy shall be published in the student handbook.

- Sec. 39. Section 284A.3, Code 2007, is amended to read as follows:
- 284A.3 <u>BEGINNING ADMINISTRATOR MENTORING AND INDUCTION</u> PROGRAM AP-PROPRIATION PROGRAM FUNDS.
- 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 To the extent moneys are available, 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 section, 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 section 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. 40. Section 321.178, subsection 1, paragraph c, Code 2007, is amended to read as follows:
- c. Every public school district in Iowa shall offer or make available to all students residing in the school district or Iowa students attending a nonpublic school in the district an approved course in driver education. The receiving district shall be the school district responsible for making driver education available to a student participating in open enrollment under section 282.18. The courses may be offered at sites other than at the public school, including nonpublic school facilities within the public school districts. An approved course offered during the summer months, on Saturdays, after regular school hours during the regular terms or partly in one term or summer vacation period and partly in the succeeding term or summer vacation period, as the case may be, shall satisfy the requirements of this section to the same extent as an approved course offered during the regular school hours of the school term. A student who successfully completes and obtains certification in an approved course in driver education or an approved course in motorcycle education may, upon proof of such fact, be excused from any field test which the student would otherwise be required to take in demonstrating the student's ability to operate a motor vehicle. A student shall not be excused from any field test if a parent, guardian, or instructor requests that a test be administered. Street or highway driving instruction may be provided by a person qualified as a classroom driver education instructor or a person certified by the department and authorized by the board of educational examiners. A person shall not be required to hold a current Iowa teacher or administrator license at the elementary or secondary level or to have satisfied the educational requirements for an Iowa teacher license at the elementary or secondary level in order to be certified by the department or authorized by the board of educational examiners to provide street or highway driving instruction. A final field test prior to a student's completion of an approved course shall be administered by a person qualified as a classroom driver education instructor. The depart-

ment shall adopt rules pursuant to chapter 17A to provide for certification of persons qualified to provide street or highway driving instruction. The board of educational examiners shall adopt rules pursuant to chapter 17A to provide for authorization of persons certified by the department to provide street or highway driving instruction.

- Sec. 41. 2006 Iowa Acts, chapter 1157, section 18, is amended to read as follows:
- 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:

\$\frac{15,000,000}{10,000,000}\$

- 2. Expenditure of the amounts Funds 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 shall be allocated in the same manner as provided in section 17.
- Sec. 42. 2006 Iowa Acts, chapter 1180, section 6, subsection 14, is amended to read as follows:
- 14. READING INSTRUCTION PILOT PROJECT GRANT PROGRAM

For the implementation of the reading instruction pilot project grant program, if enacted by this Act:

.....\$ 250,000

From the funds appropriated pursuant to this subsection, \$62,500 shall be allocated equally amongst five pilot projects for purposes of teacher training in descubriendo la lectura, the reconstruction of reading recovery in Spanish, including books and materials for teaching, travel expenses, and professional development; and \$187,500 shall be allocated to the Iowa empowerment fund for implementation of the business community investment advisory council report and recommendations.

Sec. 43. Section 256.25, Code 2007, is repealed.

Sec. 44. EFFECTIVE AND APPLICABILITY DATES.

- 1. The sections of this Act amending 2006 Iowa Acts, chapters 1157 and 1180, being deemed of immediate importance, take effect upon enactment.
- 2. The section of this Act enacting section 257.11, subsection 6, takes effect July 1, 2007, and is applicable to school budget years beginning on or after July 1, 2008.
- 3. The section of this Act relating to a suspension of the requirements for participation in an instructional support program by school districts, being deemed of immediate importance, takes effect upon enactment.
- 4. The section of this Act amending section 262.9, being deemed of immediate importance, takes effect upon enactment.

Approved May 29, 2007, with exceptions noted.

Dear Mr. Secretary:

I hereby transmit Senate File 588, 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 education, and the state board of regents, providing for related matters concerning the Iowa learning technology commission, providing for a related matter concerning participation in an instructional support program by school districts, and providing effective dates. Senate File 588 is approved on this date, with the exceptions noted below, which I hereby disapprove.

I am unable to approve the item designated as Section 5 in its entirety. Iowa Code §261.20 states that the moneys in the Scholarship and Grant Reserve Fund shall only be used to alleviate a current fiscal year shortfall in appropriations for scholarship or tuition grant programs that have the same nature as the programs for which the moneys were originally appropriated. There is not a state student-aid program that serves barber schools and schools of cosmetology arts. Therefore, an allocation from the reserve fund for this purpose does not meet the requirements as defined in Iowa Code §261.20.

I am unable to approve the item designated as Section 15 in its entirety. This provision requires the director of a department or state agency included in Senate File 588 to examine employee telecommuting options, develop telecommuter employment policies, and implement plans designed to increase the number of telecommuting employees. Many departments and agencies maintain employee telecommuting policies currently. These policies and procedures have been in place for several years and are well established. The designated language in Section 15 directing a department or state agency to conduct assessments of its telecommuting policy is duplicative and unnecessary and introduces a legislatively mandated management process into what is appropriately an executive branch decision. I will direct the Department of Administrative Services and the Department of Management to review the current state government telecommuting policy and make recommendations for any improvements as part of our overall executive branch strategic planning process.

For the above reasons, I respectfully disapprove of the designated items in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in Senate File 588 are hereby approved this date.

Sincerely, CHESTER J. CULVER, Governor

CHAPTER 215

STATE AND LOCAL GOVERNMENT FINANCIAL AND REGULATORY MATTERS — APPROPRIATIONS AND MISCELLANEOUS CHANGES

S.F. 601

AN ACT relating to state and local finances by providing for funding of property tax credits and reimbursements, by making, increasing and reducing appropriations, providing for salaries and compensation of state employees, providing for tax credits, providing for fees and penalties, and providing for properly related matters, and including effective date provisions.

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

DIVISION I MH/MR/DD/BI SERVICES ALLOWED GROWTH FUNDING — FY 2008-2009

Section 1. COUNTY MENTAL HEALTH, MENTAL RETARDATION, DEVELOPMENTAL DISABILITIES, AND BRAIN INJURY ALLOWED GROWTH APPROPRIATION AND ALLOCATIONS — FISCAL YEAR 2008-2009.

1. There is appropriated from the general fund of the state to the department of human services 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 purpose designated:

For distribution to counties of the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment for fiscal year 2008-2009, and for the brain injury services program in the department of public health:

.....\$ 64,600,002

2. The amount appropriated in this section shall be allocated as provided in a later enactment of the general assembly.

DIVISION II STANDING APPROPRIATIONS AND RELATED MATTERS

Sec. 2. BUDGET PROCESS FOR FISCAL YEAR 2008-2009.

- 1. For the budget process applicable to the fiscal year beginning July 1, 2008, on or before October 1, 2007, 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 BUILDING SECURITY. Of 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, 2007, and ending June 30, 2008, \$775,000 shall be used for capitol building and judicial building security.

Sec. 4. LIMITATION OF STANDING APPROPRIATIONS. Notwithstanding the stand appropriations in the following designated sections for the fiscal year beginning July 1, 20 and ending June 30, 2008, the amounts appropriated from the general fund of the state pur ant to these sections for the following designated purposes shall not exceed the follow amounts:	007, rsu-
1. For instructional support state aid under section 257.20:	
\$ 14,428,	,271
2. For payment for nonpublic school transportation under section 285.2:	
\$ 8,604,	
If total approved claims for reimbursement for nonpublic school pupil transportation cla exceed the amount appropriated in this section, the department of education shall prorate amount of each claim.	
3. For the educational excellence program under section 294A.25, subsection 1:	
4. For the state's share of the cost of the peace officers' retirement benefits under section and the cost of the peace officers' retirement benefits under section and the cost of the peace officers' retirement benefits under section and the cost of the peace officers' retirement benefits under section and the cost of the peace officers' retirement benefits under section and the cost of the peace officers' retirement benefits under section and the cost of the peace officers' retirement benefits under section and the cost of the peace officers' retirement benefits under section and the cost of the peace officers' retirement benefits under section and the cost of the peace officers' retirement benefits under section and the cost of the peace officers' retirement benefits under section and the cost of the peace officers' retirement benefits under section and the cost of the peace of of the p	
411.20: \$ 2,745,	784
Σ,/τυ,	,104
Sec. 5. PROPERTY TAX CREDIT FUND — PAYMENTS IN LIEU OF GENERAL FUND	RE-
IMBURSEMENT.	
1. a. Notwithstanding section 8.57, prior to the appropriation and distribution to the ser	
living trust fund and the cash reserve fund of the surplus existing in the general fund of	
state at the conclusion of the fiscal year beginning July 1, 2006, and ending June 30, 2007, μ	
suant to section 8.57, subsections 1 and 2, of that surplus, \$131,868,964 is appropriated to	
property tax credit fund which shall be created in the office of the treasurer of state to be u	ısed
for the purposes of this section.	
b. Notwithstanding any provision in section 8.57 to the contrary in determining the amount of the section 8.57 to the contrary in determining the amount of the section 8.57 to the contrary in determining the amount of the section 8.57 to the contrary in determining the amount of the section 8.57 to the contrary in determining the section 8.57 to the contrary in de	
of the appropriation to the senior living trust fund pursuant to section 8.57, subsection 2, page 15.57, subsection 2, pag	
graph "a", the surplus for the fiscal year beginning July 1, 2006, shall not include the amo	
appropriated to the property tax credit fund pursuant to paragraph "a" of this subsection	
c. There is appropriated from the general fund of the state to the property tax credit f	
created in paragraph "a" for the fiscal year beginning July 1, 2007, and ending June 30, 20 the sum of \$28,000,000.	JU8,
2. Notwithstanding the amount of the standing appropriation from the general fund of	the
state in the following designated sections and notwithstanding any conflicting provision	
voting requirements of section 8.56, there is appropriated from the property tax credit f	
in lieu of the appropriations in the following designated sections for the fiscal year beginn	
July 1, 2007, and ending June 30, 2008, the following amounts for the following designated properties of the following designated prope	
poses:	, , , ,
a. For reimbursement for the homestead property tax credit under section 425.1:	
\$ 99,254.	.781
b. For reimbursement for the agricultural land and family farm tax credits under section 425A.1 and 426.1:	
\$ 34,610,	,183
c. For reimbursement for the military service tax credit under section 426A.1A:	005
2,800,	
d. For implementing the elderly and disabled tax credit and reimbursement pursuant to	sec-

If the director of revenue determines that the amount of claims for credit for property taxes due pursuant to paragraphs "a", "b", "c", and "d" 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 total 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

tions 425.16 through 425.40:

the director of the amount of property tax credits claimed by June 8, 2007. The director shall estimate the percentage of the property tax credits and rent reimbursement claims that will be funded by the appropriation and notify the county treasurer of the percentage estimate by June 15, 2007. 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.

- 3. Notwithstanding any other provision, if the Eighty-second General Assembly, 2007 Session, enacts legislation that also provides for the appropriation of the surplus or any part of the surplus existing in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2006, and ending June 30, 2007, the moneys appropriated from such surplus pursuant to subsection 1 shall have priority over all other such appropriations.
- Sec. 7. CASH RESERVE APPROPRIATION FOR FY 2007-2008. For the fiscal year begin-
- ning July 1, 2007, and ending June 30, 2008, the appropriation to the cash reserve fund provided in section 8.57, subsection 1, paragraph "a", shall not be made.
 - Sec. 8. Section 8.57A, subsection 4, Code 2007, is amended to read as follows:
- 4. There is appropriated from the rebuild Iowa infrastructure fund for the fiscal year beginning July 1, $\frac{2000}{2007}$, and for each fiscal year thereafter, the sum of thirty-five forty million dollars to the environment first fund, notwithstanding section 8.57, subsection 6, paragraph " $_{c}$ "
 - Sec. 9. Section 257.35, subsection 4, Code 2007, 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, 2006 2007, shall be reduced by the department of management by eight five million two hundred fifty thousand dollars. The reduction for each area education agency shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.
- Sec. 10. AREA EDUCATION AGENCY PAYMENTS. It is the intent of the general assembly that for the fiscal year beginning July 1, 2008, any reduction in state aid to area education agencies and the combined district cost calculated for those agencies over the reduction applicable pursuant to section 257.35, subsection 2, shall not exceed \$2.5 million and that for the fiscal year beginning July 1, 2009, there shall be no such additional reduction.
- Sec. 11. EFFECTIVE DATE. The section of this division of this Act creating the property tax credit fund, being deemed of immediate importance, takes effect upon enactment.

DIVISION III SALARIES, COMPENSATION, AND RELATED MATTERS

Sec. 12. STATE COURTS — JUSTICES, JUDGES, AND MAGISTRATES.

1. The salary rates specified in subsection 2 are for the fiscal year beginning July 1, 2007, effective for the pay period beginning June 29, 2007, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid

from funds appropriated to the judicial branch from the salary adjustment fund or if the appropriation is not sufficient, from funds appropriated to the judicial branch pursuant to any Act of the general assembly.

2. The following annual salary rates shall be paid to the persons holding the judicial positions indicated during the fiscal year beginning July 1, 2007, effective with the pay period beginning June 29, 2007, and for subsequent pay periods.

a. Chief justice of the supreme court:		
	\$	153,109
b. Each justice of the supreme court:		
c. Chief judge of the court of appeals:	\$	146,890
	\$	141,731
d. Each associate judge of the court of appeals:		
e. Each chief judge of a judicial district:	\$	136,739
	\$	133,619
f. Each district judge except the chief judge of a judicial district:	ф	100 544
g. Each district associate judge:	\$	128,544
8. Zavi uzute uzeetare jauge.	\$	113,214
h. Each associate juvenile judge:	ф	112 214
i. Each associate probate judge:	Þ	113,214
	\$	113,214
j. Each judicial magistrate:	ф	24.002
k. Each senior judge:	\$	34,882
2401 201121 Jungo.	\$	7,238

3. Persons receiving the salary rates established under this section shall not receive any additional salary adjustments provided by this division of this Act.

Sec. 13. APPOINTED STATE OFFICERS. 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 ethics and campaign disclosure board shall establish the salary of the executive director, the Iowa public broadcasting board shall establish the salary of the administrator of the public broadcasting division of the department of education, and the state fair board shall establish 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 reimbursement for necessary travel and expenses incurred in the performance of duties or fringe benefits normally provided to employees of the state.

- Sec. 14. STATE OFFICERS SALARY RANGE. The following annual salary ranges are effective for the positions specified in this section for the fiscal year beginning July 1, 2007, 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 appointed state officers for the fiscal year beginning July 1, 2007, effective with the pay period beginning June 29, 2007:

SALARY RANGE		<u>Maximum</u>
a. Range 1	\$ 9,069	\$ 35,464
b. Range 2	\$46,758	\$ 71,552
c. Range 3	\$53,768	\$ 82,285
d. Range 4	\$61,838	\$ 94,619
e. Range 5	\$71,115	\$108,805
f. Range 6	\$81,786	\$125,133
g. Range 7	\$97,906	\$149,802

- 2. The following are range 1 positions: there are no range 1 positions for the fiscal year beginning July 1, 2007.
- 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: administrator of the division of homeland security and emergency management of the department of public defense, state public defender, drug policy coordinator, labor commissioner, workers' compensation commissioner, director of the department of cultural affairs, director of the department of elder affairs, director of the law enforcement academy, and administrator of the historical division of the department of cultural affairs.
- 7. The following are range 6 positions: director of the Iowa energy independence office, superintendent of banking, superintendent of credit unions, administrator of the alcoholic beverages division of the department of commerce, director of the department of inspections and appeals, commandant of the Iowa veterans home, commissioner of public safety, commissioner of insurance, executive director of the Iowa finance authority, director of the department of natural resources, 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 public broadcasting division of the department of education, director of the department of corrections, director of the department of education, director of human services, director of the department of economic development, executive director of the Iowa telecommunications and technology commission, executive director of the state board of regents, director of transportation, director of the department of workforce development, director of revenue, director of public health, state court

administrator, secretary of the Iowa state fair board, director of the department of management, and director of the department of administrative services.

- Sec. 15. 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, including the state board of regents and the judicial branch, for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the amount of \$106,848,094, or so much thereof as may be necessary, to fully fund annual pay adjustments, expense reimbursements, and related benefits implemented pursuant to the following:
- 1. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the blue collar bargaining unit.
- 2. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the public safety bargaining unit.
- 3. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the security bargaining unit.
- 4. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the technical bargaining unit.
- 5. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional fiscal and staff bargaining unit.
- 6. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the clerical bargaining unit.
- 7. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional social services bargaining unit.
- 8. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the community-based corrections bargaining unit.
- 9. The collective bargaining agreements negotiated pursuant to chapter 20 for employees in the judicial branch of government bargaining units.
- 10. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the patient care bargaining unit.
- 11. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the science bargaining unit.
- 12. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the university of northern Iowa faculty bargaining unit.
- 13. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the state university of Iowa graduate student bargaining unit.
- 14. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the state university of Iowa hospital and clinics tertiary health care bargaining unit.
- 15. The annual pay adjustments, related benefits, and expense reimbursements referred to in the sections of this division of this Act addressing noncontract state and board of regents employees who are not covered by a collective bargaining agreement.
- Of the amount appropriated in this section, \$6,771,248 shall be allocated to the judicial branch for the purposes of funding annual pay adjustments, expense reimbursements, and related benefits implemented for judicial branch employees.

Sec. 16. NONCONTRACT STATE EMPLOYEES — GENERAL.

- 1. a. For the fiscal year beginning July 1, 2007, the maximum and minimum salary levels of all pay plans provided for in section 8A.413, subsection 2, as they exist for the fiscal year ending June 30, 2007, shall be increased by 3 percent for the pay period beginning June 29, 2007, and any additional changes in the pay plans shall be approved by the governor.
- b. For the fiscal year beginning July 1, 2007, employees may receive a step increase or the equivalent of a step increase.
 - c. Notwithstanding the increase in paragraph "a", noncontract judicial branch employees

shall receive increases similar to those employees covered by collective bargaining agreements negotiated by the judicial branch.

- 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, or 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. 17. STATE EMPLOYEES STATE BOARD OF REGENTS. Funds from the appropriation made from the general fund of the state in the section of this division of this Act providing for funding of collective bargaining agreements shall be allocated to the state board of regents for the purposes of providing increases for state board of regents employees covered by such section of this division of this Act and for state board of regents employees not covered by a collective bargaining agreement as follows:
- 1. For regents merit system employees and merit supervisory employees to fund for the fiscal year increases comparable to those provided for similar contract-covered employees in this division of this Act.
- 2. For faculty members and professional and scientific employees to fund for the fiscal year percentage increases comparable to those provided for contract-covered employees in the university of northern Iowa faculty bargaining unit.

Sec. 18. 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, 2007, and ending June 30, 2008, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

T_{c}	supplement	other funds	appropriated l	ov the ge	eneral ass	embly.
1	Duppicincin	Other Tulias	appropriated i	<i>J</i> y 1110 51	ciici ai abb	CILIDIA.

\$ 2,294,814

2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:

-\$ 11,788,266 3. Except as otherwise provided in this division of this Act, the amounts appropriated in sub-
- sections 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. 19. 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. 20. GENERAL FUND SALARY MONEYS. Funds appropriated from the general fund of the state 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 sup-

ported from general fund appropriations of the state. Funds appropriated from the general fund of the state for employees of the state board of regents relate only to salaries supported from general fund appropriations of the state and shall exclude general university indirect costs and general university federal funds.

- Sec. 21. 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. 22. 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. 23. STATE POLICE OFFICER COUNCIL BARGAINING UNIT OVERTIME. Of the funds appropriated from the general fund of the state in the section of this division of this Act providing for funding of collective bargaining agreements, the following amount, or so much thereof as is necessary, shall be allocated to the department of public safety, division of state patrol, to be used for the purpose designated:

Sec. 24. SALARY MODEL ADMINISTRATOR. The salary model administrator shall work in conjunction with the legislative services agency to maintain the state's salary model used for analyzing, comparing, and projecting state employee salary and benefit information, including information relating to employees of the state board of regents. The department of revenue, the department of administrative services, the five institutions under the jurisdiction of the state board of regents, the judicial district departments of correctional services, and the state department of transportation shall provide salary data to the department of management and the legislative services agency to operate the state's salary model. The format and frequency of provision of the salary data shall be determined by the department of management and the legislative services agency. The information shall be used in collective bargaining processes under chapter 20 and in calculating the funding needs contained within the annual salary adjustment legislation. A state employee organization as defined in section 20.3, subsection 4, may request information produced by the model, but the information provided shall not contain information attributable to individual employees.

- Sec. 25. Section 20.5, subsection 3, Code 2007, is amended to read as follows:
- 3. In selecting the members of the board, consideration shall be given to their knowledge, ability, and experience in the field of labor-management relations. The chairperson and the remaining two members shall each receive an annual salary as set by the general assembly be compensated as provided in section 7E.6, subsection 5.
 - Sec. 26. Section 99D.6, Code 2007, is amended to read as follows: 99D.6 CHAIRPERSON ADMINISTRATOR EMPLOYEES DUTIES BOND.

The commission shall elect in July of each year one of its members as chairperson for the succeeding year. The commission shall appoint an administrator of the commission subject to confirmation by the senate. The administrator shall serve a four-year term. The term shall begin and end in the same manner as set forth in section 69.19. A vacancy shall be filled for the unexpired portion of the term in the same manner as a full-term appointment is made. The administrator may hire other assistants and employees as necessary to carry out the commission's duties. Employees in the positions of equine veterinarian, canine veterinarian, and

equine steward shall be exempt from the merit system provisions of chapter 8A, subchapter IV, and shall not be covered by a collective bargaining agreement. Some or all of the information required of applicants in section 99D.8A, subsections 1 and 2, may also be required of employees of the commission if the commission deems it necessary. The administrator shall keep a record of the proceedings of the commission and preserve the books, records, and documents entrusted to the administrator's care. The administrator shall be covered by the blanket surety bond of the state purchased pursuant to section 8A.321, subsection 13. Subject to the approval of the governor, the commission shall fix the compensation of the administrator within the salary range as set by the general assembly. The compensation and employment terms of the administrator shall be set by the governor, taking into consideration the level of knowledge and experience of the administrator. The commission shall have its headquarters in the city of Des Moines and shall meet in July of each year and at other times and places as it finds necessary for the discharge of its duties.

- Sec. 27. Section 421.1A, subsection 6, Code 2007, 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 <u>through December 31, 2013</u>. The members of the board shall 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. 28. Section 602.1301, subsection 2, paragraph b, Code 2007, is amended to read as follows:
- b. Before December 1, the supreme court shall submit to the director of management an estimate of the total expenditure requirements of the judicial branch <u>including a detailed listing of requested increases in salaries of all judges and magistrates for the succeeding fiscal year.</u> The director of management shall submit this estimate received from the supreme court to the governor for inclusion without change in the governor's proposed budget for the succeeding fiscal year. The estimate shall also be submitted to the chairpersons of the committees on appropriations.*

DIVISION IV OTHER APPROPRIATIONS AND RELATED MATTERS

Sec. 29. CAPITOL COMPLEX SHUTTLE. There is appropriated from the general fund of the state to the department of administrative 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:

Details for the shuttle service, including the route to be served, shall be determined pursuant to an agreement to be entered into by the department with the Des Moines area regional transit authority (DART) and any other participating entities.

Sec. 30. INTERPRETERS FOR THE DEAF. There is appropriated from the general fund of the state to the department of education 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:

Due to the high numbers of articulation agreements between the state school for the deaf and Iowa western community college, for allocation for arrangements made between the state school for the deaf and Iowa western community college for deaf interpreters:

.....\$ 200,000

^{*} Item veto; see message at end of the Act

Sec. 31. COMMUNITY COLLEGE SALARIES. There is appropriated from the general fund of the state to the department of education 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 community colleges to supplement faculty salaries:

.....\$ 2,000,000

- 1. Moneys appropriated in this section shall be distributed among each community college based on the proportional share of that community college's total salary expenditures in the instructional and instructional part-time categories in the education functions of liberal arts and sciences and vocational-technical bears to the total salary expenditures for all community colleges in the education functions of liberal arts and sciences and vocational-technical in the fiscal year prior to the base year, as determined by the department of education.
- 2. Moneys distributed to each community college under this section shall then be rolled into that base funding allocation for all future years. The use of the funds shall remain as described in this section for all future years.
- 3. Moneys appropriated and distributed to community colleges under this section shall be used to supplement and not supplant any approved faculty salary increases or negotiated agreements, excluding the distribution of the funds in this section.
- 4. Moneys distributed to a community college under this section shall be allocated to all full-time, nonadministrative instructors and part-time instructors covered by a collective bargaining agreement. The moneys shall be allocated by negotiated agreements according to chapter 20. If no language exists, the moneys shall be allocated equally to all full-time, nonadministrative instructors with part-time instructors covered by a collective bargaining agreement receiving a prorated share of the fund.

Sec. 32. DEPARTMENT OF ELDER AFFAIRS.

1. There is appropriated from the general fund of the state to the department of elder affairs 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:

To join in a partnership with a county described in subsection 2 to be used to fund a livable community initiative and hire a full-time professional aging specialist for the initiative:

- 2. The county eligible for the appropriation in subsection 1 shall meet all of the following qualifications:
- a. Have a livable community initiative, supported by the county board of supervisors, the area agency on aging, the united way, the county public health department and others.
- b. Have completed a market analysis on successful aging and issued reports containing future directions for housing, transportation, health and supportive services, and successful aging.
- c. Have organized action teams who are developing action plans to implement the priorities established at a countywide planning session with national leadership.
- 3. The purpose of the professional aging specialist hired under this section is to help in the implementation of the action plans being developed and to work with the governmental, business, educational, health, religious, social, leisure, and service segments of the urban-rural county to create a replicable and portable model of a livable community where persons can age successfully.
- Sec. 33. ALL IOWA OPPORTUNITY ASSISTANCE PROGRAM. If 2007 Iowa Acts, Senate File 588,¹ is enacted and provides for an appropriation from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 2007, and ending June 30, 2008, for the all Iowa opportunity assistance program, there is appropriated to supplement that appropriation as follows:

For purposes of the all Iowa opportunity assistance program, which includes the all Iowa opportunity foster care grant program established pursuant to section 261.6 and the all Iowa

¹ Chapter 214, §2 herein

opportunity scholarship program established pursuant to section 261.88, if sections 261.6 and 261.88 are enacted by 2007 Iowa Acts, Senate File 588 :
The moneys appropriated in this section shall be used for the all Iowa opportunity scholar-ship program established pursuant to section 261.88, if enacted. ³
Sec. 34. BEFORE AND AFTER SCHOOL GRANT PROGRAM. If 2007 Iowa Acts, Senate File 588, ⁴ is enacted and provides for an appropriation from the general fund of the state to the department of education for the fiscal year beginning July 1, 2007, and ending June 30, 2008, for the before and after school grant program, there is appropriated to supplement that appropriation as follows: For the before and after school grant program established pursuant to section 256.26, if entered by 2007 I was Acts County File 500 for
acted by 2007 Iowa Acts, Senate File 588:5 \$ 295,000
Sec. 35. FARM MEDIATION. If 2007 Iowa Acts, Senate File 575,6 is enacted and provides for an appropriation from the general fund of the state to the department of justice for the fiscal year beginning July 1, 2007, and ending June 30, 2008, for the purpose of funding farm mediation services, there is appropriated to supplement that appropriation as follows: For the purpose of funding farm mediation services and other farm assistance program provisions in accordance with sections 13.13 through 13.24:
\$ 150,000
Sec. 36. DEPARTMENT OF PUBLIC HEALTH — 211 PROGRAM. There is appropriated from the general fund of the state to the department of public health 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 award to 211 nonprofit call centers providing human services information for citizens of this state, in accordance with this section:
1. The amount appropriated in this section shall be awarded to 211 call centers that apply for funding under this section and meet the criteria for the funding established by the department in consultation with an industry advisory committee. The committee shall consist of two members who are executive officers from a statewide organization that provided funding to 211 call centers during calendar year 2006, one member representing the department of elder affairs, one member representing the board of directors of a nonprofit call center in this state, and an Iowa member representing the alliance of information and referral systems. The committee shall assist the department in reviewing funding applications and awarding the funds. 2. The department shall submit a report to the governor and general assembly providing detailed information concerning the funding distributed to call centers under this section, addressing the purposes for which the funding was used, the call volume for each call center, and the subject addressed by the calls.
Sec. 37. JUDICIAL BRANCH. There is appropriated from the general fund of the state to the judicial branch for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, for the purposes designated: For salaries, support, and miscellaneous purposes:
The amount appropriated in this section is a supplement to the appropriations made for these purposes in 2007 Iowa Acts, Senate File 563,7 if enacted.

Chapter 214, \$25, 28 herein
 Chapter 214, \$28 herein
 Chapter 214, \$6 herein
 Chapter 214, \$19 herein
 Chapter 213, \$1 herein
 Chapter 210, \$1 herein

Sec. 38. INDIGENT DEFENSE PROGRAM. There is appropriated from the general fund of the state to the office of state public defender of the department of inspections and appeals for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, for the purposes designated: For the indigent defense program:
The amount appropriated in this section is a supplement to the appropriations made for these purposes in 2007 Iowa Acts, Senate File 575,8 if enacted.
Sec. 39. NEWTON CORRECTIONAL FACILITY. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, for the purposes designated: For the Newton correctional facility:
The amount appropriated in this section is a supplement to the appropriations made for these purposes in 2007 Iowa Acts, Senate File $575,^9$ if enacted.
Sec. 40. LEGAL SERVICES POVERTY GRANTS. There is appropriated from the general fund of the state to the office of attorney general for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, for the purposes designated: For legal services for persons in poverty grants as provided in section 13.34:
The amount appropriated in this section is a supplement to the appropriations made for these purposes in 2007 Iowa Acts, Senate File 575,10 if enacted.
Sec. 41. IOWA JUNIOR ANGUS 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, 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 Iowa junior angus association in connection with the 2008 national junior angus show:

.....\$ 10,000

*Sec. 42. PLASMA ARC TECHNOLOGY. 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 a grant to a county with a population of more than 190,000 but less than 200,000, according to the 2005 estimate issued by the United States bureau of the census:

.....\$ 150,000

The grant shall be used to conduct a study of the feasibility of the use of plasma arc and other related energy technology for disposal of solid waste while generating energy.

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. 43. STATE EMPLOYEE TELECOMMUTING — POLICY. Any director of a department or state agency who is subject to a requirement to develop a telecommuter employment policy and plans shall develop the policy and plans in consultation with representatives of the collective bargaining units of the employees affected by the policy and plans.

⁸ Chapter 213 herein

 $^{^9\,}$ Chapter 213, $\S 3$ herein

¹⁰ Chapter 213, §1 herein

^{*} Item veto; see message at end of the Act

Sec. 44. 2006 Iowa Acts, chapter 1177, section 16, subsection 4, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. 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 during the succeeding fiscal year.

Sec. 45. 2006 Iowa Acts, chapter 1180, section 5, subsection 6, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. 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. 46. 2007 Iowa Acts, Senate File 562,¹¹ section 1, subsection 6, if enacted, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. 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. 47. The section of 2007 Iowa Acts, House File 641,¹² which is titled "processing of installment agreements", and which refers to section 602.8107, subsection 4, and allocates moneys to the judicial branch, if enacted, is repealed.

*Sec. 48. 2007 Iowa Acts, House File 752, section 1, subsection 2, paragraph a, is amended to read as follows:	, if enacted,
a. Operations:	
\$	6,237,000
	<u>6,253,800</u> *
*Sec. 49. 2007 Iowa Acts, House File 752, section 2, subsection 1, paragraph a, is amended to read as follows: a. Operations:	, if enacted,
\$	38,311,652
*	38,414,852
FTEs	305.00
	<u>306.00</u> *
Sec. 50. 2007 Iowa Acts, House File 752, 13 section 1, subsection 3, if enacted, it to read as follows:	is amended
3. For payments to the department of administrative services for utility services	es:
	145,000
•	188,207
Sec. 51. 2007 Iowa Acts, House File 752, ¹⁴ section 2, subsection 2, if enacted, it o read as follows:	is amended
2. For payments to the department of administrative services for utility service	es:
\$	888,000
······································	1 153 417

¹¹ Chapter 212 herein

¹² Chapter 196, §15 herein

^{*} Item veto; see message at end of the Act

¹³ Chapter 216 herein

¹⁴ Chapter 216 herein

	Se	c. 52.	2007	Iowa Act:	s, House File 8	$74,^{15}\mathrm{se}$	ction 7, sub	section 4,	, paragrap	h a, if	f enact	ted,
is	an	nended	l to rea	ad as follo	ows:							
	a.	For sa	laries,	support,	maintenance.	and mi	scellaneou	s purpose	s, and for	not n	nore tl	han

the following full-time equivalent positions:	
\$	4,655,809
FTEs	100.50
	101.00

Sec. 53. OFFICE OF ENERGY INDEPENDENCE. If 2007 Iowa Acts, House File 927, ¹⁶ is enacted and provides for an appropriation from the general fund of the state to the office of energy independence for the fiscal year beginning July 1, 2006, and ending June 30, 2007, allocations from that appropriation for administrative costs shall be for not more than the following full-time equivalent positions:

..... FTEs 4.00

- Sec. 54. TIM SHIELDS CENTER. It is the intent of the general assembly that appropriations be made from moneys in the state treasury to assist the local government innovation commission in funding the Tim Shields center for governing excellence in Iowa established in section 8.68 if enacted by 2007 Iowa Acts, Senate File 155.17
- Sec. 55. STATE BOARD OF REGENTS ARTICULATION WEBSITE. The general assembly finds that as college costs increase, Iowa's community college students need access to resources that allow the students to make informed, cost-effective decisions regarding their postsecondary education plans. It is the intent of the general assembly to provide for a seamless transition for students transferring from Iowa's community colleges to Iowa's state universities. Therefore, the state board of regents shall, in cooperation with the department of education and the community colleges, develop, maintain, and promote a user-friendly credit transfer and articulation internet website that allows Iowans to know at the time of enrollment in a community college course whether the credit will be accepted by the state university of the student's choice, the category in which the university will apply the credit, and to which degree program or programs the university will apply the credit. The board and the community colleges shall continuously strive to improve upon the coordinating efforts between the state universities and the community colleges to map and articulate community college courses for college credit with the degree programs offered at the state universities. The website shall be operational not later than July 1, 2008.

*Sec. 56. NEW SECTION. 15.391 WORLD FOOD PRIZE AWARD AND SUPPORT.

- 1. Commencing with the fiscal year beginning July 1, 2008, there is annually appropriated from the general fund of the state to the department one million dollars for the support of the world food prize award.
- 2. The Iowa state capitol is designated as the primary location for the annual ceremony to award the world food prize.*

*Sec. 57. NEW SECTION. 15.392 WORLD FOOD PRIZE YOUTH INSTITUTE.

- 1. As a condition of receiving state funding, the entity awarding the world food prize shall establish a world food prize youth institute program in honor of Nobel peace prize laureate Dr. Norman E. Borlaug. The purpose of the program shall be to provide an educational opportunity and forum for high school students in this state who have an interest in food, agriculture, or natural resources disciplines.
- 2. State funding for the world food prize youth institute for a fiscal year shall be allocated from the appropriation made for the support of the world food prize award.
- 3. A world food prize youth institute advisory committee is established to advise and support the institute. The advisory committee shall receive regular updates concerning the status of

¹⁵ Chapter 217 herein

 $^{^{16}\,}$ Chapter 209, $\S 2$ herein; see also chapter 168

¹⁷ Chapter 117, §6, 7 herein

^{*} Item veto; see message at end of the Act

the institute. The membership of the advisory committee shall include two members of the senate, one each appointed by the majority and minority party leaders, and two members of the house of representatives appointed by the speaker and minority leader of the house of representatives. In addition, the governor shall appoint two members. The terms of the legislative and executive branch appointments shall coincide with each legislative biennium. A vacancy in a legislative or executive branch appointment shall be filled for the balance of the unexpired term by the original appointing authority.

- 4. Staff support for the advisory committee shall be provided by the department of economic development.*
- Sec. 58. Section 15F.203, subsection 3, paragraph e, Code 2007, is amended to read as follows:
- e. The project is primarily a vertical infrastructure project with demonstrated substantial regional or statewide economic impact. For purposes of the program, "vertical infrastructure" means land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development, and recreational trails <u>and water trails</u>. "Vertical infrastructure" does not include routine, recurring maintenance or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement.
 - *Sec. 59. Section 15F.204, subsection 8, Code 2007, is amended to read as follows:
- 8. a. There is appropriated from the rebuild Iowa infrastructure fund to the community attraction and tourism fund, the following amounts:
- (1) For the fiscal year beginning July 1, 2004, and ending June 30, 2005, the sum of twelve million dollars.
- (2) For the fiscal year beginning July 1, 2005, and ending June 30, 2006, the sum of five million dollars.
- (3) For the fiscal year beginning July 1, 2006, and ending June 30, 2007, the sum of five million dollars.
- (4) For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the sum of five million dollars.
- (5) For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of five million dollars.
- (6) For the fiscal year beginning July 1, 2009, and ending June 30, 2010, the sum of five million dollars.
- (7) For the fiscal year beginning July 1, 2010, and ending June 30, 2011, the sum of five million dollars.
- (8) For the fiscal year beginning July 1, 2011, and ending June 30, 2012, the sum of five million dollars.
- (9) For the fiscal year beginning July 1, 2012, and ending June 30, 2013, the sum of five million dollars.
- b. There is appropriated from the franchise tax revenues deposited in the general fund of the state to the community attraction and tourism fund, the following amounts:
- (1) For the fiscal year beginning July 1, 2005, and ending June 30, 2006, the sum of seven million dollars.
- (2) For the fiscal year beginning July 1, 2006, and ending June 30, 2007, the sum of seven million dollars.
- (3) For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the sum of seven million dollars.
- (4) For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of seven million dollars.
- (5) For the fiscal year beginning July 1, 2009, and ending June 30, 2010, the sum of seven million dollars.
- (6) For the fiscal year beginning July 1, 2010, and ending June 30, 2011, the sum of seven million dollars.

^{*} Item veto; see message at end of the Act

- (7) For the fiscal year beginning July 1, 2011, and ending June 30, 2012, the sum of seven million dollars.
- (8) For the fiscal year beginning July 1, 2012, and ending June 30, 2013, the sum of seven million dollars.

Notwithstanding the allocation requirements in subsection 5, the board may make a multiyear commitment to an applicant of up to four six million dollars in any one fiscal year.*

- Sec. 60. Section 256D.5, subsection 4, Code 2007, is amended to read as follows:
- 4. For each fiscal year of the fiscal period beginning July 1, 2004, and ending June 30, 2007 2012, the sum of twenty-nine million two hundred fifty thousand dollars.
 - Sec. 61. Section 256D.9, Code 2007, is amended to read as follows: 256D.9 FUTURE REPEAL.

This chapter is repealed effective July 1, 2007 2012.

- Sec. 62. Section 279.51, subsection 1, Code 2007, is amended to read as follows:
- 1. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2000 2007, and each succeeding fiscal year, the sum of twelve million five six hundred sixty six thousand one hundred ninety-six dollars.

The moneys shall be allocated as follows:

- a. Two hundred seventy-five thousand <u>eight hundred sixty-four</u> dollars of the funds appropriated shall be allocated to the area education agencies to assist school districts in developing program plans and budgets under this section and to assist school districts in meeting other responsibilities in early childhood education.
- b. For the fiscal year beginning July 1, 1998 2007, and for each succeeding fiscal year, eight million five hundred ten thirty-six thousand seven hundred forty dollars of the funds appropriated shall be allocated to the child development coordinating council established in chapter 256A for the purposes set out in subsection 2 of this section and section 256A.3.
- c. For the fiscal year beginning July 1, 1996 2007, and for each fiscal year thereafter, three million five hundred ten thousand nine hundred ninety-two dollars of the funds appropriated shall be allocated as grants to school districts that have elementary schools that demonstrate the greatest need for programs for at-risk students with preference given to innovative programs for the early elementary school years. School districts receiving grants under this paragraph shall at a minimum provide activities and materials designed to encourage children's self-esteem, provide role modeling and mentoring techniques in social competence and social skills, and discourage inappropriate drug use. The grant allocations made in this paragraph may be renewed for additional periods of time. Of the amount allocated under this paragraph for each fiscal year, seventy-five thousand dollars shall be allocated to school districts which have an actual student population of ten thousand or less and have an actual non-English speaking student population which represents greater than five percent of the total actual student population for grants to elementary schools in those districts.
- d. Notwithstanding section 256A.3, subsection 6, of the amount appropriated in this subsection for the fiscal year beginning July 1, 1996 2007, and for each succeeding fiscal year, two and one-fourth percent up to two hundred eighty-two thousand six hundred dollars may be used for administrative costs. Any reduction of an allocation under this subsection as necessary to fund the provisions of this paragraph shall be made from the allocation in paragraph "b".
- Sec. 63. Section 469.10, subsection 2, if enacted by 2007 Iowa Acts, House File 927,18 is amended to read as follows:
- 2. Of the moneys appropriated to the office and deposited in the fund, the office shall utilize up to one and five-tenths percent of the amount appropriated from the fund for a fiscal year for administrative costs. From the funds available for administrative costs, the office shall not employ more than four full-time equivalent positions.

^{*} Item veto; see message at end of the Act

¹⁸ Chapter 209, §1 herein

Sec. 64. Section 602.1304, subsection 2, paragraph b, Code 2007, 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 9, the office of attorney general pursuant to section 602.8108, subsection 10, the department of corrections pursuant to section 602.8108, subsection 11, and the road use tax fund pursuant to section 602.8108, subsection 12, 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, 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 12, 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 9, the office of attorney general pursuant to section 602.8108, subsection 10, and the department of corrections pursuant to section 602.8108, subsection 11, 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. 65. Section 602.8108, subsections 8, 9, 10, and 11, Code 2007, are amended by striking the subsections.
- Sec. 66. EFFECTIVE DATE. The section of this division of this Act making an appropriation to the department of natural resources for a plasma arc technology grant, being deemed of immediate importance, takes effect upon enactment.
- Sec. 67. EFFECTIVE DATE. The section of this division of this Act amending section 256D.9, being deemed of immediate importance, takes effect upon enactment.
- Sec. 68. EFFECTIVE DATE. The section of this division of this Act amending 2006 Iowa Acts, chapter 1177, being deemed of immediate importance, takes effect upon enactment.
- Sec. 69. EFFECTIVE DATE. The section of this division of this Act amending 2006 Iowa Acts, chapter 1180, section 5, being deemed of immediate importance, takes effect upon enactment.

DIVISION V APPROPRIATION ADJUSTMENTS

Sec. 70. VETERANS HOME OWNERSHIP ASSISTANCE PROGRAM.

1. There is appropriated from the rebuild Iowa infrastructure fund to the department of veterans affairs 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 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, in accordance with section 35A.15, as enacted by 2007 Iowa Acts, Senate File 407,19 notwithstanding section 8.57, subsection 6, paragraph "c":

-\$ 1,000,000
- 2. Of the funds transferred pursuant to this section, the Iowa finance authority may retain not more than \$20,000 for administrative purposes.
- 3. Of the amount transferred to the Iowa finance authority pursuant to this section, not more than \$50,000 shall be transferred to the department of public defense to be used for the enduring families program.
- 4. Notwithstanding section 8.33, moneys appropriated or transferred 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. 71. 2007 Iowa Acts, Senate File 562,²⁰ section 3, subsection 3, paragraphs a and d, if enacted, are amended to read as follows:
 - a. Community development programs

For salaries, support, maintenance, miscellaneous purposes, community economic development programs, tourism operations, community assistance, 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:

.....\$ 6,422,654 6,322,654FTEs 58.26

- d. From the moneys appropriated in this subsection, the department shall use at least \$1,046,000 \$946,000 for purposes of the mainstreet and rural mainstreet programs.
- Sec. 72. 2007 Iowa Acts, Senate File 562,²¹ section 3, subsection 4, unnumbered paragraph 1, if enacted, is amended to read as follows:

For allocating moneys for the world food prize:

......\$ 650,000 450,000

- Sec. 73. 2007 Iowa Acts, Senate File 562,²² section 14, subsections 1 and 3, if enacted, are amended to read as follows:
- 1. There is appropriated from the general fund of the state to the university of northern Iowa 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 metal casting institute, for the myentrenet internet application, and for the institute of decision making, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

¹⁹ Chapter 87 herein

²⁰ Chapter 212 herein

²¹ Chapter 212 herein

²² Chapter 212 herein

3. From the moneys appropriated in this section, the university of northern Iowa shall use at least \$300,000 \$200,000 for purposes of expanding the service area of the myentrenet internet application.

Sec. 74. 2007 Iowa Acts, Senate File 575, ²³ section 4, subsection 1, paragraph b, unnumbered paragraph 1, if enacted, is amended to read as follows: For educational programs for inmates at state penal institutions:			
\$	2,070,358 1,570,350		
Sec. 75. 2007 Iowa Acts, Senate File 575, ²⁴ section 5, subsection 1, paragrap bered paragraph 1, if enacted, is amended to read as follows: For the sixth judicial district department of correctional services:	ph f, unnum-		
\$	12,203,009 12,003,009		
Sec. 76. 2007 Iowa Acts, House File 874, ²⁵ section 19, subsection 1, if enacted to read as follows:	l, is amended		
 ADMINISTRATION AND ELECTIONS For salaries, support, maintenance, and miscellaneous purposes, and for not n following full-time equivalent positions: 	nore than the		
\$	1,431,015 1,331,015		
The state department or state agency which provides data processing service voter registration file maintenance and storage shall provide those services with			

DIVISION VI MISCELLANEOUS STATUTORY CHANGES

- Sec. 77. Section 7E.7, subsection 1, Code 2007, is amended to read as follows:
- 1. The <u>Iowa finance authority</u> and the Iowa economic protective and investment authority shall be considered <u>parts part</u> of the Iowa department of economic development. The Iowa department of economic development may provide staff assistance and administrative support to the <u>authorities</u> authority.
 - Sec. 78. Section 7E.7, subsection 2, Code 2007, is amended by striking the subsection.
- Sec. 79. Section 8A.311, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 21. a. The director may authorize the procurement of goods and services in which a contractual limitation of vendor liability is provided for and set forth in the documents initiating the procurement. The director, in consultation with the department of management, shall adopt rules setting forth the circumstances in which such procurement will be permitted and what types of contractual limitations of liability are permitted. Rules adopted by the director shall establish criteria to be considered in making a determination of whether to permit a contractual limitation of vendor liability with regard to any procurement of goods and services. The criteria, at a minimum, shall include all of the following:
- (1) Whether authorizing a contractual limitation of vendor liability is necessary to prevent harm to the state from a failure to obtain the goods or services sought, or from obtaining the goods or services at a higher price if the state refuses to allow a contractual limitation of vendor liability.
- (2) Whether the contractual limitation of vendor liability is commercially reasonable when taking into account any risk to the state created by the goods or services to be procured and the purpose for which they will be used.

²³ Chapter 213 herein

²⁴ Chapter 213 herein

²⁵ Chapter 217 herein

- b. Notwithstanding paragraph "a", a contractual limitation of vendor liability shall not include any limitation on the liability of any vendor for intentional torts, criminal acts, or fraudulent conduct.
- c. The rules shall provide for the negotiation of a contractual limitation of vendor liability consistent with the requirements of this section and any other requirements of the department as provided in any related documents associated with a procurement of goods and services.
 - *Sec. 80. Section 8A.363, subsection 1, Code 2007, is amended to read as follows:
- 1. A state officer or employee shall not use a state-owned motor vehicle for personal private use. A state officer or employee shall not be compensated for driving a privately owned motor vehicle unless it is done on state business with the approval of the director. In that case the state officer or employee shall receive an amount to be determined by the director. The amount shall not exceed be not less than ninety percent of the maximum or not more than one hundred ten percent of the maximum allowable under the federal internal revenue service rules per mile, notwithstanding established mileage requirements or depreciation allowances. However, the director may authorize private motor vehicle rates in excess of one hundred ten percent of the rate allowed under the federal internal revenue service rules for state business use of substantially modified or specially equipped privately owned vehicles required by persons with disabilities. A statutory provision establishing reimbursement for necessary mileage, travel, or actual expenses to a state officer falls under the private motor vehicle mileage rate limitation provided in this section unless specifically provided otherwise. Any peace officer employed by the state as defined in section 801.4 who is required to use a private motor vehicle in the performance of official duties shall receive the private vehicle mileage rate at the rate provided in this section. However, the director may delegate authority to officials of the state, and department heads, for the use of private vehicles on state business up to a yearly mileage figure established by the director. If a state motor vehicle has been assigned to a state officer or employee, the officer or employee shall not collect mileage for the use of a privately owned motor vehicle unless the state motor vehicle assigned is not useable.*
- Sec. 81. Section 15F.303, subsection 3, paragraph b, Code 2007, is amended to read as follows:
- b. The project supports or is strategically aligned with other existing regional or statewide cultural, recreational, entertainment, or educational activities or with communities adjacent to cultural and entertainment districts whose existing or planned amenity base will augment or complement the cultural and entertainment venues of such districts.
 - Sec. 82. Section 15I.3, subsection 4, Code 2007, is amended to read as follows:
- 4. The total amount of tax credit certificates that may be issued for a fiscal year under this chapter shall not exceed ten million dollars for the fiscal years beginning before July 1, 2007, and shall not exceed four million dollars for fiscal years beginning on or after July 1, 2007. The department shall establish by rule the procedures for the application, review, selection, awarding of certificates, and the method to be used to determine for which fiscal year the tax credits are available. If the approved tax credits exceed the maximum amount for a fiscal year, tax credit certificates shall be issued on an earliest date applied basis.
 - Sec. 83. Section 28D.3, subsection 4, Code 2007, is amended to read as follows:
- 4. Persons employed by the department of natural resources, <u>department of administrative</u> <u>services</u>, <u>and the Iowa communications network</u> under this chapter are not subject to the twenty-four-month time limitation specified in subsection 2.
 - Sec. 84. Section 85.66, Code 2007, is amended to read as follows: 85.66 SECOND INJURY FUND CREATION CUSTODIAN.

The "Second Injury Fund" is hereby established under the custody of the treasurer of state and shall consist of payments to the fund as provided by this division and any accumulated interest and earnings on moneys in the second injury fund. The treasurer of state is charged

^{*} Item veto; see message at end of the Act

with the conservation of the assets of the second injury fund. Moneys collected in the "Second Injury Fund" shall be disbursed only for the purposes stated in this division, and shall not at any time be appropriated or diverted to any other use or purpose. The treasurer of state shall invest any surplus moneys of the fund in securities which constitute legal investments for state funds under the laws of this state, and may sell any of the securities in which the fund is invested, if necessary, for the proper administration or in the best interests of the fund. Disbursements from the fund shall be paid by the treasurer of state only upon the written order of the workers' compensation commissioner. The attorney general shall be reimbursed up to one hundred fifty thousand dollars annually from the fund for services provided related to the fund. The treasurer of state shall quarterly prepare a statement of the fund, setting forth the balance of moneys in the fund, the income of the fund, specifying the source of all income, the payments out of the fund, specifying the various items of payments, and setting forth the balance of the fund remaining to its credit. The statement shall be open to public inspection in the office of the treasurer of state.

Sec. 85. Section 85.67, Code 2007, is amended to read as follows:

85.67 ADMINISTRATION OF FUND — SPECIAL COUNSEL — PAYMENT OF AWARD.

The attorney general shall appoint a staff member to represent the treasurer of state and the fund in all proceedings and matters arising under this division. The attorney general shall be reimbursed up to <u>one hundred</u> fifty thousand dollars annually from the fund for services provided related to the fund. The commissioner of insurance shall consider the reimbursement to the attorney general as an outstanding liability when making a determination of funding availability under section 85.65A, subsection 2. In making an award under this division, the workers' compensation commissioner shall specifically find the amount the injured employee shall be paid weekly, the number of weeks of compensation which shall be paid by the employer, the date upon which payments out of the fund shall begin, and, if possible, the length of time the payments shall continue.

- Sec. 86. Section 99F.4, subsection 24, Code 2007, is amended to read as follows:
- 24. To conduct a socioeconomic study on the impact of gambling on Iowans, every eight years beginning in calendar year 2008 2013, and issue a report on that study. The commission shall ensure that the results of each study are readily accessible to the public.
- Sec. 87. Section 99F.11, subsection 3, paragraph e, subparagraph (3), as enacted by 2006 Iowa Acts, chapter 1151, subsection 6, is amended to read as follows:
- (3) One-half of the moneys remaining after the appropriation in subparagraph (1) shall be credited, on a quarterly basis, to the general fund of the state for the purpose of funding the endow Iowa tax credit provided in section 15E.305.
- Sec. 88. Section 135.105D, subsection 1A, as enacted by 2007 Iowa Acts, House File 158,²⁶ section 2, is amended by adding the following new paragraph:
- <u>NEW PARAGRAPH</u>. d. Notwithstanding any other provision to the contrary, nothing in this section shall subject a parent, guardian, or legal custodian of a child of compulsory attendance age to any penalties under chapter 299.
- Sec. 89. Section 175.3, subsection 1, paragraph a, Code 2007, is amended to read as follows:
- a. The agricultural development authority is established within the office of treasurer of state. The authority is constituted as a public instrumentality and agency of the state exercising public and essential governmental functions.
 - Sec. 90. Section 175.3, subsection 7, Code 2007, is amended to read as follows:
- 7. The appointed members shall elect a chairperson and vice chairperson annually, and other officers as they determine, but the executive director shall serve as secretary to the author-

²⁶ Chapter 79 herein

ity. The chairperson and vice chairperson shall serve on the selection and tenure committee as provided in section 175.7.

- Sec. 91. Section 175.7, subsection 1, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
- 1. The governor, subject to confirmation by the senate, shall appoint an executive director of the authority, who shall serve at the pleasure of the governor. The executive director shall be selected primarily for administrative ability and knowledge in the field, without regard to political affiliation.
- Sec. 92. Section 175.8, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 3. For fiscal years beginning on or after July 1, 2007, the auditor of state shall conduct an annual audit of the agricultural development authority to be paid from resources of the authority notwithstanding any other audit conducted on behalf of the authority's board of directors. The auditor of state may acquire the services of an outside audit firm, if necessary, to conduct the audit as required in this subsection.

Sec. 93. NEW SECTION. 190A.1 FARM-TO-SCHOOL PROGRAM.

A farm-to-school program is established to encourage and promote the purchase of locally and regionally produced or processed food in order to improve child nutrition and strengthen local and regional farm economies.

Sec. 94. NEW SECTION. 190A.2 FARM-TO-SCHOOL COUNCIL.

- 1. A farm-to-school council is established and made up of seven members representing the following associations or state departments:
 - a. One member representing the Iowa school nutrition association.
- b. One member representing the Iowa association for health, physical education, recreation and dance with expertise in health.
 - c. One Iowa fruit or vegetable producer.
 - d. One Iowa organic meat producer.
 - e. The director of the Leopold center or the director's designee.
- f. The director of the department of agriculture and land stewardship or the director's designee.
 - g. The director of the department of education or the director's designee.
- 2. The members listed under subsection 1, paragraphs "a" through "d", shall be selected by the governor without senate confirmation and shall serve at the pleasure of the governor.

Sec. 95. NEW SECTION. 190A.3 GOALS AND STRATEGIES.

- 1. The program seeks to link elementary and secondary public and nonpublic schools in this state with Iowa farms to provide schools with fresh and minimally processed food for inclusion in school meals and snacks, encourages children to develop healthy eating habits, and provide Iowa farmers access to consumer markets.
- 2. The farm-to-school program may include activities that provide students with hands-on learning opportunities, such as farm visits, cooking demonstrations, and school gardening and composting programs.
- 3. The farm-to-school council shall seek to establish partnerships with public agencies and nonprofit organizations to implement a structure to facilitate communication between farmers and schools.
- 4. The farm-to-school council shall actively seek financial or in-kind contributions from organizations or persons to support the program.

Sec. 96. NEW SECTION. 190A.4 AGENCY COOPERATION.

The department of agriculture and land stewardship and the department of education shall provide information regarding the Iowa farm-to-school program in an electronic format on the department's internet website.

Sec. 97. NEW SECTION. 214A.2B LABORATORY FOR MOTOR FUEL AND BIOFUELS.

A laboratory for motor fuel and biofuels is established at a merged area school which is engaged in biofuels testing on July 1, 2007, and which testing includes but is not limited to B20 biodiesel testing for motor trucks and the ability of biofuels to meet A.S.T.M. international standards. The laboratory shall conduct testing of motor fuel sold in this state and biofuel which is blended in motor fuel in this state to ensure that the motor fuel or biofuels meet the requirements in section 214A.2.

Sec. 98. Section 216A.121, subsection 3, if enacted by 2007 Iowa Acts, House File 826,²⁷ section 1, is amended to read as follows:

- 3. MEMBERSHIP.
- a. The commission shall consist of twenty-one twenty-two members, including seventeen eighteen voting members and four nonvoting members.
 - (1) The voting members shall be as follows:
 - (a) The governor or the governor's designee.
- (b) One member, appointed by the governor, who is an Iowa designated representative to the federal Abraham Lincoln bicentennial commission governors' council.
 - (c) One member appointed by the president of Humanities Iowa.
 - (d) One member appointed by the director of the department of economic development.
 - (e) One member appointed by the administrator of the state historical society of Iowa.
 - (f) One member appointed by the executive director of the Iowa arts council.
 - (g) One member appointed by the executive director of the Iowa museum society.
 - (h) One member appointed by the president of the league of Iowa human rights agencies.
 - (i) One member appointed by the president of the Iowa league of cities.
- (ii) One member appointed by the executive director of the Iowa state association of counties.
 - (j) One member appointed by the director of the department of education.
 - (k) One member appointed by the chairperson of the state board of regents.
 - (l) One member appointed by the president of the Iowa library board.
- (m) One member appointed by the chairperson of the Iowa state chapter of the national association for the advancement of colored people.
- (n) Four public members, appointed by the governor, with a demonstrated interest in history and substantial knowledge and appreciation of Abraham Lincoln.
- (2) The nonvoting members shall be two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house, and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate.
- b. Nine <u>Ten</u> voting members of the board shall constitute a quorum. Persons making appointments shall consult with one another to ensure that the commission is balanced by gender, political affiliation, and geographic location, and to ensure selection of members representing diverse interest groups. The provisions of chapters 21 and 22 shall apply to meetings and records of the commission.
- c. The commission shall elect a chairperson and vice chairperson from the members of the commission. Commission members shall serve without compensation, but shall be reimbursed for actual and necessary expenses.
- Sec. 99. Section 237A.13, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 3A. The department's billing and payment provisions for the program shall allow providers to elect either biweekly or monthly billing and payment for child care provided under the program. The department shall remit payment to a provider within ten business days of receiving a bill or claim for services provided. However, if the department determines that a bill has an error or omission, the department shall notify the provider of the error or omission and identify any correction needed before issuance of payment to the provider. The department shall provide the notice within five business days of receiving the billing

²⁷ Chapter 99 herein

from the provider and shall remit payment to the provider within ten business days of receiving the corrected billing.

Sec. 100. Section 256C.3, subsection 5, if enacted by 2007 Iowa Acts, House File 877,²⁸ is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The state board, in collaboration with the department, shall ensure that the administrative rules adopted to support the preschool program emphasize that children's access to the program is voluntary, that the preschool foundation aid provided to a school district is provided based upon the enrollment of eligible students in the school district's local program regardless of whether an eligible student is a resident of the school district, and that agreements entered into by a school district for the provision of programming in settings other than the school district's facilities are between the school district and the private provider.

Sec. 101. Section 272.27, Code 2007, is amended to read as follows: 272.27 STUDENT TEACHING AND OTHER EDUCATIONAL EXPERIENCES.

If the rules adopted by the board of educational examiners for issuance of any type or class of license require an applicant to complete work in student teaching, an accredited college or university located within the state of Iowa and states conterminous with Iowa may offer a program or programs of teacher education approved by the director of the department of education or the appropriate authority in states conterminous with Iowa by entering prestudent teaching experiences, field experiences, practicums, clinicals, or internships, an institution with a practitioner preparation program approved by the state board of education under section 256.7, subsection 3, shall enter into a written contract with any accredited school district or private, accredited nonpublic school, preschool registered or licensed by the department of human services, or area education agency in Iowa under terms and conditions as agreed upon by the contracting parties. The terms and conditions of a written contract entered into with a preschool pursuant to this section shall provide that a student teacher be under the direct supervision of an appropriately licensed cooperating teacher who is employed to teach at the preschool. Students actually teaching or engaged in preservice licensure activities in a school district under the terms of such a contract are entitled to the same protection, under section 670.8, as is afforded by that section to officers and employees of the school district, during the time they are so assigned.

Sec. 102. Section 279.13, subsection 1, paragraph b, if enacted by 2007 Iowa Acts, Senate File 277,²⁹ section 11, is amended to read as follows:

b. (1) Prior to entering into an initial contract with a teacher who holds a license other than an initial license issued by the board of educational examiners under chapter 272, the school district shall <u>either</u> request the division of criminal investigation of the department of public safety to conduct a background investigation of the applicant <u>or request a qualified background screening company accredited by the national association of professional background check screeners to conduct a background check on the applicant. The</u>

(2) If the school district submits a request to the division of criminal investigation pursuant to subparagraph (1), the school district shall require the teacher to submit a completed fingerprint packet, which shall be used to facilitate a national criminal history check. The school district shall submit the packet to the division of criminal investigation of the department of public safety which shall conduct a thorough background investigation of the teacher. The superintendent of a school district or the superintendent's designee 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 section 235A.14, and the central registry for dependent adult abuse information established under section 235B.5 for information regarding applicants for employment as a teacher.

(3) If the school district submits a request to a qualified background screening company pursuant to subparagraph (1), the background check shall include a national criminal history

²⁸ Chapter 148, §3 herein

²⁹ Chapter 108 herein

check, a review of the sex offender registry information under section 692A.13, the central registry for child abuse information established under section 235A.14 as the superintendent's designee under section 235A.15, and the central registry for dependent adult abuse information established under section 235B.5 as the superintendent's designee under section 235B.6 for information regarding applicants for employment as a teacher.

(4) The school district may charge the teacher a fee for the background investigation, which shall not exceed the fee charged by the division of criminal investigation for conducting the background investigation.

Sec. 103. Section 284.13, subsection 1, paragraph d, as amended by 2007 Iowa Acts, Senate File 277,30 section 37, if enacted, is amended to read as follows:

d. (1) For the fiscal year beginning July 1, 2007, and ending June 30, 2008, up to twenty million dollars to the department for use by school districts for professional development as provided in section 284.6. 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, 2006, multiplied by the total number of fulltime 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, 2007. The contract salary amount shall be the amount paid for their regular responsibilities but shall not include pay for extracurricular activities. 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 general assembly and the legislative services agency not later than January 15 of the fiscal year for which moneys are allocated for purposes of this paragraph.

(2) From moneys available under subparagraph (1) for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the department shall allocate to area education agencies an amount per 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 teachers employed by school districts and the teachers employed by area education agencies into the total amount of moneys available under subparagraph (1).

Sec. 104. Section 303.1, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 7. The department may develop and implement fee-based educational programming opportunities, including preschool programs, related to arts, history, and other cultural matters for Iowans of all ages.

Sec. 105. Section 321.20B, subsection 2, paragraph b, Code 2007, is amended to read as follows:

b. The insurance division and the department, as appropriate, shall adopt rules regarding the contents of a financial liability coverage card to be issued pursuant to this section.

(1) Notwithstanding the provisions of this section, a fleet owner who is issued a certificate of self-insurance pursuant to section 321A.34, subsection 1, is not required to maintain in each vehicle a financial liability coverage card with the individual registration number or the vehicle identification number of the vehicle included on the card. Such fleet owner shall be required to maintain a financial liability coverage card in each vehicle in the fleet including information deemed appropriate by the commissioner of insurance or the director, as applicable.

(2) An association of individual members that is issued a certificate of self-insurance pursuant to section 321A.34, subsection 2, is required to maintain in each vehicle of an individual member a financial liability coverage card that complies with the provisions of this section and

³⁰ Chapter 108 herein

in addition contains information relating to the association and the association's certificate of self-insurance as is deemed appropriate by the director.

Sec. 106. Section 321.34, subsection 8, Code 2007, as amended by 2007 Iowa Acts, House File 749,³¹ if enacted, is amended to read as follows:

8. MEDAL OF HONOR PLATES. The owner of a motor vehicle subject to registration under section 321.109, subsection 1, motorcycle, trailer, or motor truck who has been awarded the medal of honor may, upon written application to the department, order special registration plates which shall be red, white, and blue in color and shall bear an emblem of the medal of honor and an identifying number. Each applicant applying for special registration plates under this subsection may purchase order only one set of registration plates under this subsection. The application is subject to approval by the department and the special registration plates shall be issued at no charge to the applicant in exchange for the registration plates previously issued to the person. The special plates are subject to an annual registration fee of fifteen dollars. A person who is issued special plates under this subsection is exempt from payment of any annual registration fee for the motor vehicle bearing the special plates. The department shall validate the special plates in the same manner as regular registration plates are validated under this section. The department shall not issue special registration plates until service organizations in the state have furnished the department either the special dies or the cost of the special dies necessary for the manufacture of the special registration plate.

The surviving spouse of a person who was issued special plates under this subsection may continue to use the special plates subject to registration of the special plates in the surviving spouse's name and upon payment of the fifteen dollar annual registration fee. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.

Sec. 107. Section 321.34, subsection 12A, Code 2007, as amended by 2007 Iowa Acts, House File 749,³² if enacted, is amended by striking the subsection and inserting in lieu thereof the following:

12A. SPECIAL REGISTRATION PLATES — ARMED FORCES SERVICES.

- a. An owner of a vehicle referred to in subsection 12 who applies for any type of special registration plates associated with service in the United States armed forces shall be issued one set of the special registration plates at no charge, but shall be subject to the annual registration fee of fifteen dollars, if the owner is eligible for, but has relinquished to the department or the county treasurer or has not been issued, ex-prisoner of war or legion of merit special registration plates under this section.
- b. An owner of a vehicle referred to in subsection 12 who applies for any type of special registration plates associated with service in the United States armed forces shall be issued one set of the special registration plates at no charge and subject to no annual registration fee if the owner is eligible for, but has relinquished to the department or the county treasurer or has not been issued, medal of honor registration plates under subsection 8 or disabled veteran registration plates under section 321.105.
- c. The owner shall provide the appropriate information regarding the owner's eligibility for any of the special registration plates described in paragraph "a" or "b", and regarding the owner's eligibility for the special registration plates for which the owner has applied, as required by the department.
- d. The surviving spouse of a person who was issued special plates under this subsection may continue to use the special plates subject to registration of the special plates in the surviving spouse's name and upon payment of the same annual registration fee, if applicable. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.

Sec. 108. Section 321A.34, subsections 1 and 2, Code 2007, are amended to read as follows:

1. a. Any person in whose name more than twenty-five motor vehicles are registered may

³¹ Chapter 184, §2 herein

³² Chapter 184, §4 herein

qualify as a self-insurer by obtaining a certificate of self-insurance issued by the department as provided in subsection 2 of this section paragraph "b".

- 2. b. The department may, upon the application of such a person, issue a certificate of self-insurance if the department is satisfied that the person has and will continue to have the ability to pay judgments obtained against the person for damages arising out of the ownership, maintenance, or use of any vehicle owned by the person. A person issued a certificate of self-insurance pursuant to this section subsection shall maintain a financial liability coverage card as provided in section 321.20B, subsection 2, paragraph "b", subparagraph (1).
- 2. a. Any association of individual members that is a legal entity with the power to sue and be sued in its own name and which is composed of individual members in whose names a total of more than twenty-five motor vehicles are registered, may qualify as a self-insurer by obtaining a certificate of insurance issued by the department as provided in paragraph "b".
- b. The department may, upon the application of such an association, issue a certificate of self-insurance if the department is satisfied that the association has and will continue to have the ability to pay judgments obtained against the association or against an individual member of the association for damages arising out of the ownership, maintenance, or use of any vehicle owned by an individual member of the association. An association issued a certificate of self-insurance pursuant to this paragraph shall maintain a financial liability coverage card as provided in section 321.20B, subsection 2, paragraph "b", subparagraph (2).
- Sec. 109. Section 388.2, unnumbered paragraph 2, Code 2007, is amended to read as follows:

The <u>Upon the council's own motion, the</u> proposal may be submitted to the voters at <u>any the general election</u>, the <u>regular</u> city election by the council on its own motion, or at a special election called for that <u>purpose</u>. Upon receipt of a valid petition as defined in section 362.4, requesting that a proposal be submitted to the voters, the council shall submit the proposal at the next regular city election.

Sec. 110. Section 388.2, Code 2007, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. If the special election is to establish a gas or electric utility pursuant to this section, or if such a proposal is to be included on the ballot at the regular city or general election, the mayor or council shall give notice as required by section 376.1 to the county commissioner of elections and to any utility whose property would be affected by such election not less than sixty days before the proposed date of the special, regular city, or general election.

- Sec. 111. Section 422.11S, subsection 7, paragraph a, subparagraph (2), Code 2007, is amended to read as follows:
- (2) "Total approved tax credits" means for the tax year beginning in the 2006 calendar year, two million five hundred thousand dollars, and for the tax years year beginning on or after January 1, in the 2007 calendar year, five million dollars, and for tax years beginning on or after January 1, 2008, seven million five hundred thousand dollars.
 - Sec. 112. Section 423.3, subsection 89, Code 2007, is amended to read as follows:
- 89. 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 in paragraph "d" or "e":
- <u>d.</u> (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 former chapter 504A which is exempt from federal income tax pursuant to section 501(a) of the Internal Revenue Code.
- e. (1) The contract for construction of the building or structure is entered into on or after May 15, 2007.
- (2) The sole purpose of the building or structure is to provide facilities for a regional academy under a collaborative of public and private educational institutions that includes a community college established under chapter 260C that provide education to students.
- (3) The owner of the building or structure is a qualified charitable nonprofit corporation governed by chapter 504 or former chapter 504A which is exempt from federal income tax pursuant to section 501(c)(3) of the Internal Revenue Code.
- <u>f.</u> References to "building" or "structure" in subparagraphs (1) through (4) paragraphs "d" and "e" include any additions or modifications to the building or structure.
- Sec. 113. Section 452A.3, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Except as otherwise provided in this section and in this division, until June 30, 2007 2012, this subsection shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

- Sec. 114. Section 452A.3, subsection 1A, Code 2007, is amended to read as follows:
- 1A. Except as otherwise provided in this section and in this division, after June 30, 2007 2012, an excise tax of twenty cents is imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.
- Sec. 115. Section 455B.306, Code 2007, is amended by adding the following new subsection:

<u>NEW SUBSECTION</u>. 12. This section shall not apply to a sanitary landfill project owned by an electric generating facility and used exclusively for the disposal of coal combustion residue. Notwithstanding section 455B.301, subsection 8, a utility under this subsection may demonstrate financial assurance through the use of a secured trust fund, a cash or surety bond, a corporate financial test as provided by the department, the obtaining of an irrevocable letter of credit, or an alternative method as provided by the department. The financial assurance instrument submitted must ensure the facility's financial capability to provide reasonable and necessary response during the lifetime of the project and for a specified period of time following closure as required by rules adopted by the commission.

Sec. 116. Section 463C.17, Code 2007, is amended to read as follows: 463C.17 EXEMPTION FROM COMPETITIVE BID LAWS.

The authority, the department, and their agents and contracts entered into by the authority, the department, and their agents, in carrying out its public and essential governmental functions are exempt from the laws of the state which provide for competitive bids, term-length, and hearings in connection with contracts, except as provided in section 12.30. However, the exemption from competitive bid laws in this section shall not be construed to apply to contracts for the development of the park or the development or construction of facilities in the park, including, but not limited to, lodges, campgrounds, cabins, and golf courses.

Sec. 117. Section 505.8, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 8. The commissioner may, after a hearing conducted pursuant to chapter 17A, assess fines or penalties, order restitution, or take other corrective action as the

commissioner deems necessary and appropriate to accomplish compliance with the laws of the state relating to all insurance business transacted in the state.

- Sec. 118. Section 717F.1, subsection 1, if enacted by 2007 Iowa Acts, Senate File 564,³³ section 1, is amended to read as follows:
- 1. "Agricultural animal" means the same an agricultural animal as defined in section 717A.1 other than swine which is a member of the species sus scrofa linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.
- Sec. 119. Section 717F.1, subsection 3, paragraph b, if enacted by 2007 Iowa Acts, Senate File 564,³⁴ section 1, is amended to read as follows:
- b. "Circus" does not include a person, regardless of whether the person is a holder of a class "C" license as provided in paragraph "a", who does any of the following:
- (1) Keeps a dangerous wild animal which is a member of the order carnivora within the family felidae or the family ursidae, as described in this section.
 - (2) Uses the uses a dangerous wild animal for any of the following purposes:
 - (a) (1) A presentation to children at a public or nonpublic school as defined in section 280.2.
- (b) (2) Entertainment that involves an activity in which a member of the public is in close proximity to the dangerous wild animal, including but not limited to a contest or a photographic opportunity.
- Sec. 120. Section 717F.1, subsection 5, paragraph a, if enacted by 2007 Iowa Acts, Senate File 564,³⁵ section 1, is amended by adding the following new subparagraph:

<u>NEW SUBPARAGRAPH</u>. (11) Swine which is a member of the species sus scrofa linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.

- Sec. 121. Section 717F.7, subsection 3, if enacted by 2007 Iowa Acts, Senate File 564,³⁶ section 7, is amended to read as follows:
- 3. A person who <u>keeps falcons</u>, if the <u>person</u> has been issued a falconry license by the department of natural resources pursuant to section 483A.1.
- Sec. 122. Section 717F.7, subsection 13, if enacted by 2007 Iowa Acts, Senate File 564,³⁷ section 7, is amended to read as follows:
- 13. A location operated by a person licensed to practice veterinary medicine pursuant to chapter 169. However, this subsection shall not apply to a swine which is a member of the species sus scrofa linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.
- Sec. 123. Section 717F.8, subsection 2, if enacted by 2007 Iowa Acts, Senate File 564,³⁸ section 8, is amended by adding the following new paragraph:

<u>NEW PARAGRAPH</u>. I. Ten dollars for swine which is a member of the species sus scrofa linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.

Sec. 124. Section 909.3A, Code 2007, is amended to read as follows: 909.3A COMMUNITY SERVICE OPTION.

The court may, in its discretion, order the defendant to perform community service work of an equivalent value to the fine imposed where it appears that the community service work will be adequate to deter the defendant and to discourage others from similar criminal activity. The rate at which community service shall be calculated shall be the federal <u>or state</u> minimum wage, <u>whichever is higher</u>.

³³ Chapter 195 herein

³⁴ Chapter 195 herein

³⁵ Chapter 195 herein

³⁶ Chapter 195 herein

³⁷ Chapter 195 herein

³⁸ Chapter 195 herein

- Sec. 125. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the amendment to section 423.3, subsection 89, in this division 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 May 15, 2007, and June 30, 2007, shall not be allowed unless refund claims are filed by October 1, 2007, notwithstanding any other provision of law.
- Sec. 126. NATIVE WINE MANUFACTURERS WINE GALLONAGE TAX EXCEPTION. Notwithstanding any provision of section 123.183 to the contrary, wine imported into this state prior to June 1, 2007, and used for manufacturing native wine shall not be subject to the wine gallonage tax as provided by that section.

Sec. 127. LEGISLATIVE PROPERTY TAX STUDY COMMITTEE.

- 1. A legislative property tax study committee is established. The study committee shall conduct a comprehensive review of property taxation in Iowa including but not limited to the continued use of property taxes as a major funding source for local governments and for local school districts in Iowa, the classification and assessment of property for property tax purposes and the impact of the tie between residential and agricultural property assessments, the level of consistency employed in classifying and assessing property for property tax purposes, the various exemptions and credits currently available to property taxpayers and the impact on local government and state budgets and on other taxpayers of providing those credits and exemptions, and the use of property taxes as an economic development tool and the impact on local and state government budgets and on other taxpayers of such use. In its study, the committee shall address the goals of property tax simplification and equity.
 - 2. a. The committee shall be comprised of the following voting members:
- (1) Five members who are members of the senate, three of whom shall be appointed by the majority leader of the senate and two of whom shall be appointed by the minority leader of the senate.
- (2) Five members who are members of the house of representatives, three of whom shall be appointed by the speaker of the house of representatives and two of whom shall be appointed by the minority leader of the house of representatives.
- b. The committee shall be comprised of the following nonvoting members who shall be appointed by the majority leader of the senate and the speaker of the house of representatives in consultation with the minority leaders of the senate and the house of representatives:
 - (1) One member from an association representing Iowa counties.
 - (2) One member from an association representing Iowa cities.
 - (3) One member from an association representing Iowa school boards.
 - (4) One member from an association representing agricultural property taxpayers.
 - (5) One member from an association representing Iowa commercial property taxpayers.
 - (6) One member from an association representing Iowa industrial taxpayers.
 - (7) One member representing residential taxpayers.
- (8) One member from an association representing Iowa telecommunications property taxpayers.
 - (9) Representatives of other interests as designated by the legislative council.
- c. The committee shall be comprised of the following nonvoting members who shall be appointed by the governor:
 - (1) A representative employed by the department of management.
 - (2) A representative employed by the department of revenue.
 - (3) A representative employed by the department of economic development.
- 3. The property tax study committee shall meet during the 2007 and 2008 legislative interims at the call of the chairperson. The committee is authorized to hold as many meetings as the committee deems necessary.
 - 4. The property tax study committee may contract with one or more tax consultants or ex-

perts familiar with the Iowa property tax system. The legislative council, pursuant to its authority in section 2.42, may allocate to the study committee funding from moneys available to it in section 2.12 for the purpose of contracting with the consultant or expert.

- 5. The property tax study committee shall submit a final report to the general assembly on or before January 5, 2009. The final report shall include but not be limited to findings, analyses, and recommendations by the committee.
- Sec. 128. RESEARCH AND DEVELOPMENT PREKINDERGARTEN THROUGH GRADE TWELVE SCHOOL FEASIBILITY STUDY. The department of education and the university of northern Iowa shall convene a task force to study the feasibility of creating a research and development prekindergarten through grade twelve school for the state of Iowa. The task force shall include, at a minimum, university of northern Iowa faculty and representatives from other institutions governed by the state board of regents and from school districts which offer prekindergarten through grade twelve. The task force shall address the possibilities of creating a site where innovative and promising practices can be studied and implemented to improve the achievement of students in prekindergarten through grade twelve, processes in which the findings of such studies are shared with Iowa educators, and an appropriate governance structure, and shall address the necessary funding and funding sources for the school. The task force shall consider the existing laboratory school located at the university of northern Iowa as the site for the research and development prekindergarten through grade twelve school. The task force shall submit its findings and recommendations in a report to the general assembly, the state board of education, and the state board of regents by January 14, 2008.

Sec. 129. EFFECTIVE DATE.

- 1. The section of this division of this Act amending section 28D.3, subsection 4, being deemed of immediate importance, takes effect upon enactment.
- 2. The section of this division of this Act providing an exception to the imposition of the wine gallonage tax for native wine manufacturers, being deemed of immediate importance, takes effect upon enactment.
- Sec. 130. EFFECTIVE DATE. The sections of this division of this Act amending section 321.34, subsections 8 and 12A, being deemed of immediate importance, take effect upon enactment.
- Sec. 131. EFFECTIVE DATE. The section of this division of this Act establishing a prekindergarten through grade twelve feasibility study, being deemed of immediate importance, takes effect upon enactment.
 - Sec. 132. 2007 Iowa Acts, Senate File 403,39 section 5, if enacted, is repealed.
 - Sec. 133. 2007 Iowa Acts, Senate File 403,40 section 34, if enacted, is repealed.
 - Sec. 134. Section 811.2A, Code 2007, is repealed.

DIVISION VII ELDER SERVICES

- Sec. 135. Section 231B.1, subsection 1, Code 2007, is amended to read as follows:
- 1. "Department" means the department of elder affairs inspections and appeals or the department's designee.
 - Sec. 136. Section 231B.1A, subsection 3, Code 2007, is amended by striking the subsection.
- Sec. 137. Section 231B.2, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The department shall establish by rule, in accordance with chapter 17A, minimum standards

³⁹ Chapter 206 herein; see also chapter 209, §3 herein

⁴⁰ Chapter 206 herein; see also chapter 131, §5 herein

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 affected state agencies and affected industry, professional, and consumer groups; 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. 138. Section 231B.2, subsection 1, paragraph b, Code 2007, is amended to read as follows:
- b. Requirements that elder group homes furnish the department of elder affairs and the department of inspections and appeals with specified information necessary to administer this chapter. All information related to the provider application for an elder group home presented to either the department of inspections and appeals or the department of elder affairs shall be considered a public record pursuant to chapter 22.
 - Sec. 139. Section 231B.2, subsection 2, Code 2007, is amended to read as follows:
- 2. Each elder group home operating in this state shall be certified by the department of inspections and appeals.
- Sec. 140. Section 231B.2, subsection 5, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The department of inspections and appeals may enter into contracts to provide certification and monitoring of elder group homes. The department of inspections and appeals shall:

- Sec. 141. Section 231B.2, subsections 6, 7, 9, and 10, Code 2007, are amended to read as follows:
- 6. A department, agency, or officer of this state or of any governmental unit shall not pay or approve for payment from public funds any amount to an elder group home for an actual or prospective tenant, unless the program holds a current certificate issued by the department of inspections and appeals and meets all current requirements for certification.
- 7. The department shall adopt rules regarding the conducting or operating of another business or activity in the distinct part of the physical structure in which the elder group home is operated, if the business or activity serves persons who are not tenants. The rules shall be developed in consultation with the department of inspections and appeals affected state agencies and affected industry, professional, and consumer groups.
- 9. The department of elder affairs and the department of inspections and appeals shall conduct joint training sessions for personnel responsible for conducting monitoring evaluations and complaint investigations of elder group homes.
- 10. Certification shall be for two years unless revoked for good cause by the department of inspections and appeals.
 - Sec. 142. Section 231B.3, subsection 2, Code 2007, is amended to read as follows:
- 2. A person who has knowledge that an elder group home is operating without certification shall report the name and address of the home to the department of inspections and appeals. The department of inspections and appeals shall investigate a report made pursuant to this section.
 - Sec. 143. Section 231B.4, Code 2007, is amended to read as follows: 231B.4 ZONING FIRE AND SAFETY STANDARDS.

An elder group home shall be located in an area zoned for single-family or multiple-family housing or in an unincorporated area and shall be constructed in compliance with applicable local housing codes and the rules adopted for the special classification by the state fire marshal. In the absence of local building codes, the facility shall comply with the state plumbing code established pursuant to section 135.11 and the state building code established pursuant to section 103A.7 and the rules adopted for the special classification by the state fire marshal.

The rules adopted for the special classification by the state fire marshal regarding second floor occupancy shall be adopted in consultation with the department of elder affairs and shall take into consideration the mobility of the tenants.

- Sec. 144. Section 231B.5, subsection 3, Code 2007, is amended to read as follows:
- 3. Occupancy agreements and related documents executed by each tenant or tenant's legal representative shall be maintained by the elder group home from the date of execution until three years from the date the occupancy agreement is terminated. A copy of the most current occupancy agreement shall be provided to members of the general public, upon request. Occupancy agreements and related documents shall be made available for on-site inspection to the department of inspections and appeals upon request and at reasonable times.
- Sec. 145. Section 231B.6, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

If an elder group home initiates the involuntary transfer of a tenant and the action is not a result of a monitoring evaluation or complaint investigation by the department of inspections and appeals, and if the tenant or tenant's legal representative contests the transfer, the following procedure shall apply:

- Sec. 146. Section 231B.6, subsection 2, Code 2007, is amended to read as follows:
- 2. The department, in consultation with the department of inspections and appeals affected state agencies and affected industry, professional, and consumer groups, shall establish by rule, in accordance with chapter 17A, procedures to be followed, including the opportunity for hearing, when the transfer of a tenant results from a monitoring evaluation or complaint investigation conducted by the department of inspections and appeals.

Sec. 147. Section 231B.7, Code 2007, is amended to read as follows: 231B.7 COMPLAINTS.

- 1. Any person with concerns regarding the operations or service delivery of an elder group home may file a complaint with the department of inspections and appeals. The name of the person who files a complaint with the department of inspections and appeals and any personal identifying information of the person or any tenant identified in the complaint shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department of inspections and appeals' employees involved with the complaint.
- 2. The department, in cooperation with the department of inspections and appeals, shall establish procedures for the disposition of complaints received in accordance with this section.

Sec. 148. Section 231B.8, Code 2007, is amended to read as follows: 231B.8 INFORMAL REVIEW.

- 1. If an elder group home contests the findings of regulatory insufficiencies of a monitoring evaluation or complaint investigation, the program shall submit written information, demonstrating that the program was in compliance with the applicable requirement at the time of the monitoring evaluation or complaint investigation of the regulatory insufficiencies, to the department of inspections and appeals for review.
- 2. The department of inspections and appeals shall review the written information submitted within ten working days of the receipt of the information. At the conclusion of the review, the department of inspections and appeals may affirm, modify, or dismiss the regulatory insufficiencies. The department of inspections and appeals shall notify the program in writing of the decision to affirm, modify, or dismiss the regulatory insufficiencies, and the reasons for the decision.
- 3. In the case of a complaint investigation, the department of inspections and appeals shall also notify the complainant, if known, of the decision and the reasons for the decision.

Sec. 149. Section 231B.9, Code 2007, is amended to read as follows: 231B.9 PUBLIC DISCLOSURE OF FINDINGS.

Upon completion of a monitoring evaluation or complaint investigation of an elder group home by the department of inspections and appeals pursuant to this chapter, including the conclusion of all administrative appeals processes, the department of inspections and appeals' department's final findings with respect to compliance by the elder group home with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an elder group home that is obtained by the department of inspections and appeals which does not constitute the department of inspections and appeals' department's final findings from a monitoring evaluation or complaint investigation of the elder group home shall be made available to the department of elder affairs upon request to facilitate policy decisions, but shall not be made available to the public except in proceedings involving the denial, suspension, or revocation of a certificate under this chapter.

Sec. 150. Section 231B.10, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The department of inspections and appeals may deny, suspend, or revoke a certificate in any case where the department of inspections and appeals finds that there has been a substantial or repeated failure on the part of the elder group home to comply with this chapter or minimum standards adopted under this chapter or for any of the following reasons:

Sec. 151. Section 231B.10, subsection 2, Code 2007, is amended to read as follows:

2. The department of inspections and appeals may as an alternative to denial, suspension, or revocation conditionally issue or continue a certificate dependent upon the performance by the elder group home of reasonable conditions within a reasonable period of time as set by the department of inspections and appeals so as to permit the program to commence or continue the operation of the elder group home pending full compliance with this chapter or the rules adopted pursuant to this chapter. If the elder group home does not make diligent efforts to comply with the conditions prescribed, the department of inspections and appeals may, under the proceedings prescribed by this chapter, deny, suspend, or revoke the certificate. An elder group home shall not be operated on a conditional certificate for more than one year.

Sec. 152. Section 231B.11, Code 2007, is amended to read as follows: 231B.11 NOTICE — APPEAL — EMERGENCY PROVISIONS.

- 1. The denial, suspension, or revocation of a certificate shall be effected by delivering to the applicant or certificate holder by restricted certified mail or by personal service a notice setting forth the particular reasons for such action. Such denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or certificate holder, within such thirty-day period, requests a hearing, in writing, of the department of inspections and appeals, in which case the notice shall be deemed to be suspended.
- 2. The denial, suspension, or revocation of a certificate may be appealed in accordance with rules adopted by the department of inspections and appeals in accordance with chapter 17A.
- 3. When the department of inspections and appeals finds that an imminent danger to the health or safety of a tenant of an elder group home exists which requires action on an emergency basis, the department of inspections and appeals may direct removal of all tenants of the elder group home and suspend the certificate prior to a hearing.

Sec. 153. Section 231B.12, Code 2007, is amended to read as follows: 231B.12 DEPARTMENT NOTIFIED OF CASUALTIES.

The department of inspections and appeals shall be notified within twenty-four hours, by the most expeditious means available, of any accident causing substantial injury or death to a tenant, and any substantial fire or natural or other disaster occurring at or near an elder group home.

Sec. 154. Section 231B.13, Code 2007, 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, to be assessed and collected by the department of inspections and appeals, paid into the state treasury, and credited to the general fund of the state.

- Sec. 155. Section 231B.14, subsection 2, Code 2007, is amended to read as follows:
- 2. Following receipt of notice from the department of inspections and appeals, continued failure or refusal to comply within a prescribed time frame with regulatory requirements that have a direct relationship to the health, safety, or security of elder group home tenants.
- Sec. 156. Section 231B.14, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Preventing or interfering with or attempting to impede in any way any duly authorized representative of the department of inspections and appeals in the lawful enforcement of this chapter or of the rules adopted pursuant to this chapter. As used in this subsection, "lawful enforcement" includes but is not limited to:

Sec. 157. Section 231B.15, Code 2007, is amended to read as follows: 231B.15 CRIMINAL PENALTIES AND INJUNCTIVE RELIEF.

A person establishing, conducting, managing, or operating an elder group home without a certificate is guilty of a serious misdemeanor. Each day of continuing violation after conviction or notice from the department of inspections and appeals by certified mail of a violation shall be considered a separate offense. A person establishing, conducting, managing, or operating an elder group home without a certificate may be temporarily or permanently restrained by a court of competent jurisdiction from such activity in an action brought by the state.

- Sec. 158. Section 231B.17, subsection 1, Code 2007, is amended to read as follows:
- 1. The department of inspections and appeals shall collect elder group home certification and related fees. Fees collected and retained pursuant to this section shall be deposited in the general fund of the state.
 - Sec. 159. Section 231B.20, Code 2007, is amended to read as follows: 231B.20 NURSING ASSISTANT AND MEDICATION AIDE CERTIFICATION.

The department of inspections and appeals, in cooperation with other appropriate agencies, shall establish a procedure to allow nursing assistants or medication aides to claim work within an elder group home as credit toward sustaining the nursing assistant's or medication aide's certification.

- Sec. 160. Section 231C.1, subsection 3, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
- 3. It is the intent of the general assembly that the department promote a social model for assisted living programs and a consultative process to assist with compliance by assisted living programs.
 - Sec. 161. Section 231C.2, subsection 3, Code 2007, is amended to read as follows:
- 3. "Department" means the department of elder affairs created in chapter 231 inspections and appeals or the department's designee.
- Sec. 162. Section 231C.3, subsection 1, unnumbered paragraph 1, Code 2007, 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 affected state agencies and affected industry, professional, and consumer groups; 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. 163. Section 231C.3, subsection 1, paragraph b, Code 2007, is amended to read as follows:
- b. Requirements that assisted living programs furnish the department of elder affairs and the department of inspections and appeals with specified information necessary to administer this chapter. All information related to a provider application for an assisted living program submitted to either the department of elder affairs or the department of inspections and appeals shall be considered a public record pursuant to chapter 22.
 - Sec. 164. Section 231C.3, subsection 2, Code 2007, is amended to read as follows:
- 2. Each assisted living program operating in this state shall be certified by the department of inspections and appeals. If an assisted living program is voluntarily accredited by a recognized accrediting entity, the department of inspections and appeals shall certify the assisted living program on the basis of the voluntary accreditation. An assisted living program that is certified by the department of inspections and appeals on the basis of voluntary accreditation shall not be subject to payment of the certification fee prescribed in section 231C.18, but shall be subject to an administrative fee as prescribed by rule. An assisted living program certified under this section is exempt from the requirements of section 135.63 relating to certificate of need requirements.
- Sec. 165. Section 231C.3, subsection 5, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The department of inspections and appeals may enter into contracts to provide certification and monitoring of assisted living programs. The department of inspections and appeals shall:

- Sec. 166. Section 231C.3, subsections 6, 7, 8, 10, and 11, Code 2007, are amended to read as follows:
- 6. The department may also establish by rule in accordance with chapter 17A minimum standards for subsidized and dementia-specific assisted living programs. The rules shall be formulated in consultation with the department of inspections and appeals affected state agencies and affected industry, professional, and consumer groups.
- 7. A department, agency, or officer of this state or of any governmental unit shall not pay or approve for payment from public funds any amount to an assisted living program for an actual or prospective tenant, unless the program holds a current certificate issued by the department of inspections and appeals and meets all current requirements for certification.
- 8. The department shall adopt rules regarding the conducting or operating of another business or activity in the distinct part of the physical structure in which the assisted living program is provided, if the business or activity serves nontenants. The rules shall be developed in consultation with the department of inspections and appeals affected state agencies and affected industry, professional, and consumer groups.
- 10. The department of elder affairs and the department of inspections and appeals shall conduct joint training sessions for personnel responsible for conducting monitoring evaluations and complaint investigations of assisted living programs.
- 11. Certification of an assisted living program shall be for two years unless certification is revoked for good cause by the department of inspections and appeals.

Sec. 167. Section 231C.4, Code 2007, is amended to read as follows: 231C.4 FIRE AND SAFETY STANDARDS.

The state fire marshal shall adopt rules, in coordination with the department of elder affairs and the department of inspections and appeals, relating to the certification and monitoring of the fire and safety standards of certified assisted living programs.

Sec. 168. Section 231C.5, subsection 3, Code 2007, is amended to read as follows:

3. Occupancy agreements and related documents executed by each tenant or the tenant's legal representative shall be maintained by the assisted living program in program files from the date of execution until three years from the date the occupancy agreement is terminated. A copy of the most current occupancy agreement shall be provided to members of the general public, upon request. Occupancy agreements and related documents shall be made available for on-site inspection to the department of inspections and appeals upon request and at reasonable times.

Sec. 169. Section 231C.6, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

If an assisted living program initiates the involuntary transfer of a tenant and the action is not a result of a monitoring evaluation or complaint investigation by the department of inspections and appeals, and if the tenant or the tenant's legal representative contests the transfer, the following procedure shall apply:

Sec. 170. Section 231C.6, subsection 2, Code 2007, is amended to read as follows:

2. The department, in consultation with the department of inspections and appeals affected state agencies and affected industry, professional, and consumer groups, shall establish, by rule in accordance with chapter 17A, procedures to be followed, including the opportunity for hearing, when the transfer of a tenant results from a monitoring evaluation or complaint investigation conducted by the department of inspections and appeals.

Sec. 171. Section 231C.7, Code 2007, is amended to read as follows: 231C.7 COMPLAINTS.

- 1. Any person with concerns regarding the operations or service delivery of an assisted living program may file a complaint with the department of inspections and appeals. The name of the person who files a complaint with the department of inspections and appeals and any personal identifying information of the person or any tenant identified in the complaint shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department of inspections and appeals' employees involved with the complaint.
- 2. The department, in cooperation with the department of inspections and appeals, shall establish procedures for the disposition of complaints received in accordance with this section.

Sec. 172. Section 231C.8, Code 2007, is amended to read as follows: 231C.8 INFORMAL REVIEW.

- 1. If an assisted living program contests the regulatory insufficiencies of a monitoring evaluation or complaint investigation, the program shall submit written information, demonstrating that the program was in compliance with the applicable requirement at the time of the monitoring evaluation or complaint investigation, in support of the contesting of the regulatory insufficiencies, to the department of inspections and appeals for review.
- 2. The department of inspections and appeals shall review the written information submitted within ten working days of the receipt of the information. At the conclusion of the review, the department of inspections and appeals may affirm, modify, or dismiss the regulatory insufficiencies. The department of inspections and appeals shall notify the program in writing of the decision to affirm, modify, or dismiss the regulatory insufficiencies, and the reasons for the decision.
- 3. In the case of a complaint investigation, the department of inspections and appeals shall also notify the complainant, if known, of the decision and the reasons for the decision.

Sec. 173. Section 231C.9, Code 2007, is amended to read as follows: 231C.9 PUBLIC DISCLOSURE OF FINDINGS.

Upon completion of a monitoring evaluation or complaint investigation of an assisted living program by the department of inspections and appeals pursuant to this chapter, including the conclusion of all administrative appeals processes, the department of inspections and appeals' department's final findings with respect to compliance by the assisted living program with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an assisted living program that is obtained by the department of inspections and appeals which does not constitute the department of inspections and appeals' department's final findings from a monitoring evaluation or complaint investigation of the assisted living program shall be made available to the department of elder affairs upon request in order to facilitate policy decisions, but shall not be made available to the public except in proceedings involving the denial, suspension, or revocation of a certificate under this chapter.

Sec. 174. Section 231C.10, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The department of inspections and appeals may deny, suspend, or revoke a certificate in any case where the department of inspections and appeals finds that there has been a substantial or repeated failure on the part of the assisted living program to comply with this chapter or the rules, or minimum standards adopted under this chapter, or for any of the following reasons:

Sec. 175. Section 231C.10, subsection 2, Code 2007, is amended to read as follows:

2. The department of inspections and appeals may as an alternative to denial, suspension, or revocation conditionally issue or continue a certificate dependent upon the performance by the assisted living program of reasonable conditions within a reasonable period of time as set by the department of inspections and appeals so as to permit the program to commence or continue the operation of the program pending full compliance with this chapter or the rules adopted pursuant to this chapter. If the assisted living program does not make diligent efforts to comply with the conditions prescribed, the department of inspections and appeals may, under the proceedings prescribed by this chapter, suspend, or revoke the certificate. An assisted living program shall not be operated on a conditional certificate for more than one year.

Sec. 176. Section 231C.11, Code 2007, is amended to read as follows: 231C.11 NOTICE — APPEAL — EMERGENCY PROVISIONS.

- 1. The denial, suspension, or revocation of a certificate shall be effected by delivering to the applicant or certificate holder by restricted certified mail or by personal service a notice setting forth the particular reasons for such action. Such denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or certificate holder, within such thirty-day period, requests a hearing, in writing, of the department of inspections and appeals, in which case the notice shall be deemed to be suspended.
- 2. The denial, suspension, or revocation of a certificate may be appealed in accordance with rules adopted by the department of inspections and appeals in accordance with chapter 17A.
- 3. When the department of inspections and appeals finds that an imminent danger to the health or safety of tenants of an assisted living program exists which requires action on an emergency basis, the department of inspections and appeals may direct removal of all tenants of an assisted living program and suspend the certificate prior to a hearing.

Sec. 177. Section 231C.12, Code 2007, is amended to read as follows: 231C.12 DEPARTMENT NOTIFIED OF CASUALTIES.

The department of inspections and appeals shall be notified within twenty-four hours, by the most expeditious means available, of any accident causing substantial injury or death, and any substantial fire or natural or other disaster occurring at or near an assisted living program.

Sec. 178. Section 231C.13, Code 2007, 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, to be assessed and collected by the department of inspections and appeals, paid into the state treasury, and credited to the general fund of the state.

- Sec. 179. Section 231C.14, subsection 2, Code 2007, is amended to read as follows:
- 2. Following receipt of notice from the department of inspections and appeals, continued failure or refusal to comply within a prescribed time frame with regulatory requirements that have a direct relationship to the health, safety, or security of program tenants.
- Sec. 180. Section 231C.14, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Preventing or interfering with or attempting to impede in any way any duly authorized representative of the department of inspections and appeals in the lawful enforcement of this chapter or of the rules adopted pursuant to this chapter. As used in this subsection, "lawful enforcement" includes but is not limited to:

Sec. 181. Section 231C.15, Code 2007, is amended to read as follows: 231C.15 CRIMINAL PENALTIES AND INJUNCTIVE RELIEF.

A person establishing, conducting, managing, or operating any assisted living program without a certificate is guilty of a serious misdemeanor. Each day of continuing violation after conviction or notice from the department of inspections and appeals by certified mail of a violation shall be considered a separate offense or chargeable offense. A person establishing, conducting, managing, or operating an assisted living program without a certificate may be temporarily or permanently restrained by a court of competent jurisdiction from such activity in an action brought by the state.

Sec. 182. Section 231C.16, Code 2007, is amended to read as follows: 231C.16 NURSING ASSISTANT AND MEDICATION AIDE — CERTIFICATION.

The department of inspections and appeals, in cooperation with other appropriate agencies, shall establish a procedure to allow nursing assistants or medication aides to claim work within an assisted living program as credit toward sustaining the nursing assistant's or medication aide's certification.

- Sec. 183. Section 231C.18, subsection 1, Code 2007, is amended to read as follows:
- 1. The department of inspections and appeals shall collect assisted living program certification and related fees. An assisted living program that is certified by the department of inspections and appeals on the basis of voluntary accreditation by a recognized accrediting entity shall not be subject to payment of the certification fee, but shall be subject to an administrative fee as prescribed by rule. Fees collected and retained pursuant to this section shall be deposited in the general fund of the state.
 - Sec. 184. Section 231D.1, subsection 3, Code 2007, is amended to read as follows:
- 3. "Department" means the department of elder affairs created in chapter 231 inspections and appeals.
 - Sec. 185. Section 231D.2, subsection 2, Code 2007, is amended by striking the subsection.
- Sec. 186. Section 231D.2, subsections 3 and 4, Code 2007, are amended to read as follows: 3. The department shall establish, by rule in accordance with chapter 17A, a program for certification and monitoring of and complaint investigations related to adult day services programs. The department, in establishing minimum standards for adult day services programs,

may adopt by rule in accordance with chapter 17A, nationally recognized standards for adult day services programs. The rules shall include specification of recognized accrediting entities. The rules shall include a requirement that sufficient staffing be available at all times to fully meet a participant's identified needs. The rules shall include a requirement that no fewer than two staff persons who monitor participants as indicated in each participant's service plan shall be awake and on duty during the hours of operation when two or more participants are present. The rules and minimum standards adopted shall be formulated in consultation with the department of inspections and appeals affected state agencies and affected industry, professional, and consumer groups and shall be designed to accomplish the purpose of this chapter.

4. The department may establish by administrative rule, in accordance with chapter 17A, specific rules related to minimum standards for dementia-specific adult day services programs. The rules shall be formulated in consultation with the department of inspections and appeals affected state agencies and affected industry, professional, and consumer groups.

Sec. 187. Section 231D.3, subsections 1, 3, 4, 5, 6, and 7, Code 2007, are amended to read as follows:

- 1. A person or governmental unit acting severally or jointly with any other person or governmental unit shall not establish or operate an adult day services program and shall not represent an adult day services program to the public as certified unless and until the program is certified pursuant to this chapter. If an adult day services program is voluntarily accredited by a recognized accrediting entity with specific adult day services standards, the department of inspections and appeals shall accept voluntary accreditation as the basis for certification by the department. The owner or manager of a certified adult day services program shall comply with the rules adopted by the department for an adult day services program.
- 3. An adult day services program that has been certified by the department of inspections and appeals shall not alter the program, operation, or adult day services for which the program is certified in a manner that affects continuing certification without prior approval of the department of inspections and appeals. The department of inspections and appeals shall specify, by rule, alterations that are subject to prior approval.
- 4. A department, agency, or officer of this state or of any governmental unit shall not pay or approve for payment from public funds any amount to an adult day services program for an actual or prospective participant, unless the program holds a current certificate issued by the department of inspections and appeals and meets all current requirements for certification
- 5. The department shall adopt rules regarding the conducting or operating of another business or activity in the distinct part of the physical structure in which the adult day services program is provided, if the business or activity serves persons who are not participants. The rules shall be developed in consultation with the department of inspections and appeals affected state agencies and affected industry, professional, and consumer groups.
- 6. The department of elder affairs and the department of inspections and appeals shall conduct joint training sessions for personnel responsible for conducting monitoring evaluations and complaint investigations of adult day services programs.
- 7. Certification of an adult day services program shall be for two years unless revoked for good cause by the department of inspections and appeals.

Sec. 188. Section 231D.4, subsection 1, Code 2007, is amended to read as follows:

- 1. Certificates for adult day services programs shall be obtained from the department of inspections and appeals. Applications shall be upon such forms and shall include such information as the department of inspections and appeals may reasonably require, which may include affirmative evidence of compliance with applicable statutes and local ordinances. Each application for certification shall be accompanied by the appropriate fee.
- Sec. 189. Section 231D.4, subsection 2, paragraph a, Code 2007, is amended to read as follows:
- a. The department of inspections and appeals shall collect adult day services certification fees. The fees shall be deposited in the general fund of the state.

Sec. 190. Section 231D.5, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The department of inspections and appeals may deny, suspend, or revoke certification if the department of inspections and appeals finds that there has been a substantial or repeated failure on the part of the adult day services program to comply with this chapter or the rules or minimum standards adopted pursuant to this chapter, or for any of the following reasons:

Sec. 191. Section 231D.5, subsection 3, Code 2007, is amended to read as follows:

3. In the case of a certificate applicant or existing certificate holder which is an entity other than an individual, the department of inspections and appeals may deny, suspend, or revoke a certificate if any individual who is in a position of control or is an officer of the entity engages in any act or omission proscribed by this section.

Sec. 192. Section 231D.6, Code 2007, is amended to read as follows: 231D.6 NOTICE — APPEAL — EMERGENCY PROVISIONS.

- 1. The denial, suspension, or revocation of a certificate shall be effected by delivering to the applicant or certificate holder by restricted certified mail or by personal service a notice setting forth the particular reasons for the action. The denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or certificate holder, within the thirty-day period, requests a hearing, in writing, of the department of inspections and appeals, in which case the notice shall be deemed to be suspended.
- 2. The denial, suspension, or revocation of a certificate may be appealed in accordance with rules adopted by the department of inspections and appeals in accordance with chapter 17A.
- 3. When the department of inspections and appeals finds that an immediate danger to the health or safety of participants in an adult day services program exists which requires action on an emergency basis, the department of inspections and appeals may direct the removal of all participants in the adult day services program and suspend the certificate prior to a hearing.

Sec. 193. Section 231D.7, Code 2007, is amended to read as follows: 231D.7 CONDITIONAL OPERATION.

The department of inspections and appeals may, as an alternative to denial, suspension, or revocation of certification under section 231D.5, conditionally issue or continue certification dependent upon the performance by the adult day services program of reasonable conditions within a reasonable period of time as prescribed by the department of inspections and appeals so as to permit the program to commence or continue the operation of the program pending full compliance with this chapter or the rules adopted pursuant to this chapter. If the adult day services program does not make diligent efforts to comply with the conditions prescribed, the department of inspections and appeals may, under the proceedings prescribed by this chapter, suspend or revoke the certificate. An adult day services program shall not be operated under conditional certification for more than one year.

Sec. 194. Section 231D.8, Code 2007, is amended to read as follows: 231D.8 DEPARTMENT NOTIFIED OF CASUALTIES.

The department of inspections and appeals shall be notified within twenty-four hours, by the most expeditious means available, of any accident causing substantial injury or death, and any substantial fire or natural or other disaster occurring at or near an adult day services program.

Sec. 195. Section 231D.9, Code 2007, is amended to read as follows: 231D.9 COMPLAINTS AND CONFIDENTIALITY.

1. A person with concerns regarding the operations or service delivery of an adult day services program may file a complaint with the department of inspections and appeals. The name of the person who files a complaint with the department of inspections and appeals and any personal identifying information of the person or any participant identified in the complaint shall be kept confidential and shall not be subject to discovery, subpoena, or other means of

legal compulsion for its release to a person other than employees of the department of inspections and appeals involved in the investigation of the complaint.

2. The department, in cooperation with the department of inspections and appeals, shall establish procedures for the disposition of complaints received in accordance with this section.

Sec. 196. Section 231D.9A, Code 2007, is amended to read as follows: 231D.9A INFORMAL REVIEW.

- 1. If an adult day services program contests the findings of regulatory insufficiencies of a monitoring evaluation or complaint investigation, the program shall submit written information, demonstrating that the program was in compliance with the applicable requirement at the time of the monitoring evaluation or complaint investigation, to the department of inspections and appeals for review.
- 2. The department of inspections and appeals shall review the written information submitted within ten working days of the receipt of the information. At the conclusion of the review, the department of inspections and appeals may affirm, modify, or dismiss the regulatory insufficiencies. The department of inspections and appeals shall notify the program in writing of the decision to affirm, modify, or dismiss the regulatory insufficiencies, and the reasons for the decision.
- 3. In the case of a complaint investigation, the department of inspections and appeals shall also notify the complainant, if known, of the decision and the reasons for the decision.

Sec. 197. Section 231D.10, Code 2007, is amended to read as follows: 231D.10 PUBLIC DISCLOSURE OF FINDINGS.

Upon completion of a monitoring evaluation or complaint investigation of an adult day services program by the department of inspections and appeals pursuant to this chapter, including the conclusion of all administrative appeals processes, the department's final findings with respect to compliance by the adult day services program with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an adult day services program that is obtained by the department of inspections and appeals which does not constitute the department's final findings from a monitoring evaluation or complaint investigation of the adult day services program shall be made available to the department upon request to facilitate policy decisions, but shall not be made available to the public except in proceedings involving the denial, suspension, or revocation of a certificate under this chapter.

Sec. 198. Section 231D.11, subsection 1, Code 2007, is amended to read as follows:

1. A person establishing, conducting, managing, or operating an adult day services program without a certificate is guilty of a serious misdemeanor. Each day of continuing violation after conviction or notice from the department of inspections and appeals by certified mail of a violation shall be considered a separate offense or chargeable offense. A person establishing, conducting, managing, or operating an adult day services program without a certificate may be temporarily or permanently restrained by a court of competent jurisdiction from such activity in an action brought by the state.

Sec. 199. Section 231D.11, subsection 2, paragraph c, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Preventing or interfering with or attempting to impede in any way any duly authorized representative of the department of inspections and appeals in the lawful enforcement of this chapter or of the rules adopted pursuant to this chapter. As used in this paragraph, "lawful enforcement" includes but is not limited to:

Sec. 200. Section 231D.12, Code 2007, is amended to read as follows: 231D.12 RETALIATION BY ADULT DAY SERVICES PROGRAM PROHIBITED.

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, paid into the state treasury, and credited to the general fund of the state.

2. Any attempt to discharge a participant from an adult day services program by whom or upon whose behalf a complaint has been submitted to the department of inspections and appeals under section 231D.9, within ninety days after the filing of the complaint or the conclusion of any proceeding resulting from the complaint, shall raise a rebuttable presumption that the action was taken by the program in retaliation for the filing of the complaint, except in situations in which the participant is discharged due to changes in health status which exceed the level of care offered by the adult day services program or in other situations as specified by rule

Sec. 201. Section 231D.13, Code 2007, is amended to read as follows: 231D.13 NURSING ASSISTANT AND MEDICATION AIDE — CERTIFICATION.

The department of inspections and appeals, in cooperation with other appropriate agencies, shall establish a procedure to allow nursing assistants or medication aides to claim work within adult day services programs as credit toward sustaining the nursing assistant's or medication aide's certification.

Sec. 202. Section 231D.15, Code 2007, is amended to read as follows: 231D.15 FIRE AND SAFETY STANDARDS.

The state fire marshal shall adopt rules, in coordination with the department of elder affairs and the department of inspections and appeals, relating to the certification and monitoring of the fire and safety standards of adult day services programs.

- Sec. 203. Section 231D.17, subsection 3, Code 2007, is amended to read as follows:
- 3. Written contractual agreements and related documents executed by each participant or participant's legal representative shall be maintained by the adult day services program in program files from the date of execution until three years from the date the written contractual agreement is terminated. A copy of the most current written contractual agreement shall be provided to members of the general public, upon request. Written contractual agreements and related documents shall be made available for on-site inspection to the department of inspections and appeals upon request and at reasonable times.
- Sec. 204. Section 231D.18, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

If an adult day services program initiates the involuntary transfer of a participant and the action is not a result of a monitoring evaluation or complaint investigation by the department of inspections and appeals, and if the participant or participant's legal representative contests the transfer, the following procedure shall apply:

- Sec. 205. Section 231D.18, subsection 2, Code 2007, is amended to read as follows:
- 2. The department, in consultation with the department of inspections and appeals affected state agencies and affected industry, professional, and consumer groups, shall establish by rule, in accordance with chapter 17A, procedures to be followed, including the opportunity for hearing, when the transfer of a participant results from a monitoring evaluation or complaint investigation conducted by the department of inspections and appeals.

Sec. 206. ADMINISTRATIVE RULES — TRANSITION PROVISIONS.

1. Any rule, regulation, form, order, or directive promulgated by the department of elder affairs and in effect on the effective date of this Act shall continue in full force and effect until amended, repealed, or supplemented by affirmative action of the department of inspections and appeals under the duties and powers of the department of inspections and appeals as established in this Act and under the procedure established in subsection 2.

Any license, certification, or permit issued by the department of elder affairs and in effect on the effective date of this Act shall continue in full force and effect until expiration or renewal.

2. In regard to updating references and format in the Iowa administrative code in order to correspond to the restructuring of state government as established in this Act, the administrative rules coordinator and the administrative rules review committee, in consultation with the administrative code editor, shall jointly develop a schedule for the necessary updating of the Iowa administrative code.

DIVISION VIII FOOD INSPECTIONS

Sec. 207. Section 137C.6, Code 2007, is amended to read as follows: 137C.6 AUTHORITY TO ENFORCE.

- <u>1.</u> The director shall regulate, license, and inspect hotels and enforce the Iowa hotel sanitation code in Iowa. Municipal corporations shall not regulate, license, inspect, or collect license fees from hotels except as provided for in the Iowa hotel sanitation code.
- <u>2.</u> If a municipal corporation wants its local board of health to license, inspect, and otherwise enforce the Iowa hotel sanitation code within its jurisdiction, the municipal corporation may enter into an agreement to do so with the director. The director may enter into the agreement if the director finds that the local board of health has adequate resources to perform the required functions. A municipal corporation may only enter into an agreement to enforce the Iowa hotel sanitation code if it also agrees to enforce the Iowa food code rules setting minimum standards to protect consumers from foodborne illness adopted pursuant to section 137F.3 137F.2.
- <u>3.</u> A local board of health that is responsible for enforcing the Iowa hotel sanitation code within its jurisdiction pursuant to an agreement, shall make an annual report to the director providing the following information:
 - 1. a. The total number of hotel licenses granted or renewed during the year.
- 2. <u>b.</u> The number of hotel licenses granted or renewed during the year broken down into the following categories:
 - a. (1) Hotels containing fifteen guest rooms or less.
 - b. (2) Hotels containing more than fifteen but less than thirty-one guest rooms.
 - e. (3) Hotels containing more than thirty but less than seventy-six guest rooms.
- d. (4) Hotels containing more than seventy-five but less than one hundred fifty guest rooms.
 - e. (5) Hotels containing one hundred fifty or more guest rooms.
 - 3. c. The amount of money collected in license fees during the year.
 - 4. <u>d.</u> Other information the director requests.
- <u>4.</u> The director shall monitor local boards of health to determine if they are enforcing the Iowa hotel sanitation code within their respective jurisdictions. If the director determines that the Iowa hotel sanitation code is enforced by a local board of health, such enforcement shall be accepted in lieu of enforcement by the department in that jurisdiction. If the director determines that the Iowa hotel sanitation code is not enforced by a local board of health, the director may rescind the agreement after reasonable notice and an opportunity for a hearing. If the agreement is rescinded, the director shall assume responsibility for enforcement in the jurisdiction involved.

Sec. 208. Section 137C.9, Code 2007, is amended to read as follows: 137C.9 LICENSE FEES.

- <u>1.</u> Either the department or the municipal corporation shall collect the following annual license fees:
 - 1. a. For a hotel containing fifteen guest rooms or less, twenty twenty-seven dollars.
- 2. b. For a hotel containing more than fifteen but less than thirty-one guest rooms, thirty forty dollars and fifty cents.

- 3. \underline{c} . For a hotel containing more than thirty but less than seventy-six guest rooms, forty fifty-four dollars.
- 4. <u>d.</u> For a hotel containing more than seventy-five but less than one hundred fifty guest rooms, <u>fifty fifty-seven</u> dollars <u>and fifty cents</u>.
- 5. <u>e.</u> For a hotel containing one hundred fifty or more guest rooms, seventy-five <u>one hundred one</u> dollars and twenty-five cents.
- <u>2.</u> Fees collected by the department shall be deposited in the general fund of the state. Fees collected by a municipal corporation shall be retained by it and for its use.
 - Sec. 209. Section 137D.2, subsection 1, Code 2007, is amended to read as follows:
- 1. A person shall not open or operate a home food establishment until a license has been obtained from the department of inspections and appeals. The department shall collect a fee of twenty-five thirty-three dollars and seventy-five cents for a license. After collection, the fees shall be deposited in the general fund of the state. A license shall expire one year from date of issue. A license is renewable.
 - Sec. 210. Section 137F.1, subsection 7, Code 2007, is amended by striking the subsection.
- Sec. 211. Section 137F.1, subsection 8, unnumbered paragraph 1, Code 2007, is amended to read as follows:

"Food establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption and includes a food service operation in a salvage or distressed food operation, school, summer camp, residential service substance abuse treatment facility, halfway house substance abuse treatment facility, correctional facility operated by the department of corrections, the state training school, or the Iowa juvenile home. "Food establishment" does not include the following:

Sec. 212. Section 137F.2, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

137F.2 ADOPTION BY RULE.

The department shall, in accordance with chapter 17A, adopt rules setting minimum standards for entities covered under this chapter to protect consumers from foodborne illness. In so doing, the department may adopt by reference, with or without amendment, the United States food and drug administration food code, which shall be specified by title and edition, date of publication, or similar information. The rules and standards shall be formulated in consultation with municipal corporations under agreement with the department, affected state agencies, and industry, professional, and consumer groups.

Sec. 213. Section 137F.3, Code 2007, is amended to read as follows: 137F.3 AUTHORITY TO ENFORCE.

- 1. The director shall regulate, license, and inspect food establishments and food processing plants and enforce this chapter pursuant to rules adopted by the department in accordance with chapter 17A. Municipal corporations shall not regulate, license, inspect, or collect license fees from food establishments and food processing plants, except as provided in this section.
- 2. A municipal corporation may enter into an agreement with the director to provide that the municipal corporation shall license, inspect, and otherwise enforce this chapter within its jurisdiction. The director may enter into the agreement if the director finds that the municipal corporation has adequate resources to perform the required functions. A municipal corporation may only enter into an agreement to enforce the Iowa food code rules setting minimum standards to protect consumers from foodborne illness adopted pursuant to this section 137F.2 if it also agrees to enforce the Iowa hotel sanitation code pursuant to section 137C.6. However, the department shall license and inspect all food processing plants which manufacture, package, or label food products. A municipal corporation may license and inspect, as authorized by this section, food processing plants whose operations are limited to the storage of food products.

- $\underline{3}$. If the director enters into an agreement with a municipal corporation as provided by this section, the director shall provide that the inspection practices of a municipal corporation are spot-checked on a regular basis.
- <u>4.</u> A municipal corporation that is responsible for enforcing this chapter within its jurisdiction pursuant to an agreement shall make an annual report to the director providing the following information:
- 1. a. The total number of licenses granted or renewed by the municipal corporation under this chapter during the year.
- 2. <u>b.</u> The number of licenses granted or renewed by the municipal corporation under this chapter during the year in each of the following categories:
 - a. (1) Food establishments.
 - b. (2) Food processing plants.
 - e. (3) Mobile food units and pushcarts.
 - d. (4) Temporary food establishments.
 - e. (5) Vending machines.
 - 3. c. The amount of money collected in license fees during the year.
- d. The amount expended to perform the functions required under the agreement, submitted on a form prescribed by the department.
 - 4. e. Other information the director requests.
- <u>5.</u> The director shall monitor municipal corporations which have entered into an agreement pursuant to this section to determine if they are enforcing this chapter within their respective jurisdictions. If the director determines that this chapter is not enforced by a municipal corporation, the director may rescind the agreement after reasonable notice and an opportunity for a hearing. If the agreement is rescinded, the director shall assume responsibility for enforcement in the jurisdiction involved.
- 6. The inspection staff of a municipal corporation that has entered into an agreement with the director to enforce this chapter shall be required by the department to apply the current rules setting minimum standards to protect consumers from foodborne illness adopted pursuant to section 137F.2 to ensure consistency in application of the rules. A municipal corporation's failure to comply may result in the department rescinding the agreement with the municipal corporation, after reasonable notice and an opportunity for a hearing.
 - Sec. 214. Section 137F.3A, Code 2007, is amended to read as follows: 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, April 1, 2007, or discontinues prior to July 1, 2007, after April 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, after April 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 each fiscal years ending prior to July 1, 2007, year to provide for salaries, support, maintenance, and miscellaneous purposes associated with the additional inspections. The appropriation made

in this subsection is not applicable in a fiscal year for which the general assembly enacts an appropriation made for the purposes described in this subsection.

3. This section is repealed July 1, 2007.

Sec. 215. Section 137F.6, Code 2007, is amended to read as follows: 137F.6 LICENSE FEES.

- 1. The regulatory authority shall collect the following annual license fees:
- 1. a. For a mobile food unit or pushcart, twenty twenty-seven dollars.
- 2. b. For a temporary food establishment per fixed location, twenty-five thirty-three dollars and fifty cents.
- 3. c. For a vending machine, twenty dollars for the first machine and five dollars for each additional machine.
- 4. <u>d.</u> For a food establishment which prepares or serves food for individual portion service intended for consumption on-the-premises, the annual license fee shall correspond to the annual gross food and beverage sales of the food establishment, as follows:
- a. (1) Annual gross sales of under fifty thousand dollars, fifty sixty-seven dollars and fifty cents.
- b. (2) Annual gross sales of at least fifty thousand dollars but less than one hundred thousand dollars, eighty-five one hundred fourteen dollars and fifty cents.
- c. (3) Annual gross sales of at least one hundred thousand dollars but less than two hundred fifty thousand dollars, one hundred seventy-five two hundred thirty-six dollars and twenty-five cents.
- d. (4) Annual gross sales of two hundred fifty thousand dollars but less than five hundred thousand dollars, two hundred seventy-five dollars.
- e- (5) Annual gross sales of five hundred thousand dollars or more, two hundred twenty-five three hundred three dollars and seventy-five cents.
- 5- e. For a food establishment which sells food or food products to consumer customers intended for preparation or consumption off-the-premises, the annual license fee shall correspond to the annual gross food and beverage sales of the food establishment, as follows:
 - a. (1) Annual gross sales of under ten thousand dollars, thirty forty dollars and fifty cents.
- b. (2) Annual gross sales of at least ten thousand dollars but less than two hundred fifty thousand dollars, seventy-five one hundred one dollars and twenty-five cents.
- e. (3) Annual gross sales of at least two hundred fifty thousand dollars but less than five hundred thousand dollars, one hundred fifteen one hundred fifty-five dollars and twenty-five cents.
- d. (4) Annual gross sales of at least five hundred thousand dollars but less than seven hundred fifty thousand dollars, one hundred fifty two hundred two dollars and fifty cents.
- e. (5) Annual gross sales of seven hundred fifty thousand dollars or more, two hundred twenty-five three hundred three dollars and seventy-five cents.
- 6. f. For a food processing plant, the annual license fee shall correspond to the annual gross food and beverage sales of the food processing plant, as follows:
- a. (1) Annual gross sales of under fifty thousand dollars, fifty sixty-seven dollars and fifty cents.
- b. (2) Annual gross sales of at least fifty thousand dollars but less than two hundred fifty thousand dollars, one hundred thirty-five dollars.
- e. (3) Annual gross sales of at least two hundred fifty thousand dollars but less than five hundred thousand dollars, one hundred fifty two hundred two dollars and fifty cents.
- d. (4) Annual gross sales of five hundred thousand dollars or more, two hundred fifty three hundred thirty-seven dollars and fifty cents.
- 7. g. For a farmers market where potentially hazardous food is sold or distributed, one seasonal license fee of one hundred dollars for each vendor on a countywide basis.

A food establishment covered by subsections 4 and 5 paragraphs "d" and "e" shall be assessed license fees not to exceed seventy-five percent of the total fees applicable under both subsections paragraphs.

- 2. If an establishment licensed under subsection 1, paragraph "d" or "e", has had a person in charge for the entire previous twelve-month period who holds an active certified food protection manager certificate from a program approved by the conference on food protection and the establishment has not been issued a critical violation during the previous twelve-month period, the establishment's license fee for the current renewal period shall be reduced by fifty dollars.
- $\underline{3}$. Fees collected by the department shall be deposited in the general fund of the state. Fees collected by a municipal corporation shall be retained by the municipal corporation for regulation of food establishments and food processing plants licensed under this chapter.
- <u>4.</u> Each vending machine licensed under this chapter shall bear a readily visible identification tag or decal provided by the licensee, containing the licensee's business address and phone number, and a company license number assigned by the regulatory authority.

Sec. 216. Section 137F.10, Code 2007, is amended to read as follows: 137F.10 REGULAR INSPECTIONS.

The appropriate regulatory authority shall provide for the inspection of each food establishment and food processing plant in this state in accordance with this chapter and with rules adopted pursuant to this chapter in accordance with chapter 17A. A regulatory authority may enter a food establishment or food processing plant at any reasonable hour to conduct an inspection. The manager or person in charge of the food establishment or food processing plant shall afford free access to every part of the premises and render all aid and assistance necessary to enable the regulatory authority to make a thorough and complete inspection. As part of the inspection process, the regulatory authority shall provide an explanation of the violation or violations cited and provide guidance as to actions for correction and elimination of the violation or violations.

Sec. 217. NEW SECTION. 137F.11A POSTING OF INSPECTION REPORTS.

An establishment inspected under this chapter shall post the most recent routine inspection report, along with any current complaint or reinspection reports, in a location at the establishment that is readily visible to the public.

Sec. 218. Section 196.3, Code 2007, is amended to read as follows: 196.3 EGG HANDLER'S LICENSE AND FEE.

1. Every egg handler shall obtain an annual license from the department. The fee for the license shall be determined on the basis of the total number of eggs purchased or handled during the preceding month of April in each calendar year as follows:

1. a. Less than one hundred twenty-five	
cases	\$ 15.00
	20.20
2. b. One hundred twenty-five cases or	20.20
more but less than two hundred fifty	
cases	\$ 35.00
	47.25
3. c. Two hundred fifty cases or more but	
less than one thousand cases	\$ 50.00
less than one thousand cases	67.50
	07.50
4. d. One thousand cases or more but less	
than five thousand cases	\$ 100.00
	135.00
5. e. Five thousand cases or more but less	
than ten thousand cases	\$175.00
than ten thousand cases	
	<u>236.25</u>
6. <u>f.</u> Ten thousand cases or more	\$ 250.00
	<u>337.50</u>

- <u>2.</u> The license shall expire one year after its date of issue. For the purpose of determining fees, a case shall be thirty dozen eggs. All fees collected shall be remitted to the treasurer of state for deposit in the general fund of the state.
- <u>3.</u> If an egg handler is not operating during the month of April, the department shall estimate the volume of eggs purchased or handled, or both, and may revise the fee based on three months of operation.
 - Sec. 219. Section 331.756, subsection 32, Code 2007, is amended to read as follows:
- 32. Assist the department of inspections and appeals in the enforcement of the Iowa food code rules setting minimum standards to protect consumers from foodborne illness adopted pursuant to section 137F.2 and the Iowa hotel sanitation code, as provided in sections 137F.19 and 137C.30.
- Sec. 220. FOOD CODE APPLICABILITY TEMPORARY PROVISIONS. Pending the adoption of rules pursuant to section 137F.2, as amended by this division of this Act, the 1997 edition of the United States food and drug administration food code, with the amendments or exceptions thereto in effect prior to the effective date of this division of this Act, shall continue in effect.
- Sec. 221. EFFECTIVE DATE. The section of this division of this Act amending section 137F.3A, being deemed of immediate importance, takes effect upon enactment.

DIVISION IX ABSENTEE BALLOT AFFIDAVITS

- Sec. 222. Section 39A.4, subsection 1, paragraph c, subparagraphs (11) and (12), Code 2007, as amended by 2007 Iowa Acts, House File 848,⁴¹ section 20, are amended to read as follows:
- (11) Returning a voted absentee ballot, by mail or in person, to the commissioner's office and the person returning the ballot is not the voter, an immediate family member authorized by the voter to return the ballot, an absentee ballot courier the voter's designee, or a special precinct election official designated pursuant to section 53.22, subsection 1, or the designee of a voter described in section 53.22, subsection 5.
- (12) Making a false or untrue statement reporting that a voted absentee ballot was returned to the commissioner's office, by mail or in person, by a person other than the voter, an immediate family member authorized by the voter to return the ballot, an absentee ballot courier the voter's designee, or a special precinct election official designated pursuant to section 53.22, subsection 1, or the designee of a voter described in section 53.22, subsection 5.
- Sec. 223. Section 53.8, subsection 2, Code 2007, as amended by 2007 Iowa Acts, House File 848, 42 section 25, is amended to read as follows:
- 2. a. The commissioner shall enclose with the absentee ballot a statement informing the applicant that the sealed carrier envelope may be mailed to the commissioner by the registered voter or the voter's designee or may be personally delivered to the commissioner's office by the registered voter or the voter's designee. The statement shall also inform the voter that the voter may request that the voter's designee complete a receipt when retrieving the ballot from the voter. A blank receipt shall be enclosed with the absentee ballot.
- <u>b.</u> If an application is received so late that it is unlikely that the absentee ballot can be returned in time to be counted on election day, the commissioner shall enclose with the absentee ballot a statement to that effect. The statement shall also point out that it is possible for the applicant, an immediate family member of the applicant, or the applicant's designee if the absentee ballot is voted by a voter described in section 53.22, subsection 5, to personally deliver the completed absentee ballot to the office of the commissioner at any time before the closing

⁴¹ Chapter 59 herein

⁴² Chapter 59 herein

of the polls on election day. The statement shall also point out that it is possible for an absentee ballot courier to personally deliver the completed absentee ballot to the office of the commissioner within seventy-two hours of retrieving the completed ballot or before the closing of the polls on election day, whichever is earlier.

Sec. 224. Section 53.10, unnumbered paragraph 2, Code 2007, is amended to read as follows:

Each person who wishes to vote by absentee ballot at the commissioner's office shall first sign an application for a ballot including the following information: name, current address, and the election for which the ballot is requested. The person may report a change of address or other information on the person's voter registration record at that time. The registered voter shall immediately mark the ballot; enclose the ballot in a secrecy envelope, if necessary, and seal it in a ballot an affidavit envelope; subscribe to the affidavit on the reverse side of the envelope; and return the absentee ballot to the commissioner. The commissioner shall record the numbers appearing on the application and ballot affidavit envelope along with the name of the registered voter.

- Sec. 225. Section 53.17, subsection 1, paragraph a, Code 2007, as amended by 2007 Iowa Acts, House File 848,⁴³ section 27, is amended by striking the paragraph and inserting in lieu thereof the following:
- a. The sealed carrier envelope may be delivered by the registered voter, by the voter's designee, or by the special precinct election officials designated pursuant to section 53.22, subsection 1, to the commissioner's office no later than the time the polls are closed on election day. However, if delivered by the voter's designee, the envelope shall be delivered within seventy-two hours of retrieving it from the voter or before the closing of the polls on election day, whichever is earlier.
- Sec. 226. Section 53.17, subsection 1, paragraphs b and c, Code 2007, are amended to read as follows:
- b. The sealed carrier envelope may be mailed to the commissioner by the registered voter, by an immediate family member of the voter, or by the voter's designee if the ballot is voted by a voter described in section 53.22, subsection 5. If mailed by the voter's designee, the envelope must be mailed within seventy-two hours of retrieving it from the voter or within time to be postmarked not later than the day before the election, whichever is earlier.
- c. The sealed carrier envelope may be delivered to the commissioner by an absentee ballot courier, but only as provided in subsection 4.
- Sec. 227. Section 53.17, subsection 4, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:
- 4. When a person designated by the voter retrieves a completed absentee ballot from the voter, the designee shall, upon request of the voter, fill out a receipt to be retained by the voter. The state commissioner shall prescribe a form for receipts required by this subsection. The receipt shall include all of the following:
 - a. The name of the voter's designee.
 - b. The date and time the completed absentee ballot was received from the voter.
 - c. The name and date of the election for which the absentee ballot is being voted.
- d. The name of the political party, candidate, or committee for which the designee is acting as an actual or implied agent, if applicable.
 - e. A telephone number at which the voter's designee may be contacted.
- f. A statement that the completed absentee ballot will be delivered to the commissioner's office within seventy-two hours of retrieving it from the voter or before the closing of the polls on election day, whichever is earlier, or that the completed absentee ballot will be mailed to the commissioner within seventy-two hours of retrieving it from the voter or within time to be postmarked not later than the day before the election, whichever is earlier.

⁴³ See chapter 59 herein

Sec. 228. Section 53.17, subsection 5, Code 2007, is amended by striking the subsection.

Sec. 229. Section 53.18, Code 2007, is amended to read as follows:

53.18 MANNER OF PRESERVING BALLOT AND APPLICATION — REVIEW OF AFFIDAVIT — REPLACEMENT BALLOTS.

- 1. Upon receipt of When the return carrier envelope containing the completed absentee ballot is received by the commissioner, the commissioner shall at once record the number appearing on the application and return carrier envelope and time of receipt of such ballot and attach the elector's application to the unopened envelope. Absentee ballots shall be stored in a secure place until they are delivered to the absentee and special voters precinct board.
- 2. If the commissioner receives the return carrier envelope containing the completed absentee ballot by five p.m. on the Saturday before the election for general and primary elections and by five p.m. on the Friday before the election for all other elections, the commissioner shall open the envelope to review the affidavit for any deficiencies. If the affidavit contains a deficiency that would cause the ballot to be rejected, the commissioner shall, within twenty-four hours of the time the envelope was received, notify the voter of that fact and that the voter may correct the deficiency by five p.m. on the day before the election.
- 3. If the affidavit envelope is open when received by the commissioner, or has been opened and resealed, or if the ballot is not enclosed in the affidavit envelope, the commissioner shall immediately notify the voter of that fact and that the voter's absentee ballot shall not be counted unless the voter applies for a replacement ballot and returns the replacement ballot in the time permitted under section 53.17, subsection 2. The replacement ballot application shall be the same as is required for an application under section 53.2. If the information on the replacement ballot application matches the information on the original application, the voter shall be allowed to complete a replacement absentee ballot. The same serial number that was assigned to the records of the original absentee ballot application shall be used on the envelope and records of the replacement ballot. The affidavit envelope containing the original ballot shall be marked "Replacement ballot". The affidavit envelope containing the original ballot shall be marked "Defective ballot" and the replacement ballot and replacement ballot application shall be attached to the original application and affidavit envelope containing the original ballot and shall be stored in a secure place until they are delivered to the absentee and special voters precinct board, notwithstanding sections 53.26 and 53.27.
 - 4. The state commissioner of elections shall adopt rules for implementation of this section.

Sec. 230. Section 53.19, unnumbered paragraph 3, Code 2007, is amended to read as follows:

However, any registered voter who has received an absentee ballot and not returned it may surrender the absentee ballot to the precinct officials and vote in person at the polls. The precinct officials shall mark the uncast absentee ballot "void" and return it to the commissioner. Any registered voter who has been sent an absentee ballot by mail but for any reason has not received it or who has not brought the ballot to the polls may appear at the voter's precinct polling place on election day and shall cast a ballot in accordance with section 49.81. Any registered voter who has been notified by the commissioner pursuant to section 53.18 of the need to correct a deficiency on the affidavit or to apply for and vote a replacement absentee ballot and who has not corrected the deficiency or voted a replacement absentee ballot may appear at the voter's precinct polling place on election day and shall cast a ballot in accordance with section 49.81.

Sec. 231. Section 53.21, unnumbered paragraph 4, Code 2007, is amended to read as follows:

The voter shall enclose one copy of the above statement in the return carrier envelope with the ballot affidavit envelope and retain a copy for the voter's records.

Sec. 232. Section 53.23, subsection 3, Code 2007, is amended to read as follows:

3. a. The commissioner shall set the convening time for the board, allowing a reasonable

amount of time to complete counting all absentee ballots by ten p.m. on election day. The commissioner may direct the board to meet on the day before the election solely for the purpose of reviewing the absentee voters' affidavits appearing on the sealed ballot affidavit envelopes. If in the commissioner's judgment this procedure is necessary due to the number of absentee ballots received, the members of the board may open the sealed ballot affidavit envelopes and remove the secrecy envelope containing the ballot, but under no circumstances shall a secrecy envelope be opened before the board convenes on election day. If the ballot affidavit envelopes are opened before election day, two observers, one appointed by each of the two political parties referred to in section 49.13, subsection 2, shall witness the proceedings.

<u>b.</u> If the board finds any ballot not enclosed in a secrecy envelope <u>and the ballot is folded</u> in such a way that any of the votes cast on the ballot are visible, the two special precinct election officials, one from each of the two political parties referred to in section 49.13, subsection 2, shall place the ballot in a secrecy envelope. No one shall examine the ballot. Each of the special precinct election officials shall sign the secrecy envelope.

Sec. 233. Section 53.24, Code 2007, is amended to read as follows: 53.24 COUNTIES USING VOTING MACHINES.

In counties which provide the special precinct election board with voting machines, the absentee ballot affidavit envelopes shall be opened by the board and the ballots shall, without being unfolded, be thoroughly intermingled, after which they shall be unfolded and, under the personal supervision of precinct election officials of each of the political parties, be registered on voting machines the same as if the absent voter had been present and voted in person, except that a tally of the write-in votes may be kept in the tally list rather than on the machine. When two or more political subdivisions in the county are holding separate elections simultaneously, the commissioner may arrange the machine so that the absentee and provisional ballots for more than one election may be recorded on the same machine.

Sec. 234. Section 53.25, Code 2007, is amended to read as follows: 53.25 REJECTING BALLOT.

In case If the absentee voter's affidavit is found to be insufficient, or that if the applicant is not a duly registered voter in such precinct, or that the ballot envelope is open, or has been opened and resealed, or that if the ballot affidavit envelope contains more than one ballot of any one kind, or that said if the voter has voted in person, such vote shall not be accepted or counted. If the affidavit envelope is open, or has been opened and resealed, or if the ballot is not enclosed in the affidavit envelope, and an affidavit envelope with the same serial number and marked "Replacement ballot" is not attached as provided in section 53.18, the vote shall not be accepted or counted.

If the absentee ballot is rejected prior to the opening of the ballot affidavit envelope, the voter casting the ballot shall be notified by a precinct election official by the time the canvass is completed of the reason for the rejection on a form prescribed by the state commissioner of elections.

Sec. 235. Section 53.27, Code 2007, is amended to read as follows: 53.27 REJECTION OF BALLOT — RETURN OF ENVELOPE.

If the ballot is rejected, said ballot the affidavit envelope, with the affidavit of the voter endorsed thereon, shall be returned with said the rejected ballot in the envelope endorsed "Defective ballots".

Sec. 236. Section 53.32, Code 2007, is amended to read as follows: 53.32 BALLOT OF DECEASED VOTER.

When it shall be made to appear by due proof to the precinct election officials that any elector, who has so marked and forwarded a ballot, has died before the ballot affidavit envelope is opened, then the ballot of such deceased voter shall be endorsed, "Rejected because voter is dead", and be returned to the commissioner; but the casting of the ballot of a deceased voter shall not invalidate the election.

Sec. 237. Section 53.38, Code 2007, is amended to read as follows: 53.38 WHAT CONSTITUTES REGISTRATION.

Whenever a ballot is requested pursuant to section 53.39 or 53.45 on behalf of a voter in the armed forces of the United States, the affidavit upon the ballot affidavit envelope of such voter, if the voter is found to be an eligible elector of the county to which the ballot is submitted, shall constitute a sufficient registration under chapter 48A. A completed federal postcard registration and federal absentee ballot request form submitted by such eligible elector shall also constitute a sufficient registration under chapter 48A. The commissioner shall place the voter's name on the registration record as a registered voter if it does not already appear there.

Sec. 238. Section 53.40, unnumbered paragraph 5, Code 2007, is amended to read as follows:

If the affidavit on the ballot affidavit envelope shows that the affiant is not a qualified voter on the day of the election at which the ballot is offered for voting, the envelope shall not be opened, but the envelope and ballot contained in the envelope shall be preserved and returned by the precinct election officials to the commissioner, who shall preserve them for the period of time and under the conditions provided for in sections 50.12 through 50.15 and section 50.19.

Sec. 239. Section 53.44, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The affidavit on the <u>affidavit</u> envelope used in connection with voting by absentee ballot under this division by members of the armed forces of the United States need not be notarized or witnessed, but the affidavit on <u>the ballot such</u> envelope shall be completed and signed by the voter.

DIVISION X CORRECTIVE PROVISIONS

- Sec. 240. Section 8.65, subsection 1, paragraph a, subparagraph (6), if enacted by 2007 Iowa Acts, Senate File 155,⁴⁴ is amended to read as follows:
- (6) One member representing the councils of governments appointed by the president of the Iowa association of <u>regional</u> councils <u>of government</u>.
- Sec. 241. Section 35A.15, subsection 2, if enacted by 2007 Iowa Acts, Senate File 407, 45 section 1, is amended to read as follows:
- 2. The home ownership assistance program is established to continue the program implemented pursuant to 2003 Iowa Acts, chapter 179, section 21, subsection 5, as amended by 2005 Iowa Acts, chapter 161, section 1, and as amended by 2005 Iowa Acts, chapter 115, section 37, and continued in accordance with 2006 Iowa Acts, chapter 1167, sections 3 and 4, and other appropriations.
- Sec. 242. Section 48A.7A, subsection 4, paragraph b, as enacted by 2007 Iowa Acts, House File 653, 46 section 2, is amended to read as follows:
- b. The form of the written oath required of a person attesting to the identity and residency of the registrant shall read as follows:
- I, (name of registered voter), do solemnly swear or affirm all of the following:

I am a preregistered voter in this precinct or I registered to vote in this precinct today, and a registered voter did not sign an oath on my behalf.

I am a resident of the precinct, ward or township, city of, county of, Iowa.

⁴⁴ Chapter 117, §2 herein

⁴⁵ Chapter 87 herein

⁴⁶ Chapter 35 herein

I reside at	(street address) in
(street ad	ldress)
<u>(city (</u>	or township)
(city or township)	
I personally know	(name of registrant),
(name or	registrant)
and I personally know that	<u>(name of</u>
(n	ame of registrant)
<u>registrant)</u> is a resident of the	precinct,
ward or townsh	ip, city of of county of
, Iowa.	
I understand that any false s	tatement in this oath is a
class "D" felony punishable by	no more than five years in
confinement and a fine of at le	east seven hundred fifty dollars
but not more than seven thous	and five hundred dollars.
	Signature of Registered Voter
Subscribed and sworn befor	e me on (date).
Cignoture of Draginat Floation	Official
Signature of Precinct Election	Ullicial

- Sec. 243. Section 53.37, subsection 5, Code 2007, as amended by 2007 Iowa Acts, House File 848,⁴⁷ section 31, to be subsection 3, paragraph e, is amended to read as follows:
- e. Citizens of the United States who do not fall under any of the categories described in subsections 1 to 4 paragraphs "a" through "d", but who are entitled to register and vote pursuant to section 48A.5, subsection 4.
- Sec. 244. Section 68A.406, subsection 2, unnumbered paragraph 2, Code 2007, as amended by 2007 Iowa Acts, Senate File 39,48 section 7, is amended to read as follows:

Subparagraphs Paragraphs "d", "e", and "f" shall not apply to the posting of signs on private property not a polling place, except that the placement of a sign on a motor vehicle, trailer, or semitrailer, or any attachment to a motor vehicle, trailer, or semitrailer parked on public property within three hundred feet of a polling place, which sign is more than ninety square inches in size, is prohibited.

- Sec. 245. Section 96.5, subsection 5, paragraph c, Code 2007, as amended by 2007 Iowa Acts, Senate File 272,49 section 27, to be subsection 5, paragraph a, subparagraph (3), is amended to read as follows:
- (3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, if an individual's benefits are reduced due to the receipt of a payment under this paragraph subparagraph, the reduction shall be decreased by the same percentage as the percentage contribution of the individual to the plan under which the payment is made.
- Sec. 246. Section 147.74, subsection 22, Code 2007, as amended by 2007 Iowa Acts, Senate File 74.50 section 61, is amended to read as follows:
- 22. A sign language interpreter <u>or transliterator</u> licensed under chapter 154E and this chapter may use the title "licensed sign language interpreter" or the letters "L. I." after the person's name.

⁴⁷ Chapter 59 herein

⁴⁸ Chapter 14 herein

⁴⁹ Chapter 22 herein

⁵⁰ Chapter 10 herein

Sec. 247. Section 147.98, Code 2007, as amended by 2007 Iowa Acts, Senate File 74,⁵¹ section 71, is amended to read as follows:

147.98 EXECUTIVE DIRECTOR OF THE BOARD OF PHARMACY.

The board of pharmacy may employ a full-time executive director, who shall not be a member of the examining board, at such compensation as may be fixed pursuant to chapter 8A, subchapter IV, but the provisions of section 147.22 providing for a secretary for each examining board shall not apply to the board of pharmacy.

Sec. 248. Section 148.10, unnumbered paragraph 1, Code 2007, as amended by 2007 Iowa Acts, Senate File 74,⁵² section 95, is amended to read as follows:

The board may, in their its discretion, issue a temporary certificate authorizing the licensee to practice medicine and surgery or osteopathic medicine and surgery in a specific location or locations and for a specified period of time if, in the opinion of the board, a need exists and the person possesses the qualifications prescribed by the board for the license, which shall be substantially equivalent to those required for licensure under this chapter or chapter 150A, as the case may be. The board shall determine in each instance those eligible for this license, whether or not examinations shall be given, and the type of examinations. No requirements of the law pertaining to regular permanent licensure are mandatory for this temporary license except as specifically designated by the board. The granting of a temporary license does not in any way indicate that the person so licensed is necessarily eligible for regular licensure or that the board in any way is obligated to so license the person.

- Sec. 249. Section 150A.3, subsection 1, paragraph c, Code 2007, as that section is amended by 2007 Iowa Acts, Senate File 74,⁵³ section 115, is amended to read as follows:
- c. Present to the Iowa department of public health satisfactory evidence that the applicant has completed one year of internship or resident training in a hospital approved for such training by the medical examiners board.

Sec. 250. Section 151.12, unnumbered paragraph 1, Code 2007, as amended by 2007 Iowa Acts, Senate File 74,⁵⁴ section 125, is amended to read as follows:

The board may, in its discretion, issue a temporary certificate authorizing the licensee to practice chiropractic if, in the opinion of the chiropractic examiners board, a need exists and the person possesses the qualifications prescribed by the board for the license, which shall be substantially equivalent to those required for licensure under this chapter. The board shall determine in each instance those eligible for this license, whether or not examinations shall be given, 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 board. The granting of a temporary license does not in any way indicate that the person so licensed is eligible for regular licensure or that the board is obligated to so license the person.

- Sec. 251. Section 154.1, unnumbered paragraph 3, Code 2007, as amended by 2007 Iowa Acts, Senate File 74,55 section 142, to be subsection 4, is amended to read as follows:
- 4. Therapeutically certified optometrists may employ all diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of conditions of the human eye and adnexa pursuant to this paragraph subsection, excluding the use of injections other than to counteract an anaphylactic reaction, and notwithstanding section 147.107, may without charge supply any of the above pharmaceuticals to commence a course of therapy. Therapeutically certified optometrists may prescribe oral steroids for a period not to exceed fourteen days without consultation with a primary care physician. Therapeutically certified optometrists shall not prescribe oral Imuran or oral Methotrexate. Therapeutically certified optometrists may be authorized, where reasonable and appropriate, by rule of the board, to employ

⁵¹ Chapter 10 herein

⁵² Chapter 10 herein

⁵³ Chapter 10 herein

⁵⁴ Chapter 10 herein

⁵⁵ Chapter 10 herein

new diagnostic and therapeutic pharmaceutical agents approved by the United States food and drug administration on or after July 1, 2002, for the diagnosis and treatment of the human eye and adnexa. The board shall not be required to adopt rules relating to topical pharmaceutical agents, oral antimicrobial agents, oral antihistamines, oral antiglaucoma agents, and oral analgesic agents. Superficial foreign bodies may be removed from the human eye and adnexa. The therapeutic efforts of a therapeutically certified optometrist are intended for the purpose of examination, diagnosis, and treatment of visual defects, abnormal conditions, and diseases of the human eye and adnexa, for proper optometric practice or referral for consultation or treatment to persons licensed under chapter 148 or 150A. A therapeutically certified optometrist is an optometrist who is licensed to practice optometry in this state and who is certified by the board to use the agents and procedures authorized pursuant to this paragraph subsection. A therapeutically certified optometrist shall be provided with a distinctive certificate by the board which shall be displayed for viewing by the patients of the optometrist.

Sec. 252. Section 154.3, subsection 5, Code 2007, as amended by 2007 Iowa Acts, Senate File 74,⁵⁶ section 143, is amended to read as follows:

5. A person applying to be licensed as an optometrist after January 1, 1986, shall also apply to be a therapeutically certified optometrist and shall, in addition to satisfactorily completing all requirements for a license to practice optometry, satisfactorily complete a course as defined by rule of the board with particular emphasis on the examination, diagnosis, and treatment of conditions of the human eye and adnexa provided by an institution accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation of the United States office of education, and approved by the board. The rules of the board shall require a course including a minimum of forty hours of didactic education and sixty hours of approved supervised clinical training in the examination, diagnosis, and treatment of conditions of the human eye and adnexa. The board may also, by rule, provide a procedure by which an applicant who has received didactic education meeting the requirements of rules adopted pursuant to this subsection at an approved school of optometry may apply to the board for a waiver of the didactic education requirements of this subsection.

Sec. 253. Section 284.8, subsection 4, if enacted by 2007 Iowa Acts, Senate File 277,⁵⁷ section 32, is amended to read as follows:

4. A teacher who is not meeting the applicable standards and criteria based on a determination made pursuant to subsection $3 \ \underline{2}$ shall participate in an intensive assistance program.

Sec. 254. Section 499.47, subsection 3, Code 2007, as amended by 2007 Iowa Acts, Senate File 319,⁵⁸ section 5, is amended to read as follows:

3. Upon the expiration or voluntary dissolution of an association, the members shall designate three of their number as trustees to replace the officers and directors and wind up its affairs. The trustees shall have all the powers of the board, including the power to sell and convey real or personal property and execute conveyances. Within the time fixed in their designation, or any extension of that time, the trustees shall liquidate the association's assets, pay its debts and expenses, and distribute remaining funds among the members. Upon distribution of remaining assets the association shall stand dissolved and cease to exist. The trustees shall make and sign a duplicate report of the dissolution. One copy of the The report shall be filed with the secretary of state.

Sec. 255. Section 513B.2, subsection 6, paragraph a, subparagraph (4), unnumbered paragraph 1, as enacted by 2007 Iowa Acts, House File 790,⁵⁹ section 4, is amended to read as follows:

The coverages are provided by a policy of group health insurance coverage through two or

⁵⁶ Chapter 10 herein

⁵⁷ Chapter 108 herein

⁵⁸ Chapter 23 herein

⁵⁹ Chapter 57 herein

more bona fide associations as provided in section 509.1, subsection 7A, which a small employer carrier has aggregated as a distinct grouping that meets the requirements for a class of business under section 513B.4. After a distinct grouping of bona fide associations is established as a class of business, the small group employer carrier shall not remove a bona fide association from the class based on the claims experience of that association. A small employer carrier may condition coverages under such a policy of group health insurance coverage on any of the following requirements:

Sec. 256. Section 515.82, Code 2007, as amended by 2007 Iowa Acts, Senate File 518,60 section 61, is amended to read as follows:

515.82 SHORT RATES.

The commissioner of insurance shall prepare and promulgate tables of the short rates provided for in sections 514.125 515.125 and 515.126, for the various kinds and classes of insurance governed by the provisions of this chapter, which, when promulgated, shall be for the guidance of all companies covered in this chapter and shall be the rate to be given in any notice therein required. No company shall discriminate unfairly between like assureds in the rate or rates so provided.

Sec. 257. Section 715.6, Code 2007, as amended by 2007 Iowa Acts, Senate File 333,⁶¹ if enacted, is amended to read as follows:

715.6 EXCEPTIONS.

Sections 715.4 and 715.5 shall not apply to the monitoring of, or interaction with, an owner's or an operator's internet or other network connection, service, or computer, by a telecommunications carrier, cable operator, computer hardware or software provider, or provider of information service or interactive computer service for network or computer security purposes, diagnostics, technical support, maintenance, repair, authorized updates of computer software or system firmware, authorized remote system management, or detection, criminal investigation, or prevention of the use of or fraudulent or other illegal activities prohibited in this chapter in connection with a network, service, or computer software, including scanning for and removing computer software prescribed under this chapter. Nothing in this chapter shall limit the rights of providers of wire and electronic communications under 18 U.S.C. § 2511.

Sec. 258. 2006 Iowa Acts, chapter 1106, section 1, subsection 5, paragraph c, as amended by 2007 Iowa Acts, Senate File 272,62 section 112, is amended to read as follows:

c. Grants for veterans injured after September 11, 2001, but prior to the effective date of this section 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 section of this Act.

Sec. 259. 2007 Iowa Acts, House File 579,63 section 3, the bill section amending clause, is amended to read as follows:

SEC. 3. Section 805.6, subsection 1, <u>paragraph a.</u> unnumbered paragraph 3, Code 2007, is amended to read as follows:

Sec. 260. 2007 Iowa Acts, Senate File 74,64 section 43, is repealed.

Sec. 261. 2007 Iowa Acts, Senate File 403,65 section 29, if enacted, is amended to read as follows:

SEC. 29. EFFECTIVE DATE. The sections of this division of this Act enacting section 268.6 and amending section 534B.54 543B.54 take effect July 1, 2007.

⁶⁰ Chapter 152 herein

⁶¹ Chapter 126, §108 herein

⁶² Chapter 22 herein

⁶³ Chapter 33 herein

⁶⁴ Chapter 10 herein

⁶⁵ Chapter 206 herein

Sec. 262. 2007 Iowa Acts, Senate File 535,66 section 44, subsection 1, unnumbered paragraph 1, is amended to read as follows:

If 2007 Iowa Acts, House File 716⁶⁷ is enacted, notwithstanding section 4.1 4.8, all of the following apply:

Approved May 29, 2007, with exceptions noted.

CHESTER J. CULVER, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 601, an Act relating to state and local finances by providing for funding of property tax credits and reimbursements, by making, increasing and reducing appropriations, providing for salaries and compensation of state employees, providing for tax credits, providing for fees and penalties, and providing for properly related matters, and including effective date provisions. Senate File 601 is approved this date, with the exceptions noted below, which I hereby disapprove.

I am unable to approve the item designated as Section 28 in its entirety. I am unable to approve this item because it requires the Supreme Court to submit a detailed listing of requested increases in salaries of all judges and magistrates annually before December 1. This designated language runs counter to budget guidelines which ask that departments or agencies not include salary increases in their budget requests. Furthermore, this provision could impact the collective-bargaining process by requiring the Supreme Court to submit salary changes prior to the completion of collective bargaining.

I am unable to approve the item designated as Section 42 in its entirety. This provision appropriates \$150,000 from the General Fund for a Fiscal Year 2007 supplemental appropriation to the Department of Natural Resources for a feasibility study on the use of plasma arc technology for the disposal of solid waste. I recommend that an application for funds for such a study be made through the Iowa Power Fund because it is important to determine the feasibility of plasma arc technology. The Iowa Power Fund Board needs to provide the proper due diligence to review this and other technologies to fulfill its mission to expand sources of alternative energy.

I am unable to approve the item designated as Section 43 in its entirety. This provision requires the director of a department or state agency who is subject to a requirement to develop a telecommuter employment policy to also develop such a policy and plans in conjunction with representatives of the collective bargaining units of the affected employees. Departmental telecommuting policies and procedures have been in place for several years and are well established. I will direct the Department of Administrative Services and the Department of Management to review the current state government telecommuting policy and make recommendations for any improvements as part of our overall executive branch strategic planning process.

I am unable to approve the item designated as Section 48 in its entirety. This provision increases the Department of Transportation's operations budget by \$16,800. This additional funding is no longer needed by the Department of Transportation.

I am unable to approve the item designated as Section 49 in its entirety. This provision increases the appropriation for the Department of Transportation's operations budget by \$103,200. This additional funding is no longer needed by the Department of Transportation.

⁶⁶ Chapter 41 herein

⁶⁷ Chapter 30 herein

I am unable to approve the item designated as Section 56 in its entirety. This provision creates a standing appropriation for the World Food Prize of \$1,000,000 annually. While I strongly support the World Food Prize, I do not believe this appropriation should be a standing appropriation not subject to annual review. This appropriation should be reviewed annually during the budgetary process. Further, I would encourage greater private sector contributions for this program.

I am unable to approve the item designated as Section 57 in its entirety. This provision statutorily creates the World Food Prize Youth Institute. While I strongly support this program, it is already in existence and does not need to receive statutory commitment.

I am unable to approve the item designated as Section 59 in its entirety. This designated provision expands the Community Attraction and Tourism Program from Fiscal Year 2011 through Fiscal Year 2013 and raises the maximum multi-year commitment to an applicant from \$4 million to \$6 million. Despite this designated language, the Community Attraction and Tourism Program is still authorized for another three years with a total remaining appropriation of \$36 million. I strongly support attracting tourism to our state and want to work with community and business leaders and the Legislature to develop improvements to this program or create a new program before the current program expires in Fiscal Year 2010. I am unable to support a new commitment for additional out-year spending until I have been able to evaluate this program more fully. Furthermore, I do not believe the maximum multi-year commitment to an applicant should be increased because it would reduce the number of projects and communities that can participate in this program.

I am unable to approve the item designated as Section 80 in its entirety. This provision specifies that the reimbursement rate for use of personal vehicles while on state business must fall within a range of not less than 90.0% or more than 110.0% of the maximum allowable under the federal Internal Revenue Service rules. I believe the authority to determine this rate should remain with the Director of the Department of Administrative Services, and this language would establish a large unfunded mandate on state agencies. I also do not want to set the precedent of making a statutory tie to federal rates and remove this matter from the discretion of the Department of Administrative Services. I recognize the impact that rising fuel costs have on state government employees, and I will direct the Director of the Department of Administrative Services to develop more effective policies to encourage state government employees to use fuel-efficient state vehicles more frequently.

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 Senate File 601 are hereby approved this date.

Sincerely, CHESTER J. CULVER, Governor

CHAPTER 216

APPROPRIATIONS — TRANSPORTATION

H.F. 752

AN ACT relating to and making transportation and other infrastructure-related appropriations to the department of transportation, including allocation and use of moneys from the road use tax fund and the primary road fund, and related matters.

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 department of transportation for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:\$ Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2008, 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: 6,237,000 b. Planning: 470,000 c. Motor vehicles: 33,347,113 \$ 3. For payments to the department of administrative services for utility services:\$ $145,000^{1}$ 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 department of transportation:\$ 108,000 6. For payment to the general fund of the state for indirect cost recoveries: 102,000 7. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B: 60.988 8. For automation, telecommunications, and related costs associated with the county issuance of driver's licenses and vehicle registrations and titles: 1,832,000 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 scale maintenance projects at various locations:\$ 100,000 Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year that begins

July 1, 2010.

¹ See chapter 215, §50 herein

13. For development of an international registration plan and international istration system:	
Notwithstanding section 8.33, moneys appropriated in this subsection that cumbered or unobligated at the close of the fiscal year shall not revert but sha able for expenditure for the purposes designated until the close of the fiscal y July 1, 2009.	ll remain avail-
Sec. 2. PRIMARY ROAD FUND. There is appropriated from the primary r department of transportation for the fiscal year beginning July 1, 2007, and e 2008, the following amounts, or so much thereof as is necessary, to be used for designated: 1. For salaries, support, maintenance, and miscellaneous purposes and for the following full-time equivalent positions: a. Operations:	ending June 30, or the purposes
a. Operations.	29 211 652
FTEs	38,311,652 305.00
b. Planning:	303.00
\$	8,920,908
FTEs c. Highways:	132.00
\$	209,436,880
d. Motor vehicles:	2,454.00
\$	1,384,000
FTEs	483.00
2. For payments to the department of administrative services for utility ser	
3. Unemployment compensation:	$888,000^{2}$ $328,000$
4. For payments to the department of administrative services for paying we sation claims under chapter 85 on behalf of the employees of the department of	rkers' compen-
\$	2,592,000
5. For disposal of hazardous wastes from field locations and the central co	
6. For payment to the general fund for indirect cost recoveries:	800,000
\$	748,000
7. For reimbursement to the auditor of state for audit expenses as provided in	
\$ For costs against devite and design transportation mana.	376,212
8. For costs associated with producing transportation maps:\$	242,000
9. For inventory and equipment replacement:	
10. For utility improvements at various locations:	2,250,000
11. For garage roofing projects at various locations:	400,000
12. For heating, cooling, and exhaust system improvements at various loca	
12. For deferred maintaneness projects at field facilities throughout the state	100,000
13. For deferred maintenance projects at field facilities throughout the stat	
14. For construction of a new Clarinda garage:	351,500
\$	2,300,000

² See chapter 215, §51 herein

15. For federal Americans With Disabilities Act improvements at varie	ous location	ons:
-	\$	200,000
16. For elevator upgrades at the Ames complex:		
	\$	100,000
Notwithstanding section 8.33, moneys appropriated in subsections 10	through	16 that re-
main unencumbered or unobligated at the close of the fiscal year shall no	ot revert b	ut shall re-
main available for expenditure for the purposes designated until the close	of the fisca	al year that
begins July 1, 2010.		

*Sec. 3. STATE EMPLOYEE TELECOMMUTING — POLICY DEVELOPMENT — IMPLEMENTATION.

- 1. The director of a department or state agency to which appropriations are made pursuant to the provisions of this Act shall assess the extent to which job classifications or individual employment positions with the department or agency might be effectively performed from an employee's residence or other remote location through telecommuting, thereby increasing office space within the department or agency and reducing administrative costs. The assessment shall include an estimate of the number of department or agency employees whose job responsibilities could be effectively performed on a telecommuting basis, projected costs of establishing and maintaining work stations at an employee's residence or other remote location and providing telecommuter support, anticipated savings to the department or agency through a reduction in the office-based workforce, and anticipated time and cost savings to telecommuting employees. A report summarizing the assessment shall be submitted to the director of the department of administrative services, and the members of the general assembly, by November 1, 2007.
- 2. Based on the assessment conducted pursuant to subsection 1, the director shall develop a telecommuter employment policy for the department or agency and a timeline for initial policy implementation and plans for expanding the number of telecommuting employees. Specific office-based workforce reduction percentages shall be left to the discretion of the director, but the director shall implement a policy transferring some number of office-based employees to telecommuter status by January 1, 2008. The director shall report to the director of the department of administrative services and the members of the general assembly on an annual basis beginning January 1, 2009, the number of telecommuting employees, cost savings achieved by the department or agency, and plans for continued transfer of office-based employees to telecommuter status.*

Approved May 29, 2007, with exception noted.

CHESTER J. CULVER, Governor

Dear Mr. Secretary:

I hereby transmit House File 752, an Act making transportation and other infrastructurerelated appropriations to the Department of Transportation. House File 752 is approved on this date, with the exception noted below, which I hereby disapprove.

I am unable to approve the item designated as Section 3 in its entirety. This provision requires the director of a department or state agency included in House File 752 to examine employee telecommuting options, develop a telecommuter employment policy, and implement a plan designed to increase the number of telecommuting employees. Many departments currently maintain employee telecommuting policies. These policies and procedures have been in place for several years and are well established. The designated language in Section 3 directing a

^{*} Item veto; see message at end of the Act

department or state agency to conduct an assessment of its telecommuting policy is duplicative and unnecessary and introduces a legislatively mandated management process into what is appropriately an executive branch decision. I will direct the Department of Administrative Services and the Department of Management to review the current state government telecommuting policy and make recommendations for any improvements as part of our overall executive branch strategic planning process.

For the reasons above, 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 752 are hereby approved this date.

Sincerely, CHESTER J. CULVER, Governor

CHAPTER 217

APPROPRIATIONS — ADMINISTRATION AND REGULATION H.F. 874

AN ACT relating to and making appropriations to certain state departments, agencies, funds, and certain other entities and providing an effective date.

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

Section 1. DEPARTMENT OF ADMINISTRATIVE SERVICES.

- 1. There is appropriated from the general fund of the state to the department of administrative services 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:
- a. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

\$ \$	6,296,623
FTEs	419.85
b. For the payment of utility costs:	
\$	3,822,105

Notwithstanding section 8.33, any excess funds appropriated for utility costs in this lettered paragraph 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 lettered paragraph during the succeeding fiscal year.

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 10 percent to save money, conserve energy resources, and reduce pollution.

c. For distribution to other governmental entities:
......\$ 2,000,000

Moneys appropriated in this lettered paragraph shall be separately accounted for in a distribution account and shall be distributed to other governmental entities based upon a formula established by the department to pay for services provided during the fiscal year to such other governmental entities by the department associated with the integrated information for Iowa system.\(^1\)

¹ See chapter 219, §8 herein

- 2. 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.
- 3. Any funds and premiums collected by the department for workers' compensation shall be segregated into a separate workers' compensation fund in the state treasury to be used for payment of state employees' workers' compensation claims and administrative costs. Notwithstanding section 8.33, unencumbered or unobligated moneys remaining in this workers' compensation fund at the end of the fiscal year shall not revert but shall be available for expenditure for purposes of the fund for subsequent fiscal years.
- Sec. 2. REVOLVING FUNDS. There is appropriated to the department of administrative services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, from the revolving funds designated in chapter 8A and from internal service funds created by the department, such amounts as the department deems necessary for the operation of the department consistent with the requirements of chapter 8A.

Sec. 3. FUNDING FOR IOWACCESS.

- 1. Notwithstanding section 321A.3, subsection 1, for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the first \$1,000,000 collected and transferred by the department of transportation to the treasurer of state with respect to the fees for transactions involving the furnishing of a certified abstract of a vehicle operating record under section 321A.3, subsection 1, shall be transferred to the IowAccess revolving fund established by section 8A.224 and administered by the department of administrative services for the purposes of developing, implementing, maintaining, and expanding electronic access to government records as provided by law.
- 2. All fees collected with respect to transactions involving IowAccess shall be deposited in the IowAccess revolving fund and shall be used only for the support of IowAccess projects.
- Sec. 4. STATE EMPLOYEE HEALTH INSURANCE ADMINISTRATION CHARGE. For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the monthly per contract administrative charge which may be assessed by the department of administrative services shall be \$2.00 per contract on all health insurance plans administered by the department.
- Sec. 5. AUDITOR OF STATE. There is appropriated from the general fund of the state to the office of the auditor of state for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:

 	- 	\$	1,211,873
 		FTEs	103.00

The auditor of state may retain additional full-time equivalent positions as is reasonable and necessary to perform governmental subdivision audits which are reimbursable pursuant to section 11.20 or 11.21, to perform audits which are requested by and reimbursable from the federal government, and to perform work requested by and reimbursable from departments or agencies pursuant to section 11.5A or 11.5B. The auditor of state shall notify the department of management, the legislative fiscal committee, and the legislative services agency of the additional full-time equivalent positions retained.

Sec. 6. IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD. There is appropriated from the general fund of the state to the Iowa ethics and campaign disclosure board for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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 the following full-time equivalent positions:	nan the
\$ 5	517,669
FTEs	6.00
Sec. 7. DEPARTMENT OF COMMERCE. There is appropriated from the general the state to the department of commerce for the fiscal year beginning July 1, 2007, and June 30, 2008, the following amounts, or so much thereof as is necessary, for the purposignated: 1. ALCOHOLIC BEVERAGES DIVISION For salaries, support, maintenance, and miscellaneous purposes, and for not more the following full-time equivalent positions:	ending ses des-
)57,289
2. BANKING DIVISION a. Banking. For salaries, support, maintenance, and miscellaneous purposes, and	32.00 for not
more than the following full-time equivalent positions:\$ 7,6	322 241
	532,241 73.00
b. Professional licensing and regulation. For salaries, support, maintenance, and meneous purposes, and for not more than the following full-time equivalent positions:	
	398,343
3. CREDIT UNION DIVISION	16.00
For salaries, support, maintenance, and miscellaneous purposes, and for not more the following full-time equivalent positions:	nan the
	557,726
4. INSURANCE DIVISION	19.00
a. For salaries, support, maintenance, and miscellaneous purposes, and for not more the following full-time equivalent positions:	
·	$355,809$ 100.50^2
b. The insurance division may reallocate authorized full-time equivalent positions as sary to respond to accreditation recommendations or requirements. The insurance despenditures for examination purposes may exceed the projected receipts, refunds, and bursements, estimated pursuant to section 505.7, subsection 7, including the expenditure retention of additional personnel, if the expenditures are fully reimbursable and the differst does both of the following:	s neces- livision d reim- ires for livision
(1) Notifies the department of management, the legislative services agency, and the live fiscal committee of the need for the expenditures.	legisla-
 (2) Files with each of the entities named in subparagraph (1) the legislative and regigustification for the expenditures, along with an estimate of the expenditures. c. The insurance division shall allocate \$10,000 from the examination receipts for the ment of its fees to the national conference of insurance legislators. 	-
 UTILITIES DIVISION For salaries, support, maintenance, and miscellaneous purposes, and for not morthe following full-time equivalent positions: 	re than
\$ 7,2	266,919 79.00
b. The utilities division may expend additional funds, including funds for additional part nel, if those additional expenditures are actual expenses which exceed the funds budge utility regulation and the expenditures are fully reimbursable. Before the division expendence an amount in excess of the funds budgeted for regulation, the division shade both of the following:	eted for ends or

² See chapter 215, §52 herein

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.

6. CHARGES — TRAVEL

Each division and the office of consumer advocate shall include in its charges assessed or revenues generated, an amount sufficient to cover the amount stated in its appropriation, and any state-assessed indirect costs determined by the department of administrative services. The director of the department of commerce shall review on a quarterly basis all out-of-state travel for the previous quarter for officers and employees of each division of the department if the travel is not already authorized by the executive council.

Sec. 8. DEPARTMENT OF COMMERCE — PROFESSIONAL LICENSING AND REGULATION BUREAU. 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, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:	
	\$ 62,317

Sec. 9. GOVERNOR AND LIEUTENANT GOVERNOR. There is appropriated from the general fund of the state to the offices of the governor and the lieutenant governor for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:

\$	2,168,269
FTEs	23.25

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:

 		. \$	466,310
 	F	TEs	10.00

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:

\$	154,755
FTEs	3.00
4. NATIONAL GOVERNORS ASSOCIATION	
For payment of Iowa's membership in the national governors association:	
\$	80,600
5 STATE FEDERAL DELATIONS	•

5. STATE-FEDERAL RELATIONS

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

 \$	123,927
 FTEs	2.00

Sec. 10. GOVERNOR'S OFFICE OF DRUG CONTROL POLICY.

- 1. There is appropriated from the general fund of the state to the governor's office of drug control policy for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purposes designated:
 - a. For salaries, support, maintenance, and miscellaneous purposes, including statewide co-

ordination of the drug abuse resistance education (D.A.R.E.) programs or similar p	rograms,
and for not more than the following full-time equivalent positions:	
\$	338,099
FTEs	8.00
b. For support of multijurisdictional drug enforcement programs:	
	1,400,000
If federal funding is received for multijurisdictional drug enforcement programs d	
fiscal year beginning July 1, 2007, and ending June 30, 2008, of the moneys approp	
this lettered paragraph an amount equal to the federal funding received less \$1,560,	
revert to the general fund of the state at the end of the fiscal year. The programs shall	
for at least a 25 percent local match.	ii provide
2. The governor's office of drug control policy, in consultation with the department	ofpublic
health, and after discussion and collaboration with all interested agencies, shall co	
substance abuse treatment and prevention efforts in order to avoid duplication of s	ervices.
Sec. 11. DEPARTMENT OF HUMAN RIGHTS. There is appropriated from the	o gonoral
fund of the state to the department of human rights for the fiscal year beginning July	
and ending June 30, 2008, the following amounts, or so much thereof as is necessary, t	o be used
for the purposes designated:	
1. CENTRAL ADMINISTRATION DIVISION	. 41 41
For salaries, support, maintenance, and miscellaneous purposes, and for not more	tnan tne
following full-time equivalent positions:	0.41.405
\$	341,425
FTEs	7.00
Of the moneys appropriated in this subsection, \$15,000 shall be used for expense	es related
to Iowa's participation in the Abraham Lincoln bicentennial commission.	
2. DEAF SERVICES DIVISION	
For salaries, support, maintenance, and miscellaneous purposes, and for not more	than the
following full-time equivalent positions:	
\$	390,315
FTEs	6.00
The fees collected by the division for provision of interpretation services by the d	
obligated agencies shall be disbursed pursuant to the provisions of section 8.32, and	d shall be
dedicated and used by the division for continued and expanded interpretation serv	
3. STATUS OF IOWANS OF ASIAN AND PACIFIC ISLANDER HERITAGE DIV	
For salaries, support, maintenance, and miscellaneous purposes, and for not more	than the
following full-time equivalent positions:	
\$	126,000
FTEs	1.00
4. PERSONS WITH DISABILITIES DIVISION	
For salaries, support, maintenance, and miscellaneous purposes, and for not more	than the
following full-time equivalent positions:	
\$	194,212
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:	
\$	179,433
FTEs	3.00
6. STATUS OF WOMEN DIVISION	
For salaries, support, maintenance, and miscellaneous purposes, including the I	owans in
transition program, and the domestic violence and sexual assault-related grants, ar	
more than the following full-time equivalent positions:	101 1101
\$	343,555
FTEs	3.00
TIES	5.00

7. STATUS OF AFRICAN-AMERICANS DIVISION
For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
\$ 354,725
Of the moneys appropriated in this subsection, the division may use a portion for projects and programs of the division, including the covenant project, cultural competency project, sensitivity training program, and the study circle project. 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:\$ 1,587,333
The criminal and juvenile justice planning advisory council and the juvenile justice advisory council shall coordinate their efforts in carrying out their respective duties relative to juvenile justice.
9. SHARED STAFF
The divisions of the department of human rights shall retain their individual administrators, but shall share staff to the greatest extent possible.
Sec. 12. DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:
2,074,767
2. ADMINISTRATIVE HEARINGS DIVISION FTES 37.25
For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
\$ 680,533
3. INVESTIGATIONS DIVISION FTES 23.00
For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
4. HEALTH FACILITIES DIVISION
For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
\$ 2,412,647
5. EMPLOYMENT APPEAL BOARD
For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
56,294
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

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:

......\$ 2,629,308FTEs 45.12

- a. The department of human services, in coordination with the child advocacy board and the department of inspections and appeals, shall submit an application for funding available pursuant to Title IV-E of the federal Social Security Act for claims for child advocacy board administrative review costs.
- b. The court appointed special advocate program shall investigate and develop opportunities for expanding fund-raising for the program.
- c. Administrative costs charged by the department of inspections and appeals for items funded under this subsection shall not exceed 4 percent of the amount appropriated in this subsection.

Sec. 13. RACING AND GAMING COMMISSION.

1. RACETRACK REGULATION

There is appropriated from the general fund of the state to the racing and gaming commission of the department of inspections and appeals for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:

 \$	2,671,410
 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, 2007, and ending June 30, 2008, 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. 14. USE TAX APPROPRIATION. There is appropriated from the use tax receipts collected pursuant to sections 423.26 and 423.27 prior to their deposit in the road use tax fund pursuant to section 423.43 to the administrative hearings division of the department of inspections and appeals for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

.....\$ 1,543,342

Sec. 15. DEPARTMENT OF MANAGEMENT. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1,2007, and ending June 30,2008, 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:

O			
	 	\$	3,031,168
	 	FTEs	37.50

Of the moneys appropriated in this subsection, the department shall use a portion for enterprise resource planning, providing for a salary model administrator, conducting performance audits, and for the department's LEAN process.

2. LOCAL GOVERNMENT INNOVATION FUND

For deposit in the local government innovation fund established in the department of management: 300,000

Sec. 16. ROAD USE TAX APPROPRIATION. There is appropriated from the road use tax fund to the department of management for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:\$ 56,000

Sec. 17. 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, 2007, and ending June 30, 2008, 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:

......\$ 25,301,646 FTEs 398.03

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, 2008, 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, 2007, and ending June 30, 2008, in excess of \$3.3 million, the director is authorized to procure such upgrade from the current vendor.

Sec. 18. 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, 2007, and ending June 30, 2008, 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:

.....\$ 1,291,841

Sec. 19. 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, 2007, and ending June 30, 2008, 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:

 	 	. \$	1,431,015
 	 F	TEs	17.00^{3}

³ See chapter 215, §76 herein

The state department or state agency which provides data processing services to support voter registration file maintenance and storage shall provide those services without charge. 2. BUSINESS SERVICES
For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
\$ 1,818,716
FTEs 26.00
Sec. 20. 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, 2007, and ending June 30, 2008, 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. 21. TREASURER. There is appropriated from the general fund of the state to the of fice of 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 salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:
\$ 962,520
The office of treasurer of state shall supply clerical and secretarial support for the executive council.
Sec. 22. ROAD USE TAX APPROPRIATION. There is appropriated from the road use tax fund to the office of treasurer of state for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as necessary, 4 to be used for the purposes designated: For enterprise resource management costs related to the distribution of road use tax funds
93,148
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, 2007, and ending June 30, 2008, the following amount, or so much thereous 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:
\$ 17,063,076
FTEs 95.13
Sec. 24. 2006 Iowa Acts, chapter 1177, section 8, subsection 6, is amended by adding the
following new paragraph:

<u>NEW PARAGRAPH.</u> c. Notwithstanding sections 8.33 and 476.10 or any other provision to the contrary, any balance of the appropriation made in this subsection for the utilities division or any other operational appropriation made for the fiscal year beginning July 1, 2006, and ending June 30, 2007, 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, or for relocation costs in succeeding fiscal years.

^{*} Item veto; see message at end of the Act

⁴ According to enrolled Act; the phrase "as is necessary" probably intended

*Sec. 25. STATE EMPLOYEE TELECOMMUTING — POLICY DEVELOPMENT — IMPLEMENTATION.

- 1. The director of a department or state agency to which appropriations are made pursuant to the provisions of this Act shall assess the extent to which job classifications or individual employment positions with the department or agency might be effectively performed from an employee's residence or other remote location through telecommuting, thereby increasing office space within the department or agency and reducing administrative costs. The assessment shall include an estimate of the number of department or agency employees whose job responsibilities could be effectively performed on a telecommuting basis, projected costs of establishing and maintaining work stations at an employee's residence or other remote location and providing telecommuter support, anticipated savings to the department or agency through a reduction in the office-based workforce, and anticipated time and cost savings to telecommuting employees. A report summarizing the assessment shall be submitted to the director of the department of administrative services, and the members of the general assembly, by November 1, 2007.
- 2. Based on the assessment conducted pursuant to subsection 1, the director shall develop a telecommuter employment policy for the department or agency and a timeline for initial policy implementation and plans for expanding the number of telecommuting employees. Specific office-based workforce reduction percentages shall be left to the discretion of the director, but the director shall implement a policy by January 1, 2008. The director shall report to the director of the department of administrative services and the members of the general assembly on an annual basis beginning January 1, 2009, the number of telecommuting employees, cost savings achieved by the department or agency, and plans for continued transfer of office-based employees to telecommuter status.*

Sec. 26. EFFECTIVE DATE. The provision of this Act amending 2006 Iowa Acts, chapter 1177, relating to the expenditure authority of the utilities board for the fiscal year beginning July 1, 2006, and ending June 30, 2007, for purposes of a building project, being deemed of immediate importance, takes effect upon enactment.

Approved May 29, 2007, with exceptions noted.

CHESTER J. CULVER, Governor

Dear Mr. Secretary:

I hereby transmit House File 874, an Act relating to and making appropriations to certain state departments, agencies, funds, and certain other entities and providing an effective date. House File 874 is approved on this date, with the exceptions noted below, which I hereby disapprove.

I am unable to approve the designated portion of Section 19, subsection 1, unnumbered paragraph 2. This paragraph exempts the Office of the Secretary of State from paying State departments and State agencies for data processing services. There have been occasions in the past where the State has assisted with the development of electronic voter registration file maintenance projects. These projects have been completed and, therefore, this language is no longer needed. If a State agency or department performs a service for the Secretary of State, it should be adequately compensated.

I am unable to approve the item designated as Section 25 in its entirety. This provision requires all the directors of a department or state agency in House File 874 to examine employee tele-

^{*} Item veto; see message at end of the Act

commuting options, develop a telecommuter employment policy and implement a plan designed to increase the number of telecommuting employees. Many departments maintain employee telecommuting policies currently. These policies and procedures have been in place for several years and are well established. The designated language in Section 25 directing a department or agency to conduct an assessment of its telecommuting policy is duplicative and unnecessary and introduces a legislatively mandated management process into what is appropriately an executive branch decision. I will direct the Department of Administrative Services and the Department of Management to review the current state government telecommuting policy and make recommendations for any improvements as part of our overall executive branch strategic planning process.

For the above reasons, I respectfully disapprove of the designated items in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 874 are hereby approved this date.

Sincerely, CHESTER J. CULVER, Governor

CHAPTER 218

APPROPRIATIONS — HEALTH AND HUMAN SERVICES H.F.~909

AN ACT relating to and making appropriations for health and human services and including other related provisions and appropriations, and including effective 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, 2007, and ending June 30, 2008, 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, and miscellaneous purposes and for not more than the following full-time equivalent positions:

-	 	\$	4,723,306
		FTFs	34 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.
- 3. 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.
- 4. Of the funds appropriated in this section, \$130,000 shall be used to fund two additional long-term care resident's advocate positions.
- 5. Of the funds appropriated in this section, \$15,000 is allocated for costs associated with the Alzheimer's disease task force established pursuant to 2007 Iowa Acts, Senate File 489,¹ if enacted.
- 6. Of the funds appropriated in this subsection, \$250,000 shall be used for implementation of the substitute decision maker Act pursuant to chapter 231E, to establish the state office and two local offices.

HEALTH

Sec. 2. DEPARTMENT OF PUBLIC HEALTH. There is appropriated from the general fund of the state to the department of public health 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. 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:

Act for purposes of addictive disorders for the fiscal year beginning July 1, 2007.

2. HEALTHY CHILDREN AND FAMILIES

- a. 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, 2007.
- b. Of the funds appropriated in this subsection, \$325,000 shall be used to continue to address the healthy mental development of children from birth through five years of age through

¹ Chapter 121 herein

local evidence-based strategies that engage both the public and private sectors in promoting healthy development, prevention, and treatment for children.

- c. Of the funds appropriated in this subsection, \$100,000 is allocated for distribution to the children's hospital of Iowa mother's milk bank.
- d. Of the funds appropriated in this subsection, \$40,000 shall be distributed to a statewide dental carrier to provide funds to continue the donated dental services program patterned after the projects developed by the national foundation of dentistry for the handicapped to provide dental services to indigent elderly and disabled individuals.

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:

Of the funds appropriated in this subsection, \$100,000 shall be used as additional funding to provide grants to individual patients who have phenylketonuria (PKU) to assist with the costs of necessary special foods.

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:

- a. 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.
- b. 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 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 department of public health, and the commission shall receive regular updates concerning the status of the initiatives.

5. ELDERLY WELLNESS

For promotion of healthy aging and optimization of the health of older adults:

.....\$ 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:

Of the funds appropriated in this subsection, \$121,000 shall be used for implementation and administration of 2007 Iowa Acts, House File 158,² as enacted, relating to blood lead testing of children.

7. INFECTIOUS DISEASES

For reducing the incidence and prevalence of communicable diseases and for not more than the following full-time equivalent positions:

- a. Of the funds appropriated in this subsection, \$100,000 shall be used to fund the position of a bureau chief for the center for acute disease epidemiology (CADE).
- b. Of the funds appropriated in this subsection, an increase of \$260,608 is provided for the purchasing of vaccines for immunizations.

² Chapter 79 herein

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:

.....\$ 2,591,333FTEs 125.90

- a. Of the funds appropriated in this subsection, \$643,500 shall be credited to the emergency medical services fund created in section 135.25. Moneys in the emergency medical services fund are appropriated to the department to be used for the purposes of the fund.
- b. Of the funds appropriated in this subsection, \$23,810 shall be used as additional funding for the office of the state medical examiner.
- c. Of the funds appropriated in this subsection, \$10,000 shall be used to administer or implement the information and referral database for health and human services 211 system.
- d. Of the funds appropriated in this subsection, \$150,000 shall be used for management of the antiviral stockpile.
- e. Of the funds appropriated in this subsection, \$100,000 shall be used for an increase in sexual violence prevention programming through a statewide organization representing programs serving victims of sexual violence through the department's sexual violence prevention program. In addition, \$162,522 and any other amount remaining in the hospital trust fund created in section 249I.4, Code 2005, on July 1, 2007, are appropriated to the department of public health to be used for the purposes of this paragraph "e". The amounts provided pursuant to this paragraph "e" shall not be used to supplant funding administered for other sexual violence prevention or victims assistance programs.

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:

Of the funds appropriated in this subsection, \$150,150 shall be used for administration of tobacco-related programs.

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. GAMBLING TREATMENT FUND — APPROPRIATION.

1. 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 department of public health 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:

To be utilized for the benefit of persons with addictions:

.....\$ 2,215,000

The amount appropriated in this subsection for addictive disorders reflects an increase of \$525,000 from the funding remaining in the gambling treatment fund from the carryforward of appropriations made for addictive disorders in previous fiscal years. Of this amount, \$50,000 shall be transferred to the department of corrections to supplement funding for the adult drug court program in the fifth judicial district, \$25,000 shall be transferred to the department of corrections to supplement funding for the adult drug court program in the second judicial district, \$150,000 shall be transferred to the department of human rights to supplement funding for the family development and self-sufficiency grant program, and \$300,000 shall be transferred to the department of human rights to be used in addition to any other funding appropriated in this Act for the energy utility assessment and resolution program established pursuant to section 216A.104, as enacted by this Act.

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.

^{*} Item veto; see message at end of the Act

2. The amount remaining in the gambling treatment fund after the appropriation made in subsection 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. 4. 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 1,2007, 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 VETERANS AFFAIRS ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes, including the war orphans educational assistance fund established pursuant to section 35.8 and for not more than the following full-time equivalent positions:

\$	863,457
FTEs	12.00

Of the amount appropriated in this subsection, \$50,000 is allocated for implementation of the veterans counseling program established pursuant to section 35.12, if enacted by 2007 Iowa Acts, House File 817.3

2. IOWA VETERANS HOME

For salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

\$	14,509,630
FTEs	909.33

3. VETERANS TRUST FUND

To be credited to the veterans trust fund created in section 35A.13:\$

*Of the amount appropriated in this subsection, \$150,000 is transferred and appropriated to

the department of cultural affairs to be used to establish a conservation lab facility in the state archives to preserve the civil war muster rolls, including two full-time equivalent positions in addition to any other positions authorized for the department.*

4. COUNTY GRANT PROGRAM FOR VETERANS

For providing matching grants to counties to provide improved services to veterans:

.....\$ 750,000

The department shall establish or continue 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 as specified by the department. The department shall submit a report to the general assembly by October 1, 2008, concerning the impact of the grant program on services to veterans.

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 the fund from which appropriated but shall be credited to the veterans trust fund.

Sec. 5. VETERANS TRUST FUND. If the balance in the veterans trust fund for the fiscal

³ Chapter 202, §1 herein

^{*} Item veto; see message at end of the Act

year beginning July 1, 2007, exceeds \$5,000,000, exclusive of any amount from interest or earnings on moneys in the trust fund or otherwise received from a source other than the general fund of the state or the rebuild Iowa infrastructure fund, the amount in excess of \$5,000,000 is appropriated to the department of veterans affairs for the fiscal year beginning July 1, 2007, and ending June 30, 2008, for transfer to the Iowa finance authority to be used as funding in addition to the specific appropriations made for that fiscal year for the home ownership assistance program.

Sec. 6. VETERANS NEEDS REPORT. The executive director of the department of veterans affairs shall prepare a report regarding the needs of veterans. The report shall include a comprehensive survey of existing benefits and services being provided to Iowa veterans at the local, state, and national levels, a comparison of Iowa veterans benefits and services programs with such programs offered in other states, the deficiencies in benefits and services identified by the department, and any recommendations for eliminating the deficiencies identified. The completed report shall be approved by the commission of veterans affairs prior to submission of the report to the general assembly no later than October 15, 2008.

HUMAN SERVICES

Sec. 7. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT. There is appropriated from the fund created in section 8.41 to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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, 2006, and ending September 30, 2007, and beginning October 1, 2007, and ending September 30, 2008, 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:

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:

.....\$ 14,993,040

Notwithstanding section 8.33, not more than 5 percent of the moneys designated in this subsection that are allocated by the department for contracted services other than family self-sufficiency grant services allocated under 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, unless such moneys are encumbered or obligated on or before September 30, 2008, the moneys shall revert.

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:

4. For field operations:	\$	2,998,675
+. 1 of ficial operations.	\$	17,707,495
5. For general administration:	ф	3.744.000
6. For local administrative costs:	Ф	3,744,000
	\$	2,189,830
7. For state child care assistance:	ф	10 000 177
a. Of the funds appropriated in this subsection, \$200,000 shall be used	*	- , ,

a. Of the funds appropriated in this subsection, \$200,000 shall be used for provision of edu-

cational 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 devel-

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:
11. For pregnancy prevention grants on the condition that family planning services are funded:
Pregnancy prevention grants shall be awarded to programs in existence on or before July 1, 2007, 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, 2007, 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:
13. For the healthy opportunities for parents to experience success (HOPES) program administered by the department of public health to target child abuse prevention:
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:
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 delinquent child support obligors as an alternative to commitment to jail as punishment for contempt of court:
Of the amounts appropriated in this section, \$12,962,008 for the fiscal year beginning July 1, 2007, 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

The department may transfer funds allocated in this section to the appropriations in this Act

to act expeditiously during the 2008 legislative session to adjust appropriations or the trans-

ferred amount or take other actions to address the reduced amount.

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. 8. FAMILY INVESTMENT PROGRAM ACCOUNT.

- 1. Moneys credited to the family investment program (FIP) account for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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.
- 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, 2007, and ending June 30, 2008, are allocated as follows:
- a. To be retained by the department of human services to be used for coordinating with the department of human rights to more effectively serve participants in the FIP program and other shared clients and to meet federal reporting requirements under the federal temporary assistance for needy family⁴ block grant:

b. To the department of human rights for staffing, administration, and implementation of the family development and self-sufficiency grant program as provided under section 217.12:

5,563,042

- (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 of human rights may continue to implement the family development and self-sufficiency grant program statewide during FY 2007-2008.
- (3) The department of human rights is responsible for complying with all federal temporary assistance for needy family⁵ block grant requirements with respect to the funds allocated in this lettered paragraph and for any federal penalty that may result from a failure to meet the requirements. These responsibilities include but are not limited to ensuring that all expenditures of federal block grant and state maintenance of effort funds are appropriate and allowable in accordance with federal requirements and meet federal work participation requirements with respect to the population receiving benefits or services under the family development and self-sufficiency grant program that are subject to work requirements.
- (4) With the allocation of funding for the family development and self-sufficiency grant program directly to the department of human rights in lieu of allocation through the department of human services, the department of human rights shall assume all responsibility for the grant program. The responsibility includes identifying and addressing implementation of any revisions in state law or administrative rule needed to effect this change, including but not limited to identifying any amendments needed to section 217.12.
- (5) The department of human rights, consistent with the Accountable Government Act in chapter 8E, shall adopt appropriate performance measures for the grant program, including but not limited to measures demonstrating how the program helps families achieve self-sufficiency. The department of human rights shall submit to the governor and general assembly on or before October 31, 2008, a report detailing these measures and the outcomes achieved for fiscal year 2007-2008.
- (6) The department of human rights shall develop a memorandum of agreement with the department of human services to coordinate referrals and delivery of services to participants in the FIP program and other shared clients and shall provide the department of human services with information necessary for compliance with federal temporary assistance for needy

⁴ According to enrolled Act; the word "families" probably intended

⁵ According to enrolled Act; the word "families" probably intended

families block grant state plan and reporting requirements, including but not limited to financial and data reports.

- (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 2007-2008. 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, 2008.
- d. For developing and implementing a new program to provide transitional benefits to families with members who are employed at the time the family leaves the family investment program in accordance with section 239B.11A, as enacted by this Act:

The department may adopt emergency rules to implement the new program.
e. For the food stamp employment and training program:

5 68,059
f. For the JOBS program:
5 23,968,628

- 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, a portion may be used to increase recoveries, and a portion may be used to sustain cash flow in the child support payments account. If as a result, the appropriations allocated in this section are insufficient to sustain cash assistance payments and meet federal maintenance of effort requirements, the department shall seek supplemental funding. If child support collections assigned under FIP are greater than estimated or are otherwise determined not to be required for maintenance of effort, the state share of either amount may be transferred to or retained in the child support payment 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.
- 7. If the department determines that the appropriations allocated in this section are insufficient to sustain cash assistance payments and to meet federal maintenance of effort requirements, the department shall seek supplemental funding.
- Sec. 9. FAMILY INVESTMENT PROGRAM GENERAL FUND. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purpose designated and for not more than the following full-time equivalent positions:

To be credited to the family investment program (FIP) account and used for family investment program assistance under chapter 239B:

.....\$ 42,658,263FTEs 16.50

- 1. Of the funds appropriated in this section, \$8,975,588 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. The department of human rights shall ensure that the expenditures of moneys allo-

cated from the general fund of the state pursuant to this subsection are eligible to be considered as state maintenance of effort expenditures under federal temporary assistance for needy families block grant requirements.

- 3. a. Of the funds appropriated in this section, \$250,000 shall be used to continue 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.
- b. The general assembly supports efforts by the organization receiving funding under this subsection to create a statewide earned income tax credit and asset-building coalition to achieve both of the following purposes:
- (1) Expanding the usage of the tax credit through new and enhanced outreach and marketing strategies as well as identifying new local sites and human and financial resources.
- (2) Assessing and recommending various strategies for Iowans to develop assets through savings, individual development accounts, financial literacy, anti-predatory lending initiatives, informed home ownership, use of various forms of support for work, and microenterprise business development targeted to persons who are self-employed or have fewer than five employees.
- 4. Notwithstanding section 8.39, for the fiscal year beginning July 1, 2007, 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.

- 5. The department of human services shall identify options and resources needed to support responsible fatherhood. The department shall report on or before December 15, 2007, concerning the options considered, potential funding opportunities, and any options subsequently initiated to the persons designated in this Act to receive reports.
- Sec. 10. CHILD SUPPORT RECOVERY. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

Fo	r child support	recovery,	including	salaries,	support,	maintenance,	and	miscel	laneous
purp	oses and for no	t more tha	in the follo	wing full	-time equ	ivalent positio	ns:		
							4	_	

1. The department shall expend up to \$31,000, including federal financial participation, for the fiscal year beginning July 1, 2007, for a child support public awareness campaign. The de-

partment 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 sites and mediation services.
- 3. Beginning October 1, 2007, and notwithstanding chapter 252C, 252F, or 252H, or any other applicable chapter, either parent may be ordered to provide medical support in accordance with the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171.
- 4. The appropriation made to the department for child support recovery may be used throughout the fiscal year in the manner necessary for purposes of cash flow management, and for cash flow management, the department may temporarily draw more than the amount appropriated, provided the amount appropriated is not exceeded at the close of the fiscal year.
- Sec. 11. MEDICAL ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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, 2007, 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:

-\$ 616,771,820
- 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 in this Act to the department of public health for addictive disorders, \$950,000 for the fiscal year beginning July 1, 2007, shall be transferred to the department of human services for an integrated substance abuse managed care system. The department shall not assume management of the substance abuse system in place of the managed care contractor unless such a change in approach is specifically authorized in law.
- 4. 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 provisions.

- 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.
- 5. 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 operational costs associated with Part D of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. No. 108-173.
- 6. In addition to any other funds appropriated in this Act, of the funds appropriated in this section, \$250,000 shall be used for continuation of the grant to the Iowa healthcare collaborative as defined in section 135.40.
- 7. 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.
- 8. Of the funds appropriated in this section, up to \$500,000 shall be used to enhance outreach efforts. The department may transfer funds allocated in this subsection to the appropriations in this division of this Act for general administration, the state children's health insurance program, or medical contracts, as necessary, to implement the outreach efforts.
- 9. Of the funds appropriated in this section, up to \$442,100 may be transferred to the appropriation in this Act for medical contracts to be used for clinical assessment services related to remedial services in accordance with federal law.
- 10. Of the funds appropriated in this section, \$1,540,000 may be used for the demonstration to maintain independence and employment (DMIE) if the waiver for DMIE is approved by the centers for Medicare and Medicaid services of the United States department of health and human services. Additionally, if the waiver is approved, \$440,000 of the funds shall be transferred to the department of corrections for the DMIE activities.
- 11. The drug utilization review commission shall monitor the smoking cessation benefit provided under the medical assistance program and shall provide a report of utilization, client success, cost-effectiveness, and recommendations for any changes in the benefit to the persons designated in this Act to receive reports by January 15, 2008. If a prescriber determines that all smoking cessation aids on the preferred drug list are not effective or medically appropriate for a patient, the prescriber may apply for an exception to policy for another product approved by the United States food and drug administration for smoking cessation pursuant to 441 IAC 1.8(1).
- 12. The department shall review the maximum payment allowed under each home and community-based services waiver and shall report by December 15, 2007, to the persons designated in this Act to receive reports, recommendations to adjust the maximum payment levels to provide equity among the populations served.
- 13. A portion of the funds appropriated in this section may be transferred to the appropriations in this division of this Act for general administration, medical contracts, the state children's health insurance program, or field operations to be used for the state match cost to comply with the payment error rate measurement (PERM) program for both the medical assistance and state children's health insurance programs as developed by the centers for Medicare and Medicaid services of the United States department of health and human services to comply with the federal Improper Payments Information Act of 2002, Pub. L. No. 107-300.
- 14. It is the intent of the general assembly that the department implement the recommendations of the assuring better child health and development initiative II (ABCDII) clinical panel to the Iowa early and periodic screening, diagnostic, and treatment services healthy mental development collaborative board regarding changes to billing procedures, codes, and eligible service providers.

- 15. Of the funds appropriated in this section, a sufficient amount is allocated to supplement the incomes of residents of nursing facilities with incomes of less than fifty dollars in the amount necessary for the residents to receive a personal needs allowance of fifty dollars per month pursuant to section 249A.30A.
- 16. Of the funds appropriated in this section, \$230,618 shall be used as additional funding to reduce the waiting list for the children's mental health home and community-based services waiver.
- Sec. 12. HEALTH INSURANCE PREMIUM PAYMENT PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:

......\$ 654,568FTEs 21.00

Sec. 13. MEDICAL CONTRACTS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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 and for not more than the following full-time equivalent positions:

- 1. Of the funds appropriated in this section, \$50,000 shall be used for electronic cross-matching with state vital records databases through the department of public health.
- 2. Of the funds appropriated in this section, \$250,000 shall be used for increased monitoring of home and community-based services waivers.

Sec. 14. 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, 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 state supplementary assistance program:

.....\$ 17,210,335

- 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, 2007, 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. 15. CHILDREN'S HEALTH INSURANCE PROGRAM.

1. There is appropriated from the general fund of the state to the department of human ser-

vices 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 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:

-\$ 14,871,052
- 2. If sufficient funding is available under this Act, and if federal reauthorization of the state children's health insurance program provides sufficient federal allocations to the state and authorization to cover the following populations as an option under the state children's health insurance program, the department may expand coverage under the state children's health insurance program as follows:
- a. By eliminating the categorical exclusion of state employees from receiving state children's health insurance program benefits.
- b. By providing coverage for legal immigrant children and pregnant women not eligible under current federal guidelines.
- c. By covering children up to age twenty-one, or up to age twenty-three if the child is attending school.
- 3. If the United States Congress does not authorize additional federal funds necessary to address the shortfall for the state children's health insurance program for the federal fiscal year beginning October 1, 2006, and ending September 30, 2007, the department may use 100 percent state funds from the appropriation made in this section for the period beginning July 1, 2007, and ending September 30, 2007, and may, after consultation with the governor and the general assembly, utilize funding from the appropriations made in this Act for medical assistance to maintain the state children's health insurance program. If deemed necessary, the department shall request a supplemental appropriation from the Eighty-second General Assembly, 2008 Session, to address any remaining shortfall for the fiscal year beginning July 1, 2007.
- Sec. 16. CHILD CARE ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child care programs:

.....\$ 37,875,701

- 1. Of the funds appropriated in this section, \$34,969,889 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, \$1,180,288 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 as necessary to meet federal matching funds requirements 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 from which it is appropriated to be used for professional development for the system of early care, health, and education.
- 8. Notwithstanding section 8.33, moneys appropriated in this section or received from the federal appropriations made for the purposes of this section, 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. 17. JUVENILE INSTITUTIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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, and maintenance and for not more than the following full-time positions: 7,170,289 FTEs 128.00 Of the amount appropriated in this subsection, \$134,605 is allocated to increase mental health and behavioral services staffing. 2. For operation of the state training school at Eldora and for salaries, support, and maintenance and for not more than the following full-time positions: 11,241,986 FTEs 204.88 Of the amount appropriated in this subsection, \$184,988 is allocated to increase mental health and behavioral services staffing.
- 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, 2007.

Sec. 18. CHILD AND FAMILY SERVICES.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

.....\$ 88,520,320

- 2. In order to address a reduction of \$5,200,000 from the amount allocated under the appropriation made for the purposes of this section 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.
- 3. 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.
- 4. a. Of the funds appropriated in this section, up to \$35,916,527 is allocated as the state-wide expenditure target under section 232.143 for group foster care maintenance and services.

- b. If at any time after September 30, 2007, annualization of a service area's current expenditures indicates a service area is at risk of exceeding its group foster care expenditure target under section 232.143 by more than 5 percent, the department and juvenile court services shall examine all group foster care placements in that service area in order to identify those which might be appropriate for termination. In addition, any aftercare services believed to be needed for the children whose placements may be terminated shall be identified. The department and juvenile court services shall initiate action to set dispositional review hearings for the placements identified. In such a dispositional review hearing, the juvenile court shall determine whether needed aftercare services are available and whether termination of the placement is in the best interest of the child and the community.
- c. Of the funds allocated in this subsection, \$2,373,942 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.

The department of human services, in consultation with the division of criminal and juvenile justice planning of the department of human rights, shall review the programming and effectiveness of the two existing highly structured juvenile programs. The review shall include consideration of the national research concerning juvenile "boot camp" programs, comparison of recidivism rates and foster care reentry rates for the highly structured programs with those of other group foster care programs. The review shall provide a recommendation as to whether or not funding should continue to be specifically designated for the highly structured programs. The department shall report on or before December 15, 2007, with findings and recommendations to the persons designated by this Act to receive reports.

- 5. 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, \$2,605,000 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.
- 6. 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 or successor project to stay together or to be reunified.
- 7. Notwithstanding section 234.35 or any other provision of law to the contrary, for the fiscal year beginning July 1, 2007, 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.
- 8. Federal funds received by the state during the fiscal year beginning July 1, 2007, 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.
- 9. Of the funds appropriated in this section, \$3,696,285 shall be used for protective child care assistance.
- 10. a. Of the funds appropriated in this section, up to \$2,268,963 is allocated for the payment of the expenses of court-ordered services provided to juveniles who are under the supervision of juvenile court services, which expenses are a charge upon the state pursuant to section 232.141, subsection 4. Of the amount allocated in this subsection, up to \$1,556,287 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.
 - b. Of the funds appropriated in this section, up to \$823,965 is allocated for the payment of

the expenses of court-ordered services provided to children who are under the supervision of the department, which expenses are a charge upon the state pursuant to section 232.141, subsection 4.

- c. Notwithstanding section 232.141 or any other provision of law to the contrary, the amounts allocated in this subsection shall be distributed to the judicial districts as determined by the state court administrator and to the department's service areas as determined by the administrator of the department's division of children and family services. The state court administrator and the division administrator shall make the determination of the distribution amounts on or before June 15, 2007.
- d. 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 or departmental service area distribution amounts to pay for the service. The chief juvenile court officer and the departmental service area manager 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 and departmental service area managers shall attempt to anticipate potential surpluses and shortfalls in the distribution amounts and shall cooperatively request the state court administrator or division administrator to transfer funds between the judicial districts' or departmental service areas' distribution amounts as prudent.
- e. 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.
- f. 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.
- 11. Of the funds appropriated in this section, \$1,030,000 shall be transferred to the 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, \$152,440 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. Of the funds appropriated in this section, \$3,031,439 is allocated for the preparation for adult living program pursuant to section 234.46. Of the amount allocated in this subsection, \$210,000 is transferred and credited to the risk pool in the property tax relief fund.
- 15. Of the funds appropriated in this section, \$51,500 is allocated for a grant to continue 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, \$830,000 shall be used to continue 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:		
(2) Woodhum ountr	\$	61,800
(2) Woodbury county:	\$	123,862
(3) Polk county:	ф	100.055
(4) For continuation of a program in the third judicial district:	\$	193,057
	\$	66,950
(5) For continuation of a program in the eighth judicial district:		
	\$	66,950

b. For court-ordered services to support substance abuse services provided to the juveniles
participating in the juvenile drug court programs listed in paragraph "a" and the juveniles'
families:

317,381

The state court administrator shall allocate the funding designated in this paragraph among the programs.

- 17. Of the funds appropriated in this section, \$203,000 is allocated to continue the multidimensional treatment level foster care program established pursuant to 2006 Iowa Acts, chapter 1123.
- 18. Of the funds appropriated in this section, \$236,900 shall be used for continuation of 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.
- 19. Of the funds appropriated in this section, \$120,000 is allocated for expansion of the elevate approach of providing a support network to children placed in foster care.
- 20. Of the funds appropriated in this section, \$300,000 is allocated for implementation of sibling visitation provisions for children subject to a court order for out-of-home placement in accordance with 2007 Iowa Acts, Senate File 480,6 if enacted.
- 21. Of the funds appropriated in this section, \$200,000 is allocated for use pursuant to section 235A.1 for a new initiative to address child sexual abuse.

Sec. 19. 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, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For adoption subsidy payments and services:

- \$ 31,972,681 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, 2007, 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. 20. JUVENILE DETENTION HOME FUND. Moneys deposited in the juvenile detention home fund created in section 232.142 during the fiscal year beginning July 1, 2007, and ending June 30, 2008, are appropriated to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, for distribution as follows:
- 1. An amount equal to 10 percent of the costs of the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes in the fiscal year beginning July 1, 2006. 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, 2006. Notwithstanding section 232.142, subsection 3, the financial aid payable by the state under that provision for the fiscal year beginning July 1, 2007, 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

⁶ Chapter 67 herein

3. For continuation and expansion of the community partnership for child	_
\$	418,000
4. For continuation of the department's minority youth and family project sign of the child welfare system:	
······································	375,000
5. For funding of the state match for the federal substance abuse and menta administration (SAMHSA) system of care grant:	
\$	400,000
6. For transfer to the appropriation made in this Act for child and family sement the statewide expenditure target amount under section 232.143 designation made in this Act for child and family services:	
·	1,324,000
7. For training of nonlicensed relatives caring for children in the child we	-
\$	276,000
8. The remainder for additional allocations to county or multicounty ju homes, in accordance with the distribution requirements of subsection 1.	venile detention
Sec. 21. FAMILY SUPPORT SUBSIDY PROGRAM.	
1. There is appropriated from the general fund of the state to the department	ent of human ser-
vices for the fiscal year beginning July 1, 2007, and ending June 30, 200	
amount, or so much thereof as is necessary, to be used for the purpose desi	gnated:
For the family support subsidy program:	
\$	1,936,434
2. The department shall use at least \$333,212 of the moneys appropriated in the shall use at least \$330,212 of the moneys appropriated in the shall use at least \$330,212 of the moneys appropriated in the shall use at least \$330,212 of the moneys appropriated in the shall use at least \$330,212 of the moneys appropriated in the shall use at least \$330,212 of the moneys appropriated in the shall use at least \$330,212 of the moneys appropriated in the shall use at least \$330,212 of the moneys appropriated in the shall use at least \$330,212 of the moneys appropriated in the shall use at least \$330,212 of the moneys appropriated in the shall use at least \$330,212 of the moneys appropriated in the shall use at least \$330,212 of the moneys appropriated in the shall use at least \$330,212 of the moneys appropriated in the shall use at least \$300,000 of the money appropriated in the shall use at least \$300,000 of the money appropriated in the shall use at least \$300,000 of the shall use at le	
the family support center component of the comprehensive family support pro	
tion 225C.47. Not more than \$20,000 of the amount allocated in this subsect	ion shall be used
for administrative costs.	
Sec. 22. CONNER DECREE. There is appropriated from the general fur	nd of the state to
the department of human services for the fiscal year beginning July 1, 2007,	
30, 2008, the following amount, or so much thereof as is necessary, to be use	
designated:	
For building community capacity through the coordination and provision of	of training oppor-
tunities in accordance with the consent decree of Conner v. Branstad, No. 4-8	6-CV-30871(S.D.
Iowa, July 14, 1994):	
\$	42,623
Sec. 23. MENTAL HEALTH INSTITUTES. There is appropriated from th	e general fund of
the state to the department of human services for the fiscal year beginning	
ending June 30, 2008, the following amounts, or so much thereof as is nece	
for the purposes designated:	ssary, to so asoa
1. For the state mental health institute at Cherokee for salaries, support, n	naintenance, and
miscellaneous purposes and for not more than the following full-time equiv	
\$	5,367,652
FTEs	210.00
2. For the state mental health institute at Clarinda for salaries, support, n	
miscellaneous purposes and for not more than the following full-time equiv	-
\$	6,540,101
FTEs	109.95
3. For the state mental health institute at Independence for salaries, supportant miscellaneous purposes and for not more than the following full-time	
tions:	equivalent posi-
\$	9,606,542
FTEs	285.66

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:
Sec. 24. STATE RESOURCE CENTERS. 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 amounts, or so much thereof as is necessary, to be used for the purposes designated: a. For the state resource center at Glenwood for salaries, support, maintenance, and miscellaneous purposes: \$15,938,762\$
b. For the state resource center at Woodward for salaries, support, maintenance, and miscellaneous purposes:
2. 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. 3. The state resource centers may expand the time-limited assessment and respite services
4. 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. 5. 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 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 2007-2008.
Sec. 25. 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, 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 for state case services for persons with mental illness, mental retardation, and developmental disabilities in accordance with section 331.440:

.....\$ 2. For the fiscal year beginning July 1, 2007, and ending June 30, 2008, \$200,000 is allocated for state case services 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, 2005, and ending September 30, 2006, beginning October 1, 2006, and ending September 30, 2007, and beginning October 1, 2007, and ending September 30, 2008. The allocation made in this subsection shall be made prior to any other distribution allocation of the appropriated federal funds.

- 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. 26. 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, 2007, and ending June 30, 2008, 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:

- 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 continuing the 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.
- 7. The most recent population estimates issued by the United States bureau of the census shall be applied for the population factors utilized in this section.

Sec. 27. SEXUALLY VIOLENT PREDATORS.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For costs associated with the commitment and treatment of sexually violent predators in the unit located at the state mental health institute at Cherokee, including costs of legal services and other associated costs, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

- 2. Unless specifically prohibited by law, if the amount charged provides for recoupment of at least the entire amount of direct and indirect costs, the department of human services may contract with other states to provide care and treatment of persons placed by the other states at the unit for sexually violent predators at Cherokee. The moneys received under such a contract shall be considered to be repayment receipts and used for the purposes of the appropriation made in this section.
- Sec. 28. FIELD OPERATIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:

- 1. The amount appropriated in this section includes an increase for additional full-time equivalent positions to provide for additional child and family visits.
- 2. Priority in filling full-time equivalent positions shall be given to those positions related to child protection services.
- 3. The department shall utilize a request for proposals process to select the location for a new customer service call center.
- Sec. 29. GENERAL ADMINISTRATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, 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:

- 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, \$350,000 is allocated as additional funding for the division of mental health and disability services for planning, analysis, and other costs associated with improvements to the mental health services system.
- $3.\,$ Of the funds appropriated in this section, \$100,000 is transferred to the department of human rights to be used in addition to any other funding appropriated in this Act for the energy utility assessment and resolution program established pursuant to section 216A.104, as enacted by this Act.
- Sec. 30. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For development and coordination of volunteer services:
.....\$ 109,568

- Sec. 31. MEDICAL ASSISTANCE, STATE SUPPLEMENTARY ASSISTANCE, AND SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES
- 1. a. (1) For the fiscal year beginning July 1, 2007, the total state funding amount for the nursing facility budget shall not exceed \$184,117,323.
- (2) For the fiscal year beginning July 1, 2007, the department shall rebase case-mix nursing facility rates. However, total nursing facility budget expenditures, including both case-mix and noncase-mix shall not exceed the amount specified in subparagraph (1). When calculating case-mix per diem cost and the patient-day-weighted medians used in rate setting for nursing facilities effective July 1, 2007, the inflation factor applied from the midpoint of the cost report period to the first day of the state fiscal year rate period shall be adjusted to maintain state funding within the amount specified in subparagraph (1). 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, 2007, are projected to exceed the amount specified in subparagraph (1), the department shall adjust the reimbursement for nursing facilities reimbursed under the case-mix reimbursement system to maintain expenditures of the nursing facility budget within the specified amount.
- b. (1) For the fiscal year beginning July 1, 2007, 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.
- (2) Beginning July 1, 2007, the department of human services shall adopt rules, pursuant to chapter 17A, to provide for the adjustment of the pharmacy dispensing fee to compensate for any reduction in the drug product cost reimbursement resulting from implementation of the average manufacturer price reimbursement standards for multisource generic drug products imposed pursuant to the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171. In implementing the reimbursement, the department may adjust the reimbursement amount as necessary to provide reimbursement within the state funding appropriated for the fiscal year beginning July 1, 2007, and ending June 30, 2008, for this purpose. 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 as necessary to implement this subparagraph (2).
- c. (1) For the fiscal year beginning July 1, 2007, reimbursement rates for inpatient and outpatient hospital services shall remain at the rates in effect on June 30, 2007. 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", unless the department adopts the Medicare ambulatory payment classification methodology authorized in subparagraph (2).
- (2) The department may implement the Medicare ambulatory payment classification methodology for reimbursement of outpatient hospital services. Any change in hospital reimbursement shall be budget neutral.
- (3) In order to ensure the efficient use of limited state funds in procuring health care services for low-income Iowans, funds appropriated in this Act for hospital services shall not be used for activities which would be excluded from a determination of reasonable costs under the federal Medicare program pursuant to 42 U.S.C. § 1395X(v)(1)(N).

- d. For the fiscal year beginning July 1, 2007, 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, 2007, reimbursement rates for home health agencies shall remain at the rates in effect on June 30, 2007, 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, 2007, 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. For the fiscal year beginning July 1, 2007, the reimbursement rates for dental services shall remain at the rates in effect on June 30, 2007.
- h. For the fiscal year beginning July 1, 2007, the maximum reimbursement rate for psychiatric medical institutions for children shall be \$165.53 per day.
- i. For the fiscal year beginning July 1, 2007, unless otherwise specified in this Act, all noninstitutional medical assistance provider reimbursement rates shall remain at the rates in effect on June 30, 2007, 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.
- j. Notwithstanding section 249A.20, for the fiscal year beginning July 1, 2007, 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 remain at the rate in effect on June 30, 2007; however, this rate shall not exceed the maximum level authorized by the federal government.
- k. For the fiscal year beginning July 1, 2007, 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.
- l. For the fiscal year beginning July 1, 2007, inpatient mental health services provided at hospitals shall be reimbursed at the cost of the services, subject to Medicaid program upper payment limit rules, community mental health centers and providers of mental health services to county residents pursuant to a waiver approved under section 225C.7, subsection 3, shall be reimbursed at 100 percent of the reasonable costs for the provision of services to recipients of medical assistance, and psychiatrists shall be reimbursed at the medical assistance program fee for service rate.
- 2. For the fiscal year beginning July 1, 2007, 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.
- 3. 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.
- 4. For the fiscal year beginning July 1, 2007, the foster family basic daily maintenance rate paid in accordance with section 234.38, the maximum adoption subsidy rate, and the maximum supervised apartment living foster care rate for children ages 0 through 5 years shall be \$15.89, the rate for children ages 6 through 11 years shall be \$16.54, the rate for children ages 12 through 15 years shall be \$18.16, and the rate for children ages 16 and older shall be \$18.37.
 - 5. For the fiscal year beginning July 1, 2007, the maximum reimbursement rates for social

services providers reimbursed under a purchase of social services contract shall be increased by 3 percent over the rates in effect on June 30, 2007, 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, 2007, 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.
- 6. For the fiscal year beginning July 1, 2007, the reimbursement rates for family-centered service providers, family foster care service providers, group foster care service providers, and the resource family recruitment and retention contractor shall be increased by 3 percent over the rates in effect on June 30, 2007.
- 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, 2007, the reimbursement rates for remedial service providers shall remain at the rates in effect for June 30, 2007.
- 9. a. For the fiscal year beginning July 1, 2007, 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 \$91.45 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, 2007, 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 \$2.66 over the amount in effect for this purpose in the preceding fiscal year.
- 10. For the fiscal year beginning July 1, 2007, 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, 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, 2007, reimbursements for providers reimbursed by the department of human services may be modified if appropriated funding is allocated for that purpose from the senior living trust fund created in section 249H.4, or as specified in appropriations from the healthy Iowans tobacco trust created in section 12.65.
 - 13. The department may adopt emergency rules to implement this section.
- Sec. 32. DEPARTMENT OF CORRECTIONS. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, for the purposes designated:

F	or additio	nai fi	ınaıng	for the	e arug cou	rt program i	n the fourth ji	udicial district:	
								\$	25,000

Sec. 33. MEDICAL ASSISTANCE — NURSING FACILITY REIMBURSEMENT. 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 the purpose of funding total nursing facility budget expenditures under the medical assistance program including rebasing of the case-mix nursing facility rates and noncase-mix nursing facility-related expenditures as provided in this Act, for expenditure after June 30, 2007.

- Sec. 34. CHILD SUPPORT COLLECTIONS FEE. The department of human services may adopt emergency rules to implement the provisions of section 252B.5, subsection 12, as enacted by this Act, during the fiscal year beginning July 1, 2007.
- Sec. 35. 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. 36. REPORTS. Any reports or information required to be compiled and submitted under this Act shall be submitted to the chairpersons and ranking members of the joint appropriations subcommittee on health and human services, the legislative services agency, and the legislative caucus staffs on or before the dates specified for submission of the reports or information.
 - Sec. 37. Section 217.23, subsection 2, Code 2007, is amended to read as follows:
- 2. The department is hereby authorized to may expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department's employees damaged or destroyed by clients of the department during the employee's tour of duty. However, the reimbursement shall not exceed one three hundred fifty dollars for each item. The department shall establish rules in accordance with chapter 17A to carry out the purpose of this section.
- Sec. 38. Section 231.33, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 21. Provide the opportunity for elders residing in the planning and service area to offer substantive suggestions regarding the employment practices of the area agency on aging.

Sec. 39. NEW SECTION. 239B.11A TRANSITIONAL BENEFITS.

The department shall provide a transitional benefits payment of one hundred dollars per month for up to three months to families with members who are employed at the time the family leaves the family investment program. Provision of the transitional benefits payment is subject to the availability of funding for the payment. The department shall adopt administrative rules for the transitional benefits.

- Sec. 40. Section 239B.17, subsection 1, Code 2007, is amended to read as follows:
- 1. PROGRAM ESTABLISHED. The promoting independence and self-sufficiency through employment job opportunities and basic skills program is established for applicants and participants of the family investment program. The requirements of the JOBS program shall vary as provided in the family investment agreement applicable to a family. The department of workforce development, department of economic development, department of education, and all other state, county, and public educational agencies and institutions providing vocational rehabilitation, adult education, or vocational or technical training shall assist and cooperate in the JOBS program. The departments, agencies, and institutions shall make agreements and arrangements for maximum cooperation and use of all available resources in the program. By mutual agreement the The department of human services may delegate any of the department of human services' powers and duties under this chapter to contract with the department of workforce development, or to the department of economic development, or another appropriate entity to provide JOBS program services.
- Sec. 41. Section 249A.3, subsection 2, paragraphs i, j, and k, Code 2007, are amended to read as follows:
- i. Individuals and families who would be eligible under subsection 1 or 2 of this section except for excess income or resources, or a reasonable category of those individuals and families. 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 individual's 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.
- j. Individuals who have attained the age of twenty-one but have not yet attained the age of sixty-five who qualify on a financial basis for, but who are otherwise ineligible to receive, federal supplemental security income or assistance under the family investment program. Women eligible for family planning services under a federally approved demonstration waiver.
- 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 individual's 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. Individuals and families who would be eligible under subsection 1 or 2 of this section except for excess income or resources, or a reasonable category of those individuals and families.
- Sec. 42. Section 249A.3, subsection 2, Code 2007, is amended by adding the following new paragraph:
- <u>NEW PARAGRAPH</u>. I. Individuals who have attained the age of twenty-one but have not yet attained the age of sixty-five who qualify on a financial basis for, but who are otherwise ineligible to receive, federal supplemental security income or assistance under the family investment program.
- Sec. 43. Section 249A.3, subsections 4, 5A, and 5B, Code 2007, are amended to read as follows:
- 4. Discretionary medical assistance, within the limits of available funds and in accordance with section 249A.4, subsection 1, may be provided to or on behalf of those individuals and families described in subsection 2, paragraph "i" "k" of this section.
- 5A. In determining eligibility for children under subsection 1, paragraphs "b", "f", "g", "j", "k", "n", and "i" "k"; subsection 2, paragraphs "c", "e", "f", "h", and "i" "k"; and subsection 5, paragraph "b", all resources of the family, other than monthly income, shall be disregarded.
 - 5B. In determining eligibility for adults under subsection 1, paragraphs "b", "e", "h", "j", "k",

"n", "s", and "t"; subsection 2, paragraphs "d", "e", "h", "\(\frac{\pmathbf{i}}{4}\)", and "\(\frac{\pmathbf{j}}{2}\)" "\(\frac{\pmathbf{i}}{2}\)", and subsection 5, paragraph "b", one motor vehicle per household shall be disregarded.

Sec. 44. Section 249A.30A, Code 2007, is amended to read as follows: 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, an intermediate care facility for persons with mental retardation, or an intermediate care facility for persons with mental illness, as defined in section 135C.1, or who is a resident of a psychiatric medical institution for children as defined in section 135H.1, shall be fifty dollars per month. A resident who has income of less than fifty dollars per month shall receive a supplement from the state in the amount necessary to receive a personal needs allowance of fifty dollars per month, if funding is specifically appropriated for this purpose.

- Sec. 45. Section 252B.5, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 12. a. Beginning October 1, 2007, implement the provision of the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171 § 7310, requiring an annual collections fee of twenty-five dollars in child support cases in which the family has never received assistance under Title IV-A of the federal Social Security Act for whom the unit has collected at least five hundred dollars. After the first five hundred dollars in support is collected in each year for a family, the fee shall be collected from the obligor by retaining twenty-five dollars from subsequent collections. If five hundred dollars but less than five hundred twenty-five dollars is collected in any year, any unpaid portion of the annual fee shall not accumulate and is not due. Any amount retained to pay the twenty-five dollar fee shall not reduce the amount of support due under the support order. The unit shall send information regarding the requirements of this subsection by regular mail to the last known address of an affected obligor or obligee, or may include the information for an obligee in an application for services signed by the obligee. In addition, the unit shall take steps necessary regarding the fee to qualify for federal funds in conformity with the provisions of Title IV-D of the federal Social Security Act, including receiving and accounting for fee payments, as appropriate, through the collection services center created in section 252B.13A.
- b. Fees collected pursuant to this subsection shall be considered repayment receipts as defined in section 8.2, and shall be used for the purposes of the unit. The director shall maintain an accurate record of the fees collected and expended under this subsection.
- c. If any requirement in paragraph "a" for implementation of the annual fee does not conform to federal law, the fee shall instead be implemented in conformance with federal law. Additionally, if federal law does not permit collection of the annual fee from the obligor as provided in paragraph "a", the fee shall be collected from the obligee by retaining a twenty-five dollar fee from support paid by the obligor.
- Sec. 46. 2006 Iowa Acts, chapter 1123, section 1, subsections 3 and 4, are amended to read as follows:
- 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 or participation in the treatment program may eliminate or limit the need for placement in a psychiatric institution, 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 prior to or 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.

Sec. 47. 2006 Iowa Acts, chapter 1123, section 1, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. OTHER PROVISIONS.

- a. The pilot project provisions shall allow children who are voluntarily placed in a psychiatric institution to participate in the pilot project.
- b. The pilot project shall allow exceptions to allow more than two children to be placed in a pilot project home if deemed appropriate in order to keep siblings together or for other good cause.
- Sec. 48. 2006 Iowa Acts, chapter 1184, section 2, subsection 1, is amended to read as follows:

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:

.....\$\frac{1,761,036}{2,443,036}.....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 <u>funds</u> 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.

Of the funds appropriated in this subsection, \$500,000 shall be used as additional funding for tobacco cessation direct services and \$182,000 shall be used for other tobacco use prevention, cessation, and treatment activities pursuant to chapter 142A.

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 in the succeeding fiscal year.

Sec. 49. 2006 Iowa Acts, chapter 1184, section 5, subsection 1, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. Notwithstanding section 8.33, moneys appropriated in this section for department of veterans affairs administration that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available to be used for the purchase of crypts for the veterans cemetery until the close of the succeeding fiscal year.

Sec. 50. 2006 Iowa Acts, chapter 1184, section 5, 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 the appropriation made in 2006 Iowa Acts, chapter 1179, section 16, subsection 12, for the fiscal year beginning July 1, 2006, to be used for purposes of capital improvements, renovations, or new construction at the Iowa veterans home.

Sec. 51. 2006 Iowa Acts, chapter 1184, section 6, subsection 7, is amended to read as follows:

7. For state child care assistance:

......\$ 15,756,560 16,756,560

- 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.

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. 52. 2006 Iowa Acts, chapter 1184, section 7, subsection 5, is amended to read as follows:
- 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 or are otherwise determined not to be required for maintenance of effort, the state share of that greater portion either amount may be transferred to or retained in the child support payments account.
- Sec. 53. 2006 Iowa Acts, chapter 1184, section 9, is amended by adding the following new subsection:

<u>NEW SUBSECTION</u>. 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. 54. 2006 Iowa Acts, chapter 1184, section 10, 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, 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:

......\$ 652,311,610 664,311,610

Sec. 55. 2006 Iowa Acts, chapter 1184, section 13, is amended by adding the following new subsection:

<u>NEW SUBSECTION</u>. 4. Notwithstanding section 8.33, up to \$1,100,000 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. 56. 2006 Iowa Acts, chapter 1184, section 15, is amended by adding the following new subsection:

<u>NEW SUBSECTION</u>. 8. Notwithstanding section 8.33, moneys appropriated in this section 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. 57. 2006 Iowa Acts, chapter 1184, section 17, subsection 16, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. 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. 58. 2006 Iowa Acts, chapter 1184, section 18, is amended by adding the following new subsection:

<u>NEW SUBSECTION</u>. 4. Notwithstanding section 8.33, up to \$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. 59. 2006 Iowa Acts, chapter 1184, section 23, is amended by adding the following new subsection:

<u>NEW SUBSECTION</u>. 7. 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, \$1,000,000.
- (2) For the state resource center at Woodward, \$1,000,000.
- b. Of the amounts designated in paragraph "a", the amounts above \$750,000 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. 60. 2006 Iowa Acts, chapter 1184, section 24, is amended by adding the following new subsection:

<u>NEW SUBSECTION</u>. 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. 61. 2006 Iowa Acts, chapter 1184, section 27, is amended by adding the following new unnumbered paragraph:

<u>NEW UNNUMBERED PARAGRAPH</u>. Notwithstanding section 8.33, up to \$1,850,000 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 until the close of the succeeding fiscal year. Of this amount, \$350,000 shall be used to supplement other funding to reduce the waiting list for the children's mental health home and community-based services waiver.

Sec. 62. 2006 Iowa Acts, chapter 1184, section 28, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Notwithstanding section 8.33, federal food stamp assistance award funds the department receives during the fiscal year beginning July 1, 2006, that remain unencumbered or unobligated at the close of the fiscal year, shall not revert to any other fund but shall remain available for expenditure to continue projects to increase access, assure accuracy, avoid federal error rate sanctions, and improve customer service, until the close of the succeeding fiscal year. In addition, 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 and of this amount, the initial \$250,000 shall be credited to the risk pool in the property tax relief fund.

Sec. 63. 2006 Iowa Acts, chapter 1184, section 60, subsection 4, unnumbered paragraph 3, if enacted by 2007 Iowa Acts, Senate File 403,7 section 12, is amended to read as follows:

The amount appropriated in this subsection shall be distributed only if federal funds are available to match the amount appropriated and expenses are incurred to serve the IowaCare expansion population expansion population claims adjudicated and paid by the Iowa Medicaid enterprise exceed the appropriation to the state board of regents for distribution to the university of Iowa hospitals and clinics provided in subsection 1. The amount appropriated in this subsection shall be distributed monthly for expansion population claims adjudicated and approved for payment by the Iowa Medicaid enterprise using medical assistance program reimbursement rates.

Sec. 64. 2006 Iowa Acts, chapter 1184, section 124, is amended to read as follows:

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 at least 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. 65. 2006 Iowa Acts, chapter 1185, section 34, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, the moneys appropriated in this section for the county grant program for veterans 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. Of the amount addressed in this paragraph, not more than \$150,000 shall be used to employ persons to fill two administrative full-time equivalent positions in the department of veterans affairs in addition to the number of positions authorized for the department. If one or both of the two positions are not employed by October 1, 2007, the unused funding shall be credited to the veterans trust fund on October 2, 2007. Otherwise, any remainder from the amount addressed in this paragraph that remains unencumbered or unobligated at the close of the fiscal year shall not be credited to the fund from which appropriated but shall be credited to the veterans trust fund.

Sec. 66. 2006 Iowa Acts, chapter 1184, section 5, subsection 4, as enacted by 2007 Iowa Acts, Senate File 95,8 section 1, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If during the fiscal year beginning July 1, 2007, the funding available under all contingencies for the home ownership assistance program implemented pursuant to section 35A.15 for persons who are or were eligible members of the armed forces of the United States has been exhausted, and the amount available for the purposes of this subsection is projected to be sufficient to allow for transfer of funds that would otherwise be unused, not more than \$250,000 of the funds appropriated in this subsection may be transferred to the Iowa finance authority to be used for the home ownership assistance program.

Sec. 67. EFFECTIVE DATES. The following provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. The provision under the appropriation for child and family services, relating to requirements of section 232.143 for representatives of the department of human services and juvenile

⁷ Chapter 206 herein

⁸ Chapter 203 herein

court services to establish a plan for continuing group foster care expenditures for the 2007-2008 fiscal year.

- 2. The provision making the appropriation from the general fund of the state for the fiscal year beginning July 1, 2006, and ending June 30, 2007, for the purpose of funding total nursing facility budget expenditures including rebasing of the case-mix nursing facility rates and non-case-mix nursing facility-related expenditures, for expenditure after June 30, 2007.
 - 3. The provision amending 2006 Iowa Acts, chapter 1184, section 2, subsection 1.
 - 4. The provisions amending 2006 Iowa Acts, chapter 1184, section 5.
 - 5. The provision amending 2006 Iowa Acts, chapter 1184, section 6.
 - 6. The provision amending 2006 Iowa Acts, chapter 1184, section 7.
 - 7. The provision amending 2006 Iowa Acts, chapter 1184, section 9.
 - 8. The provision amending 2006 Iowa Acts, chapter 1184, section 10.
 - 9. The provision amending 2006 Iowa Acts, chapter 1184, section 13.
 - 10. The provision amending 2006 Iowa Acts, chapter 1184, section 15.
 - 11. The provision amending 2006 Iowa Acts, chapter 1184, section 17, subsection 16.
 - 12. The provision amending 2006 Iowa Acts, chapter 1184, section 18.
 - 13. The provision amending 2006 Iowa Acts, chapter 1184, section 23.
 - 14. The provision amending 2006 Iowa Acts, chapter 1184, section 24.
 - 15. The provision amending 2006 Iowa Acts, chapter 1184, section 27.
 - 16. The provision amending 2006 Iowa Acts, chapter 1184, section 28.
 - 17. The provision amending 2006 Iowa Acts, chapter 1184, section 60.
 - 18. The provision amending 2006 Iowa Acts, chapter 1184, section 124.
 - 19. The provision amending 2006 Iowa Acts, chapter 1185, section 34.

DIVISION II SENIOR LIVING TRUST FUND, PHARMACEUTICAL SETTLEMENT ACCOUNT, IOWACARE ACCOUNT, AND HEALTH CARE TRANSFORMATION ACCOUNT

Sec. 68. 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, 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 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:

- 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.
- 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.
- 3. Of the funds appropriated in this section, \$60,000 shall be used to provide dementia-specific education to direct care workers and other providers of long-term care to enhance exist-

ing or scheduled efforts through the Iowa caregivers association, the Alzheimer's association, and other organizations identified as appropriate by the department.

Sec. 69. DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the senior living trust fund created in section 249H.4 to the department of inspections and appeals for the fiscal year beginning July 1, 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 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:

If legislation is enacted by the Eighty-second General Assembly, 2007 Session, transferring full responsibility for the oversight of assisted living programs, adult day services programs, and elder group homes from the department of elder affairs to the department of inspections and appeals, the appropriation in this section is increased by \$349,051 and the number of fulltime equivalent positions authorized is increased by 2.50 full-time equivalent positions.

Sec. 70. 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, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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:

......\$ 65,000,000FTEs 5.00

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. 71. 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, 2007, and ending June 30, 2008, 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 requirements for the nursing facility level of care for home and community-based services waiver services as in effect on July 1, 2007.

Sec. 72. 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, 2007, and ending June 30, 2008, 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:

.....\$ 1,323,833

Sec. 73. 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, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

⁹ See chapter 215, division VII herein

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. 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.
- b. Notwithstanding any provision of law to the contrary, the amount appropriated in this subsection shall be allocated in twelve equal monthly payments as provided in section 249J.24.
- 2. 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, 2007, and ending June 30, 2008, 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:

\$ 10.000,000

The amount appropriated in this subsection shall be distributed only if expansion population claims adjudicated and paid by the Iowa Medicaid enterprise exceed the appropriation to the state board of regents for distribution to the university of Iowa hospitals and clinics provided in subsection 1. The amount appropriated in this subsection shall be distributed monthly for expansion population claims adjudicated and approved for payment by the Iowa Medicaid enterprise using medical assistance program reimbursement rates.

3. There is appropriated from the IowaCare account created in section 249J.24 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 purposes designated:

For distribution to a publicly owned acute care teaching hospital located in a county with a population over three hundred fifty thousand 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:

Notwithstanding any provision of law to the contrary, the amount appropriated in this subsection 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.

4. There is appropriated from the IowaCare account created in section 249J.24 to the department of human services 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:

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:						
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:						
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:						
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 pursuant to chapter 249J:						
\$ 5,752,587						
Sec. 74. 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, 2007, and ending June 30, 2008, 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:						
2. For the provision of a medical information hotline for the expansion population as provided in section 249J.6:						
3. For the mental health transformation pilot program:						
4. For other health promotion partnership activities pursuant to section 249J.14:						
550,000 5. For the costs related to audits, performance evaluations, and studies required pursuant to chapter 249J:						
6. For administrative costs associated with chapter 249J:						
7. For planning and development, in cooperation with the department of public health, of a phased-in program to provide a dental home for children:						
The department shall issue a request for proposals for a performance-based contract to implement the dental home for children and shall apply for any waivers from the centers for Medicare and Medicaid services of the United States department of health and human services, as necessary, to pursue a phased-in approach. The department shall submit progress reports regarding the planning and development of the dental home for children to the medical assistance projections and assessment council on a periodic basis. 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 to the least at the least interest and approximate the department shall report						

Sec. 75. TRANSFER FROM ACCOUNT FOR HEALTH CARE TRANSFORMATION. There is transferred from the account for health care transformation created pursuant to sec-

any transfers made pursuant to this section to the legislative services agency.

tion 249J.23, to the IowaCare account created in section 249J.24, a total of \$5,000,000 for the fiscal year beginning July 1, 2007, and ending June 30, 2008.

Sec. 76. MEDICAL ASSISTANCE PROGRAM — REVERSION TO SENIOR LIVING TRUST FUND FOR FY 2007-2008. Notwithstanding section 8.33, if moneys appropriated for purposes of the medical assistance program for the fiscal year beginning July 1, 2007, and ending June 30, 2008, from the general fund of the state, the senior living trust fund, the healthy Iowans tobacco trust fund, and the health care 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.

DIVISION III MH/MR/DD/BI SERVICES ALLOWED GROWTH FUNDING — FY 2007-2008

- Sec. 77. Section 225C.7, subsection 2, Code 2007, is amended to read as follows:
- 2. Moneys appropriated to the fund shall be allocated to counties for funding of community-based mental health, mental retardation, developmental disabilities, and brain injury services in the manner provided in the appropriation to the fund. If the allocation methodology includes a population factor, the most recent population estimates issued by the United States bureau of the census shall be applied.
- Sec. 78. Section 331.438, subsection 1, paragraph b, Code 2007, is amended by striking the paragraph.
 - Sec. 79. Section 331.438, subsection 2, Code 2007, is amended to read as follows:
- 2. a. A state payment to a county for a fiscal year shall consist of the sum of the state funding the county is eligible to receive from the property tax relief fund in accordance with section 426B.2 plus the county's portion of state funds appropriated for the allowed growth factor adjustment established by the general assembly under section 331.439, subsection 3, and paid from the allowed growth funding pool in accordance with section 426B.5.
- b. A county's portion of the allowed growth factor adjustment appropriation for a fiscal year shall be determined based upon the county's proportion of the state's general population.
- c. The department of human services shall provide for payment of the amount due a county for the county's allowed growth factor adjustment determined in accordance with this subsection. The director of human services shall authorize warrants payable to the county treasurer for the amounts due and the warrants shall be mailed in January of each year. The county treasurer shall credit the amount of the warrant to the county's services fund created under section 331.424A.
- 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. 80. Section 331.439, subsection 5, Code 2007, is amended to read as follows:
- 5. <u>a.</u> A county shall implement the county's management plan in a manner so as to provide adequate funding for the entire fiscal year by budgeting for ninety-nine percent of the funding anticipated to be available for the plan. A county may expend all of the funding anticipated to be available for the plan.
- b. If a county determines that the county cannot provide services in accordance with the county's management plan and remain in compliance with the budgeting requirement of paragraph "a" for the fiscal year, the county may implement a waiting list for the services. The pro-

cedures for establishing and applying a waiting list shall be specified in the county's management plan. If a county implements a waiting list for services, the county shall notify the department of human services. The department shall maintain on the department's internet website an up-to-date listing of the counties that have implemented a waiting list and the services affected by each waiting list.

- Sec. 81. Section 331.440, subsection 4, as enacted by 2006 Iowa Acts, chapter 1115, section 17, is amended to read as follows:
- 4. <u>a.</u> An application for services may be made through the central point of coordination process of an adult person's county of residence. Effective July 1, 2007, if an adult person who is subject to a central point of coordination process has legal settlement in another county, the central point of coordination process functions <u>relating to the application</u> shall be performed by the central point of coordination process of the person's county of 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.
- b. The county of residence shall determine whether or not the person's county of legal settlement has implemented a waiting list in accordance with section 331.439, subsection 5. If the person's county of legal settlement has implemented a waiting list, the services or other support for the person shall be authorized by the county of residence in accordance with the county of legal settlement's waiting list provisions.
- <u>c.</u> 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. 82. Section 426B.5, subsection 1, Code 2007, is amended to read as follows:
 - 1. PER CAPITA EXPENDITURE TARGET ALLOWED GROWTH FUNDING POOL.
- a. A per capita expenditure target An allowed growth funding pool is created in the property tax relief fund. The pool shall consist of the moneys credited to the pool by law.
- b. A statewide per capita expenditure target amount is established. The statewide per capita expenditure target amount shall be equal to the one-hundredth percentile of all county per capita expenditures in the fiscal year beginning July 1, 1997, and ending June 30, 1998.
- e. b. Moneys available in the per capita expenditure allowed growth funding pool for a fiscal year are appropriated to the department of human services for distribution as provided in this subsection.
- c. The first twelve million dollars credited to the funding pool shall be allocated to counties based upon the county's relative proportion of the state's general population.
- d. (1) The amount in the funding pool remaining after the allocation made in paragraph "c" shall be distributed allocated to those counties that meet all of the following eligibility requirements:
- (1) (a) The county is levying the maximum amount allowed for the county's mental health, mental retardation, and developmental disabilities services fund under section 331.424A for the fiscal year in which the funding is distributed.
- (2) The county's per capita expenditure in the latest fiscal year for which the actual expenditure information is available is equal to or less than the statewide per capita expenditure target amount.
- (3) (b) In the <u>latest</u> fiscal year that commenced two years prior to the fiscal year of distribution reported in accordance with section 331.403, the county's mental health, mental retardation, and developmental disabilities services fund ending balance under generally accepted accounting principles was equal to or less than twenty-five percent of the county's actual gross expenditures for the <u>that</u> fiscal year that commenced two years prior to the fiscal year of distribution.
 - (4) The county is in compliance with the filing date requirements under section 331.403.
- d. (2) The distribution amount allocated to a county receives from the moneys available in the pool under this paragraph "d" shall be determined based upon the county's proportion of

the general population of the counties eligible to receive moneys from the pool for that fiscal year. However, a county shall not receive moneys in excess of the amount which would cause the county's per capita expenditure to exceed the statewide per capita expenditure target.

- e. In order to receive an allocation under this section, a county must comply with the filing date requirements under section 331.403. Moneys credited to the per capita expenditure target allowed growth funding pool which remain unobligated or unexpended at the close of a fiscal year shall remain in the pool for distribution in the succeeding fiscal year.
- f. The most recent population estimates issued by the United States bureau of the census shall be applied in determining population for the purposes of this subsection.
- e.~g. The department of human services shall annually calculate the amount of moneys due to eligible counties in accordance with this subsection. The department shall authorize the issuance of warrants payable to the county treasurer for the amounts due and the warrants shall be issued in January.
- Sec. 83. 2006 Iowa Acts, chapter 1185, section 1, is amended to read as follows: SECTION 1. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOP-MENTAL 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 36,888,041

1A. There is appropriated from the property tax relief fund 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 purposes 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:

1B. 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 that meet the requirements of this subsection:

a. To be eligible to receive an allocation under this subsection, a county must meet the following requirements:

- (1) The county is levying for the maximum amount allowed for the county's mental health, mental retardation, and developmental disabilities services fund under section 331.424A for taxes due and payable in the fiscal year beginning July 1, 2007, or the county is levying for at least 90 percent of the maximum amount allowed for the county's services fund and that levy rate is more than \$2 per \$1,000 of the assessed value of all taxable property in the county.
- (2) In the fiscal year beginning July 1, 2006, the county's mental health, mental retardation, and developmental disabilities services fund ending balance under generally accepted accounting principles was equal to or less than 15 percent of the county's actual gross expenditures for that fiscal year.
- b. A county's allocation of the amount appropriated in this subsection shall be determined based upon the county's proportion of the general population of the counties eligible to receive an allocation under this subsection. The most recent population estimates issued by the

<u>United States bureau of the census shall be applied in determining population for the purposes of this paragraph.</u>

- c. The allocations made pursuant to this subsection are subject to the distribution provisions and withholding requirements established in this section for the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment for the fiscal year beginning July 1, 2007.
- 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":
- b. a. For deposit in the per capita expenditure target allowed growth funding pool created in the property tax relief fund and for distribution in accordance with section 426B.5, subsection 1.
- e. b. For deposit in the risk pool created in the property tax relief fund and for distribution in accordance with section 426B.5, subsection 2:
-\$ 2,000,000
- d. c. For expansion of services to persons with transfer to the department of public health for the brain injury services program 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 section 135.22B:
-\$ 4,926,593 2,926,593

If 2006 Iowa Acts, House File 2772, 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.

Sec. 84. 2006 Iowa Acts, chapter 1185, section 1, is amended by adding the following new subsections:

<u>NEW SUBSECTION</u>. 3. The following formula amounts shall be utilized only to calculate preliminary distribution amounts for fiscal year 2007-2008 under this section by applying the indicated formula provisions to the formula amounts and producing a preliminary distribution total for each county:

- b. 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, 2007:
- 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. In order to be eligible for a distribution under this section, a county must be levying seventy percent or more of the maximum amount allowed for the county's mental health, mental retardation, and developmental disabilities services fund under section 331.424A for taxes due and payable in the fiscal year for which the distribution is payable. An ending balance percentage for each county shall be determined by express-

ing the county's ending balance on a modified accrual basis under generally accepted accounting principles for the fiscal year beginning July 1, 2006, 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, 2006, 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, for counties with an ending balance percentage of 10 or more but less than 15 percent, 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 target withholding 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. 85. MENTAL HEALTH PATIENT ADVOCATE STUDY. The legislative council is requested to authorize a 2007 legislative interim study of the duties, responsibilities, funding, and authority for the mental health patient advocates appointed by the courts under chapter 229. The study committee membership should include representatives of counties, the judicial branch, mental health patient advocates, and the department of human services. The study should specifically identify the appropriate appointing authority and funding source for the advocates in the study recommendations.

Sec. 86. Section 331.440A, Code 2007, is repealed.

DIVISION IV MH/MR/DD DATA REPORTING — RISK POOL ASSISTANCE

Sec. 87. Section 225C.6A, subsection 2, paragraph c, Code 2007, is amended by adding the following new subparagraph:

<u>NEW SUBPARAGRAPH</u>. (3) Each county shall report to the department annually on or before December 1, for the preceding fiscal year the following information for each individual served: demographic information, expenditure data, and data concerning the services and other support provided to each individual, as specified in administrative rule adopted by the commission.

- Sec. 88. Section 331.439, subsection 1, paragraph a, Code 2007, is amended to read as follows:
- a. The county accurately reported by December 1 the county's expenditures for mental health, mental retardation, and developmental disabilities services <u>and the information required under section 225C.6A</u>, subsection 2, paragraph "c", for the previous fiscal year on forms prescribed by <u>rules adopted by</u> the <u>department of human services state commission</u>.
 - Sec. 89. Section 426B.5, subsection 2, Code 2007, is amended to read as follows:
 - 2. RISK POOL.
 - a. For the purposes of this subsection, unless the context otherwise requires;
- (1) "Net expenditure amount" means a county's gross expenditures from the services fund for a fiscal year as adjusted by subtracting all services fund revenues for that fiscal year that are received from a source other than property taxes, as calculated on a modified accrual basis.
- (2) "Services "services fund" means a county's mental health, mental retardation, and developmental disabilities services fund created in section 331.424A.
- b. A risk pool is created in the property tax relief fund. The pool shall consist of the moneys credited to the pool by law.
- c. A risk pool board is created. The board shall consist of two county supervisors, two county auditors, a member of the mental health, mental retardation, developmental disabilities, and brain injury commission who is not a member of a county board of supervisors, a member of the county finance committee created in chapter 333A who is not an elected official, a representative of a provider of mental health or developmental disabilities services selected from nominees submitted by the Iowa association of community providers, and two central point of coordination process administrators, all appointed by the governor, and one member appointed by the director of human services. All members appointed by the governor shall be subject to confirmation by the senate. Members shall serve for three-year terms. A vacancy shall be filled in the same manner as the original appointment. Expenses and other costs of the risk pool board members representing counties shall be paid by the county of origin. Expenses and other costs of risk pool board members who do not represent counties shall be paid from a source determined by the governor. Staff assistance to the board shall be provided by the department of human services and counties. Actuarial expenses and other direct administrative costs shall be charged to the pool.
- d. (1) A county must apply to the <u>risk pool</u> board for assistance from the risk pool on or before January 25 to cover an unanticipated net expenditure amount in excess of the county's current fiscal year budgeted net expenditure amount for the county's services fund. The risk pool board shall make its final decisions on or before February 25 regarding acceptance or rejection of the applications for assistance and the total amount accepted shall be considered obligated. For purposes of applying for risk pool assistance and for repaying unused risk pool assistance, the current fiscal year budgeted net expenditure amount shall be deemed to be the higher of either the budgeted net expenditure amount in the management plan approved under section 331.439 for the fiscal year in which the application is made or the prior fiscal year's net expenditure amount.
- (2) <u>e.</u> Basic eligibility for risk pool assistance shall require a projected net expenditure amount in excess of the sum of one hundred five percent of the county's current fiscal year budgeted net expenditure amount and any amount of the county's prior fiscal year ending fund balance in excess of twenty-five percent of the county's gross expenditures from the services fund in the prior fiscal year. However, if a county's services fund ending balance in the previous fiscal year was less than ten percent of the amount of the county's gross expenditures from the services fund for that fiscal year and the county has a projected net expenditure amount for the current fiscal year that is in excess of one hundred one percent of the budgeted net expenditure amount for the current fiscal year, the county shall be considered to have met the basic eligibility requirement and is qualified for risk pool assistance. requires that a county meet all of the following conditions:
 - (1) The county is in compliance with the requirements of section 331.439.

- (2) The county levied the maximum amount allowed for the county's services fund under section 331.424A for the fiscal year of application for risk pool assistance.
- (3) At the close of the fiscal year that immediately preceded the fiscal year of application, the county's services fund ending balance under generally accepted accounting principles was equal to or less than twenty percent of the county's actual gross expenditures for that fiscal year.
- (3) <u>f.</u> The board shall review the fiscal year-end financial records for all counties that are granted risk pool assistance. If the board determines a county's actual need for risk pool assistance was less than the amount of risk pool assistance granted to the county, the county shall refund the difference between the amount of assistance granted and the actual need. The county shall submit the refund within thirty days of receiving notice from the board. Refunds shall be credited to the risk pool. The mental health, mental retardation, developmental disabilities, and brain injury commission shall adopt rules pursuant to chapter 17A providing criteria for the purposes of this lettered paragraph and as necessary to implement the other provisions of this subsection.
- (4) A county receiving risk pool assistance in a fiscal year in which the county did not levy the maximum amount allowed for the county's services fund under section 331.424A shall be required to repay the risk pool assistance during the two succeeding fiscal years. The repayment amount shall be limited to the amount by which the actual amount levied was less than the maximum amount allowed, with at least fifty percent due in the first succeeding fiscal year and the remainder due in the second succeeding fiscal year.
- (5) g. The board shall determine application requirements to ensure prudent use of risk pool assistance. The board may accept or reject an application for assistance in whole or in part. The decision of the board is final.
- (6) h. The total amount of risk pool assistance shall be limited to the amount available in the risk pool for a fiscal year. If the total amount of eligible assistance exceeds the amount available in the risk pool, the amount of assistance paid shall be prorated among the counties eligible for assistance. Moneys remaining unexpended or unobligated in the risk pool following the risk pool board's decisions made pursuant to subparagraph (1) shall be distributed to the counties eligible to receive funding from the allowed growth factor adjustment appropriation for the fiscal year using the distribution methodology applicable to that appropriation. Any unobligated balance in the risk pool at the close of a fiscal year shall remain in the risk pool for distribution in the succeeding fiscal year.
- e. i. A county may apply for preapproval for risk pool assistance based upon an individual who has an unanticipated disability condition with an exceptional cost and the individual is either new to the county's service system or the individual's unanticipated disability condition is new to the individual. A county may submit a preapproval application beginning on July 1 for the fiscal year of submission and the risk pool board shall notify the county of the risk pool board's decision concerning the application within forty-five days of receiving the application. Whether for a preapproval or regular application, risk pool assistance shall only be made available to address one or more of the following circumstances:
 - (1) Continuing support for mandated services.
- (2) Avoiding the need for reduction or elimination of critical services when the reduction or elimination places consumers' health or safety at risk.
- (3) Avoiding the need for reduction or elimination of critical emergency services when the reduction or elimination places the public's health or safety at risk.
- (4) Avoiding the need for reduction or elimination of the services or other support provided to entire disability populations.
- (5) Avoiding the need for reduction or elimination of services or other support that maintain consumers in a community setting, creating a risk that the consumers would be placed in more restrictive, higher cost settings.
- f. j. The Subject to the amount available and obligated from the risk pool for a fiscal year, the department of human services shall annually calculate the amount of moneys due to eligible counties in accordance with the board's decisions and that amount is appropriated from

the risk pool to the department for payment of the moneys due. The department shall authorize the issuance of warrants payable to the county treasurer for the amounts due and the warrants shall be issued before the close of the fiscal year.

- g. k. On or before March 1 and September 1 of each fiscal year, the department of human services shall provide the risk pool board with a report of the financial condition of each funding source administered by the board. The report shall include but is not limited to an itemization of the funding source's balances, types and amount of revenues credited, and payees and payment amounts for the expenditures made from the funding source during the reporting period.
- l. If the board has made its decisions but has determined that there are otherwise qualifying requests for risk pool assistance that are beyond the amount available in the risk pool fund for a fiscal year, the board shall compile a list of such requests and the supporting information for the requests. The list and information shall be submitted to the mental health, mental retardation, developmental disabilities, and brain injury commission, the department of human services, and the general assembly.
- Sec. 90. INFORMATION TECHNOLOGY. The department of human services shall meet with the Iowa state association of counties to develop a joint proposal addressing the information technology needed for counties to comply with the data reporting requirements applicable under this division. The joint proposal shall be submitted to the chairpersons and ranking members of the general assembly's committees on human resources and the joint appropriations subcommittee on health and human services by November 15, 2007.
- Sec. 91. 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. 92. EFFECTIVE DATE RETROACTIVE APPLICABILITY. This division of this Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to December 1, 2006, and is applicable on and after that date for information collected by a county as of that date. A county that has not submitted the data specified in section 225C.6A for the preceding fiscal year as of the effective date of this division, shall submit the data within twenty-five business days of the effective date of the rules adopted to implement the provisions of this division. Unless the department approves an exception for good cause, if a county does not submit the data specified within the required time period, the county is subject to withholding of the county's state payment for property tax relief and allowed growth factor adjustment for the fiscal year beginning July 1, 2007.

DIVISION V MENTAL HEALTH SERVICES SYSTEM IMPROVEMENT

- Sec. 93. <u>NEW SECTION</u>. 225C.6B MENTAL HEALTH SERVICES SYSTEM IMPROVE-MENT — LEGISLATIVE INTENT — PLANNING AND IMPLEMENTATION.
 - 1. INTENT.
- a. The general assembly intends for the state to implement a comprehensive, continuous, and integrated state mental health services plan in accordance with the requirements of sec-

tions 225C.4 and 225C.6 and other provisions of this chapter, by increasing the department's responsibilities in the development, funding, oversight, and ongoing leadership of mental health services in this state.

- b. In order to further the purposes listed in sections 225C.1 and 225C.27 and in other provisions of this chapter, the general assembly intends that efforts focus on the goal of making available a comprehensive array of high-quality, evidence-based consumer and family-centered mental health services and other support in the least restrictive, community-based setting appropriate for a consumer.
- c. In addition, it is the intent of the general assembly to promote policies and practices that achieve for consumers the earliest possible detection of mental health problems and early intervention; to stress that all health care programs address mental health disorders with the same urgency as physical health disorders; to promote the policies of all public programs that serve adults and children with mental disorders, including but not limited to child welfare, Medicaid, education, housing, criminal and juvenile justice, substance abuse treatment, and employment services; to consider the special mental health needs of adults and children; and to promote recovery and resiliency as expected outcomes for all consumers.
- 2. PLANNING AND IMPLEMENTATION. In order to build upon the partnership between the state and counties in providing mental health and disability services in the state, the workgroups established for purposes of this subsection shall engage equal proportions representing the department, counties, and service providers. The county and provider representatives shall be appointed by the statewide associations representing counties and community providers. In addition, each workgroup shall include a representative of the commission, the mental health planning and advisory council, consumers, and a statewide advocacy organization. A workgroup shall be established for each of the following tasks provided for in this subsection: alternative distribution formulas, community mental health center plan, core mental health services, and the two comprehensive plan items. The division shall perform all of the following tasks in taking steps to improve the mental health services system for adults and children in this state:
- a. ALTERNATIVE DISTRIBUTION FORMULAS. Identify alternative formulas for distributing mental health, mental retardation, and developmental disabilities allowed growth factor adjustment funding to counties. The alternative formulas shall provide methodologies that, as compared to the current methodologies, are more readily understood, better reflect the needs for services, respond to utilization patterns, acknowledge historical county spending, and address disparities in funding and service availability. The formulas shall serve to strengthen the partnership between the department and counties in the state's services system. The division may engage assistance from expert consultants with experience with funding allocation systems as necessary to evaluate options. The department shall report with findings and recommendations to the commission on or before November 1, 2007, and shall review and make recommendations to the department on or before December 1, 2007. The department shall submit the final report to the chairpersons and ranking members of the general assembly's committees on human resources and the joint appropriations subcommittee on health and human services, and to associated legislative staff, on or before January 31, 2008.
- b. COMMUNITY MENTAL HEALTH CENTER PLAN. Prepare a phased plan for increasing state responsibility for and oversight of mental health services provided by community mental health centers and the providers approved to fill the role of a center. The plan shall provide for an initial implementation date of July 1, 2008. The plan shall be submitted to the commission on or before October 1, 2007. The commission shall review the plan and provide comments to the department on or before November 1, 2007. The plan shall be submitted to the governor and general assembly on or before January 31, 2008. The department shall ensure that key stakeholders are engaged in the planning process, including but not limited to the commission, mental health services providers, individuals with expertise in the delivery of mental health services, youth and adult consumers, family members of consumers, advocacy organizations, and counties.
 - c. CORE MENTAL HEALTH SERVICES. Identify core mental health services to be offered

in each area of the state by community mental health centers and core services agency providers. The workgroup for this task shall be established no later than August 1, 2007. The core services shall be designed to address the needs of target populations identified by the workgroup and the services may include but are not limited to emergency services, school-based mental health services, short-term counseling, prescreening for those subject to involuntary treatment orders, and evidence-based practices. The division shall submit to the commission on or before October 1, 2007, proposed administrative rules and legislation to amend chapter 230A as necessary to implement the core services beginning July 1, 2008. The commission shall review and revise the proposed administrative rules and shall adopt the administrative rules after the general assembly has reviewed and approved the proposal. The proposals shall be submitted to the general assembly for review on or before January 31, 2008.

- d. MENTAL HEALTH AND CORE SERVICE AGENCY STANDARDS AND ACCREDITATION. Identify standards for accreditation of core services agencies that are not a community mental health center but may serve as a provider approved to fill the role of a center. Such core services agencies could be approved to provide core mental health services for children and adults on a regional basis. The standards shall be submitted to the commission for review and recommendation on or before December 1, 2007, and to the governor and general assembly on or before January 31, 2008.
- e. CO-OCCURRING DISORDERS. The division and the department of public health shall give priority to the efforts underway to develop an implementation plan for addressing co-occurring mental health and substance abuse disorders in order to establish a comprehensive, continuous, and integrated system of care for such disorders. The division and the department of public health shall participate in a policy academy on co-occurring mental health and substance abuse disorders as part of developing an implementation plan for commission review by April 1, 2008. The commission shall review and make recommendations on the plan on or before May 1, 2008. The plan shall then be submitted to the governor and general assembly on or before June 1, 2008. The division may engage experts in the field of co-occurring mental health and substance abuse disorders to facilitate this planning process.
- f. EVIDENCE-BASED PRACTICES. Begin phased implementation of evidence-based practices for mental health services over a period of several years.
- (1) Not later than October 1, 2007, in order to provide a reasonable timeline for the implementation of evidence-based practices with mental health and disability services providers, the division shall provide for implementation of two adult and two children evidence-based practices per year over a three-year period.
- (2) The division shall develop a comprehensive training program concerning such practices for community mental health centers, state resource centers and mental health institutes, and other providers, in collaboration with the Iowa consortium for mental health and mental health service providers. The division shall consult with experts on behavioral health workforce development regarding implementation of the mental health and disability services training and the curriculum and training opportunities offered.
- (3) The department shall apply measures to ensure appropriate reimbursement is available to all providers for the implementation of mandated evidence-based practices and request appropriate funding for evidence-based practices from the governor and general assembly as part of the implementation plan. The implementation plan shall be submitted to the governor and general assembly on or before January 31, 2008.
- (4) The department shall provide the commission with a plan for review to implement the provisions of this paragraph "f".
 - g. COMPREHENSIVE PLAN.
- (1) Complete a written plan describing the key components of the state's mental health services system, including the services addressed in this subsection and those that are community-based, state institution-based, or regional or state-based. The plan shall incorporate the community mental health center plan provisions implemented pursuant to this subsection. The plan shall be submitted to the commission on or before November 15, 2008, and to the governor and general assembly on or before December 15, 2008.

- (2) In addition, complete a written plan for the department to assume leadership and to assign and reassign significant financial responsibility for the components of the mental health services system in this state, including but not limited to the actions needed to implement the provisions of this subsection involving community mental health centers, core mental health services, core services agencies, co-occurring disorders, and evidence-based practices. The plan shall include recommendations for funding levels, payment methodologies for new and existing services, and allocation changes necessary for the department to assume significant financial responsibility for mental health services. The plan shall be submitted to the commission on or before November 15, 2008, and the commission shall provide review and recommendations on the plan to the department on or before December 15, 2008. The plan shall be submitted to the governor and general assembly on or before January 15, 2009.
- (3) The planning provisions of this paragraph shall be directed toward the goal of strengthening the partnership between the department and counties in the state's services system.

DIVISION VI DECATEGORIZATION PROJECT FUNDING

Sec. 94. 2005 Iowa Acts, chapter 175, section 16, subsection 4, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, moneys in the allocations made in this subsection or made from any other source for the decategorization of the child welfare and juvenile justice funding initiative under section 232.188 that remain unencumbered or unobligated at the close of the fiscal year beginning July 1, 2006, shall not revert but shall remain available for expenditure for the purposes allocated until the close of the succeeding fiscal year. Priority for the moneys addressed in this paragraph shall be given to services for children with special needs such as mental health needs, sexual abuse victims or offenders, and substance abuse. If moneys addressed in this paragraph are used to support services for children with special needs that were previously provided under a county contract funded from a county's mental health, mental retardation, and developmental disabilities services fund under section 331.424A, a decategorization project may contract with a provider of such services in place of the county contract, notwithstanding any request for proposals requirement otherwise applicable under section 8A.311.

Sec. 95. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION VII COUNTY FUNDS

Sec. 96. Notwithstanding section 331.424A, subsection 5, and section 331.432, subsection 3, for the fiscal year beginning July 1, 2007, and ending June 30, 2008, a county may transfer moneys from other funds of the county to the county's services fund created in section 331.424A. A county transferring moneys from other funds of the county to the county's services fund pursuant to this section or utilizing the nonreversion authority provided in the division of this Act relating to decategorization project funding, shall submit a report detailing the transfers made and fund affected and explaining how the moneys made available by the nonreversion authority were expended. The county shall submit the report along with the county expenditure and information report submitted by December 1, 2007, in accordance with section 331.439.

DIVISION VIII HEALTH CARE TRUST FUND APPROPRIATIONS — HEALTH CARE ACTIVITIES

Sec. 97. DEPARTMENT OF PUBLIC HEALTH. In addition to any other appropriation made in this Act for the purposes designated, there is appropriated from the health care trust

fund created in section 453A.35A to the department of public health for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amounts, or so much thereof as is necessary, for the purposes designated and for not more than the following full-time equivalent positions:

1. ADDICTIVE DISORDERS

......\$ 6,993,754FTEs 4.00

- a. Of the funds appropriated in this subsection, \$450,000 shall be used for implementation of culturally competent substance abuse treatment pilot projects.
- (1) The department shall utilize the amount allocated in this lettered paragraph to expand existing contracts to implement at least three pilot projects to provide culturally competent substance abuse treatment in various areas of the state. Each pilot project shall target a particular ethnic minority population. The populations targeted shall include but are not limited to African-American, Asian, and Latino.
- (2) The pilot project requirements shall provide for documentation or other means to ensure access to the cultural competence approach used by a pilot project so that such approach can be replicated and improved upon in successor programs.
- b. Of the funds appropriated in this subsection, \$5,861,754 shall be used for tobacco use prevention, cessation, and treatment. The department shall utilize the funds to provide for a variety of activities related to tobacco use prevention, cessation, and treatment including to support Quitline Iowa, QuitNet cessation counseling and education, grants to school districts and community organizations to support Just Eliminate Lies youth chapters and youth tobacco prevention activities, expansion of the Just Eliminate Lies tobacco prevention media campaign with a focus on rural areas, nicotine replacement therapy, and other prevention and cessation materials and media promotion. Of the funds allocated in this lettered paragraph, not more than \$500,000 shall be used for cessation media promotion. Of the funds allocated in this lettered paragraph, \$255,000 may be utilized by the department for administrative purposes.
- c. Of the funds appropriated in this subsection, \$682,000 shall be used for substance abuse treatment activities.

2. HEALTHY CHILDREN AND FAMILIES

- a. Of the funds appropriated in this subsection, \$200,000 shall be used as additional funding 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.
- b. Of the funds appropriated in this subsection, \$180,000 shall be used for childhood obesity prevention.
- c. Of the funds appropriated in this subsection, \$20,000 shall be used to implement the task force on postnatal tissue and fluid banking, if enacted by 2007 Iowa Acts, House File $910.^{10}$
- d. Of the funds appropriated in this subsection, \$39,000 shall be used for the dental screening of children program pursuant to section 135.17, if enacted by 2007 Iowa Acts, House File 906.11
- e. Of the funds appropriated in this subsection, \$10,000 shall be used for public health education and awareness of the children's vision initiatives, including the InfantSee program and the student vision program, administered through a statewide association of optometric professionals for infants and preschool children.
- f. Of the funds appropriated in this subsection, \$238,500 shall be used to provide audiological services and hearing aids for children. The department may enter into a contract to administer this paragraph.

3. CHRONIC CONDITIONS	
\$	1,188,981
ETEC	1.00

¹⁰ Chapter 147 herein

¹¹ Chapter 146 herein

- a. Of the funds appropriated in this subsection, \$473,981 shall be used as additional funding for child health specialty clinics.
- b. Of the funds appropriated in this subsection, \$500,000 shall be used for the comprehensive cancer control program to reduce the burden of cancer in Iowa through prevention, early detection, effective treatment, and ensuring quality of life. The department shall utilize one of the full-time equivalent positions authorized in this subsection for administration of the activities related to the Iowa consortium for comprehensive cancer control.
- c. Of the funds appropriated in this subsection, \$5,000 shall be used for the hemophilia advisory council pursuant to chapter 135N, if enacted by 2007 Iowa Acts, Senate File 548.12
- d. Of the funds appropriated in this subsection, \$200,000 shall be used for cervical and colon cancer screening.
- *e. Of the funds appropriated in this subsection, \$10,000 shall be allocated to the university

of Iowa, Carver college of medicine, department of cardiothoracic surgery, to offer extracorpo-	
real support for donation after cardiac death.*	
4. COMMUNITY CAPACITY	
\$ 2,790,000	
a. Of the funds appropriated in this subsection, \$75,000 shall be used for local public health	
infrastructure to examine minimum standards for local public health.	
b. Of the funds appropriated in this subsection, \$200,000 shall be used for the mental health	
professional shortage area program implemented pursuant to section 135.80, as enacted by	
this Act.	
c. Of the funds appropriated in this subsection, \$50,000 shall be used for a grant to a state-	
wide association of psychologists that is affiliated with the American psychological associa-	
tion to be used for initial implementation of a program to rotate intern psychologists in place-	
ments in urban and rural mental health professional shortage areas, as defined in section	
135.80, as enacted by this Act.	
d. Of the funds appropriated in this subsection, the following amounts shall be allocated to	
the Iowa collaborative safety net provider network as enacted in this Act to be used for the pur-	
poses designated:	
(1) For distribution to the Iowa-Nebraska primary care association for statewide coordina-	
tion of the Iowa collaborative safety net provider network:	
φ 100.000	
(2) For distribution to the Iowa family planning network agencies for necessary infrastruc-	
ture, statewide coordination, provider recruitment, service delivery, and provision of assis-	
tance to patients in determining an appropriate medical home:\$ 100,000	
(3) For distribution to the local boards of health that provide direct services for pilot pro-	
grams in three counties to assist patients in determining an appropriate medical home:	
100,000 \$ 100,000	
(4) For distribution to maternal and child health centers for pilot programs in three counties	
to assist patients in determining an appropriate medical home:	
\$ 100,000	
(5) For distribution to free clinics for necessary infrastructure, statewide coordination, pro-	
vider recruitment, service delivery, and provision of assistance to patients in determining an	
appropriate medical home:	
\$ 250,000	
(6) For distribution to rural health clinics for necessary infrastructure, statewide coordina-	
tion, provider recruitment, service delivery, and provision of assistance to patients in deter-	
mining an appropriate medical home:	
\$ 150,000	
(7) For the safety net provider patient access to specialty health care initiative as described	
in this Act:	

¹² Chapter 31 herein

^{*} Item veto; see message at end of the Act

- e. Of the funds appropriated in this subsection, \$650,000 shall be used to continue 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.
- f. Of the funds appropriated in this subsection, \$75,000 shall be used for implementation of the recommendations of the direct care worker task force established pursuant to 2005 Iowa Acts, chapter 88, based upon the report submitted to the governor and the general assembly in December 2006.
- g. Of the funds appropriated in this subsection, \$140,000 shall be used for allocation to an independent statewide direct care worker association for education, outreach, leadership development, mentoring, and other initiatives intended to enhance the recruitment and retention of direct care workers in health and long-term care.
- h. The department shall utilize one of the full-time equivalent positions authorized in this subsection for administration of the activities related to the Iowa collaborative safety net provider network.
- i. The department shall utilize one of the full-time equivalent positions authorized in this subsection for administration of the voluntary health care provider program pursuant to section 135.24.
- Sec. 98. DEPARTMENT OF HUMAN SERVICES. In addition to any other appropriation made in this Act for the purposes designated, there is appropriated from the health care trust fund created in section 453A.35A to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amounts, or so much thereof as is necessary, for the purposes designated:
 - 1. MEDICAL ASSISTANCE
 - 99,518,096
- a. Of the funds appropriated in this subsection, \$80,480,357 shall be used for costs of services and eligibles including but not limited to the remedial services program; intermediate care facilities for persons with mental retardation (ICFMR); state cases; ambulance, clinic, and hospice services; dental services; medical supplies and equipment; targeted case management; medical related-provider services; mental health-related optional services; and home and community-based services inflation.
- b. Of the funds appropriated in this subsection, \$9,337,435 shall be used to expand access to medical assistance for parents by increasing the earned income disregard for parents in the family and child medical assistance programs.
- c. Of the funds appropriated in this subsection, \$1,995,405 shall be used to reduce the waiting list for the children's mental health home and community-based services waiver.
- d. Of the funds appropriated in this subsection, \$860,301 shall be used for the Medicaid for independent young adults (MIYA) program.
- e. Of the funds appropriated in this subsection, \$1,001,000 shall be used for provision of habilitation services.
- f. Of the funds appropriated in this subsection, \$4,361,598 shall be used for increased enrollment of medical assistance-eligible children in the medical assistance program.
- g. Of the funds appropriated in this subsection, \$1,100,000 shall be used for the money follows the person demonstration project to assist individuals in utilizing or transitioning to community services options.
- h. Of the funds appropriated in this subsection, \$250,000 shall be used as additional funding for the grant to the Iowa healthcare collaborative as described in section 135.40.
- i. Of the funds appropriated in this subsection, \$132,000 shall be used for provisions relating to medical assistance income trusts pursuant to the amendment to section 633C.3, if enacted by 2007 Iowa Acts, House File $397.^{13}$

¹³ Chapter 136 herein

2. STATE CHILDREN'S HEALTH INSURANCE PROGRAM

- b. Of the funds appropriated in this subsection, \$135,300 shall be used to maintain current outreach efforts.
- c. Of the funds appropriated in this subsection, \$3,496,907 shall be used for increased enrollment of eligible children in the state children's health insurance program and necessary outreach.
- 3. MH/MR/DD ALLOWED GROWTH FACTOR

The funds appropriated in this subsection shall be credited to the property tax relief fund created in section 426B.1.

Sec. 99. LEGISLATIVE SERVICES AGENCY — LEGISLATIVE COMMISSION ON AFFORDABLE HEALTH CARE PLANS FOR SMALL BUSINESSES AND FAMILIES APPROPRIATION. There is appropriated from the health care trust fund created in section 453A.35A to the legislative services agency for the legislative commission on affordable health care plans for small businesses as enacted by this Act, for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, for the purpose designated:

For carrying out the duties of the commission and the health care data research advisory council:

.....\$ 500,000

Of the amount appropriated in this section, a portion shall be used for the health and long-term-care workforce review to be conducted by the department of public health as described in this Act.

- *Sec. 100. Section 135.24, subsection 2, paragraphs a and b, Code 2007, are amended to read as follows:
- a. Procedures for <u>expedited</u> registration of health care providers deemed qualified by the board of medical examiners, the board of physician assistant examiners, the board of dental examiners, the board of nursing, the board of chiropractic examiners, the board of psychology examiners, the board of social work examiners, the board of behavioral science examiners, the board of pharmacy examiners, the board of optometry examiners, the board of podiatry examiners, the board of physical and occupational therapy examiners, the state board for respiratory care, and the Iowa department of public health, as applicable. <u>An expedited registration shall be completed within fifteen days of application of the health care provider.</u>
- b. Procedures for <u>expedited</u> registration of free clinics. <u>An expedited registration shall be completed within fifteen days of application of the free clinic.*</u>
- Sec. 101. Section 135.24, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A health care provider providing free care under this section shall be considered an employee of the state under chapter 669, and shall be afforded protection as an employee of the state under section 669.21, and shall not be subject to payment of claims arising out of the free care provided under this section through the health care provider's own professional liability insurance coverage, provided that the health care provider has done all of the following:

- Sec. 102. <u>NEW SECTION</u>. 135.80 MENTAL HEALTH PROFESSIONAL SHORTAGE AREA PROGRAM.
- 1. For the purposes of this section, "mental health professional shortage areas" means geographic areas in this state that have been designated by the United States department of health and human services, health resources and services administration, bureau of health professionals, as having a shortage of mental health professionals.

^{*} Item veto; see message at end of the Act

- 2. The department shall establish and administer a mental health professional shortage area program in accordance with this section. Implementation of the program shall be limited to the extent of the funding appropriated or otherwise made available for the program.
- 3. The program shall provide stipends to support psychiatrist positions with an emphasis on securing and retaining medical directors at community mental health centers, providers of mental health services to county residents pursuant to a waiver approved under section 225C.7, subsection 3, and hospital psychiatric units that are located in mental health professional shortage areas.
- 4. The department shall apply the rules in determining the number and amounts of stipends within the amount of funding available for the program for a fiscal year.
- 5. For each fiscal year in which funding is allocated by the program, the department shall report to the governor and general assembly summarizing the program's activities and the impact made to address the shortage of mental health professionals.

Sec. 103. NEW SECTION. 135.153 IOWA COLLABORATIVE SAFETY NET PROVIDER NETWORK ESTABLISHED.

- 1. The department shall establish an Iowa collaborative safety net provider network that includes community health centers, rural health clinics, free clinics, maternal and child health centers, the expansion population provider network as described in chapter 249J, local boards of health that provide direct services, Iowa family planning network agencies, child health specialty clinics, and other safety net providers. The network shall be a continuation of the network established pursuant to 2005 Iowa Acts, chapter 175, section 2, subsection 12. The network shall include all of the following:
- a. An Iowa safety net provider advisory group consisting of representatives of community health centers, rural health clinics, free clinics, maternal and child health centers, the expansion population provider network as described in chapter 249J, local boards of health that provide direct services, Iowa family planning network agencies, child health specialty clinics, other safety net providers, patients, and other interested parties.
- $b. \ A planning \, process \, to \, logically \, and \, systematically \, implement \, the \, Iowa \, collaborative \, safety \, net \, provider \, network.$
- c. A database of all community health centers, rural health clinics, free clinics, maternal and child health centers, the expansion population provider network as described in chapter 249J, local boards of health that provide direct services, Iowa family planning network agencies, child health specialty clinics, and other safety net providers. The data collected shall include the demographics and needs of the vulnerable populations served, current provider capacity, and the resources and needs of the participating safety net providers.
- d. Network initiatives to, at a minimum, improve quality, improve efficiency, reduce errors, and provide clinical communication between providers. The network initiatives shall include but are not limited to activities that address all of the following:
 - (1) Training.
 - (2) Information technology.
 - (3) Financial resource development.
 - (4) A referral system for ambulatory care.
 - (5) A referral system for specialty care.
 - (6) Pharmaceuticals.
 - (7) Recruitment of health professionals.
- 2. The network shall form a governing group which includes two individuals each representing community health centers, rural health clinics, free clinics, maternal and child health centers, the expansion population provider network as described in chapter 249J, local boards of health that provide direct services, the state board of health, Iowa family planning network agencies, child health specialty clinics, and other safety net providers.
- 3. The department shall provide for evaluation of the network and its impact on the medically underserved.

Sec. 104. Section 249J.8, subsection 1, Code 2007, is amended to read as follows:

- 1. Beginning July 1, 2005, each 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. Each expansion population member whose family income is equal to or 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 not be subject to payment of 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. 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.
- Sec. 105. Section 283A.2, Code 2007, is amended by adding the following new subsection: NEW SUBSECTION. 3. Each school district that operates or provides for a school breakfast or lunch program shall provide for the forwarding of information from the applications for the school breakfast or lunch program, for which federal funding is provided, to identify children for enrollment in the medical assistance program pursuant to chapter 249A or the healthy and well kids in Iowa program pursuant to chapter 514I to the department of human services.
- Sec. 106. Section 514I.5, subsection 8, Code 2007, is amended by adding the following new paragraph:
- <u>NEW PARAGRAPH</u>. n. The use of provider guidelines in assessing the well-being of children, which may include the use of the bright futures for infants, children, and adolescents program as developed by the federal maternal and child health bureau and the American academy of pediatrics guidelines for well-child care.
- Sec. 107. IOWACARE PROVIDER NETWORK EXPANSION. The director of human services shall aggressively pursue options to expand the expansion population provider network for the IowaCare program pursuant to chapter 249J. The department may expand the expansion population provider network if sufficient unencumbered certified local matching funds are available to cover the state share of the costs of services provided to the expansion population or if an alternative funding source is identified to cover the state share.
- Sec. 108. PHARMACEUTICAL INFRASTRUCTURE FOR SAFETY NET PROVIDERS. The Iowa collaborative safety net provider network established pursuant to section 135.153 shall develop a pharmaceutical infrastructure for safety net providers. The infrastructure shall include all of the following elements:
- 1. Identification of the most efficacious drug therapies, a strategy to distribute pharmaceuticals to safety net providers for provision to patients at the point of care, including the develop-

ment of a centralized intake concept to determine the eligibility of safety net provider patients for the prescription drug donation repository program pursuant to chapter 135M and pharmaceutical manufacturer assistance programs.

- 2. An educational effort for safety net provider patients, medical providers, and pharmacists regarding the drug therapies and access alternatives identified pursuant to subsection 1.
- 3. Utilization of a fully transparent pharmacy benefits manager to work with local pharmacies to provide low cost patient access to drug therapies.
- 4. A medication reconciliation program to ensure that each patient has a complete record of the patient's medication history available.

Sec. 109. SAFETY NET PROVIDER PATIENTS — ACCESS TO SPECIALTY CARE.

- 1. The Iowa collaborative safety net provider network established in section 135.153 shall implement a specialty care initiative in two communities in the state to determine various methods of addressing the issue of specialty care access in underserved areas of the state. The communities selected shall develop collaborative partnerships between hospitals, specialists, primary care providers, community partners, human services providers, and others involved in providing health care.
- 2. The initiative shall include an evaluation component to determine the value of services provided and participating communities shall participate in sharing data and findings resulting from the initiative.
- 3. Based upon the results of the initiative, the network shall build an infrastructure for improved specialty care access throughout the state.

Sec. 110. HEALTH AND LONG-TERM-CARE WORKFORCE REVIEW AND RECOM-MENDATIONS.

- 1. The department of public health, in collaboration with the department of human services, the department of inspections and appeals, the department of workforce development, and other state agencies involved with relevant health care and workforce issues, shall conduct a comprehensive review of Iowa's health and long-term-care workforce. The review shall provide for all of the following:
- a. Raising of public awareness of the imminent health and long-term-care workforce shortage, based upon the rapidly changing demographics in the state.
- b. A description of the current health and long-term-care workforce, including documenting the shortages and challenges that exist throughout the state and analyzing the impact of these shortages on access to care, the quality of care received including outcomes, and the cost of care.
- c. A projection of the health and long-term-care workforce necessary to provide comprehensive, accessible, quality, and cost-effective care during the next twenty-five years.
- d. Construction of a workforce model to provide the necessary or desirable health and long-term-care workforce described in paragraph "c".
- 2. The department of public health and other agencies collaborating in the review shall actively elicit input from persons involved or interested in the delivery of health and long-term-care services, including but not limited to members of the health and long-term-care workforce and consumers of health and long-term care.
- 3. The department shall coordinate the review with other initiatives such as PRIMECARRE and the Iowa collaborative safety net provider network recruitment effort.
- 4. The department of public health shall submit the findings and recommendations of the review for submission to the general assembly and the governor on or before January 15, 2008. The recommendations shall include specific action steps to assist the state in meeting the health and long-term-care workforce shortages and challenges. The action steps shall include but are not limited to all of the following:
- a. Strategies such as enhanced pay and benefits, expanded initial and ongoing training, flexible work scheduling, reduced workload volume, and utilizing a team-based approach to providing care to both recruit and retain the necessary health and long-term-care workforce.

b. Utilization of innovative measures, including but not limited to telemedicine and other emerging technologies, and scope of practice changes that allow modifications in roles and responsibilities in various health and long-term-care settings.

Sec. 111. BEHAVIORAL HEALTH — DEVELOPING WORKFORCE COMPETENCIES.

- 1. The department of public health shall work collaboratively during the fiscal year beginning July 1, 2007, with the departments of corrections, education, elder affairs, and human services, and other state agencies, to enhance the workforce competencies of professional and direct care staff who provide behavioral health services, including but not limited to all of the following:
 - a. Treatment of persons with co-occurring mental health and substance use disorders.
 - b. Treatment of children with mental health or substance use disorders.
 - c. Treatment of persons with serious mental illness.
- d. Treatment of veterans of United States or Iowa military service with mental health or substance use disorders.
 - e. Treatment of older adults with mental health or substance use disorders.
- 2. The department's collaborative effort shall utilize the findings of the substance abuse and mental health services administration of the United States department of health and human services and materials developed by the Annapolis coalition on the behavioral health workforce in planning and implementing efforts to enhance the competency-based training of the state's behavioral health workforce.
- Sec. 112. CONTINGENT EFFECTIVE DATE. The provision in this division of this Act amending section 249J.8 shall not take effect unless the department of human services receives approval of a medical assistance waiver amendment to change the premium requirements from the centers for Medicare and Medicaid services of the United States department of health and human services.

DIVISION IX CHILD WELFARE SERVICES

Sec. 113. Section 232.52, subsection 6, unnumbered paragraph 1, Code 2007, is amended to read as follows:

When the court orders the transfer of legal custody of a child pursuant to subsection 2, paragraph "d", "e", or "f", the order shall state that reasonable efforts as defined in section 232.57 have been made. If deemed appropriate by the court, the order may include a determination that continuation of the child in the child's home is contrary to the child's welfare. The inclusion of such a determination shall not under any circumstances be deemed a prerequisite for entering an order pursuant to this section. However, the inclusion of such a determination, supported by the record, may be used to assist the department in obtaining federal funding for the child's placement. If such a determination is included in the order, unless the court makes a determination that further reasonable efforts are not required, reasonable efforts shall be made to prevent permanent removal of a child from the child's home and to encourage reunification of the child with the child's parents and family. The reasonable efforts may include but are not limited to early intervention and follow-up programs implemented pursuant to section 232.191.

Sec. 114. Section 232.102, subsection 5, paragraph b, Code 2007, is amended to read as follows:

b. In order to transfer custody of the child under this subsection, the court must make a determination that continuation of the child in the child's home would be contrary to the welfare of the child, and shall identify the reasonable efforts that have been made. The court's determination regarding continuation of the child in the child's home, and regarding reasonable efforts, including those made to prevent removal and those made to finalize any permanency plan in effect, as well as any determination by the court that reasonable efforts are not re-

quired, must be made on a case-by-case basis. The grounds for each determination must be explicitly documented and stated in the court order. However, preserving the safety of the child is the paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determinations otherwise required under this paragraph shall not be a prerequisite for an order for removal of the child. If the court transfers custody of the child, unless the court waives the requirement for making reasonable efforts or otherwise makes a determination that reasonable efforts are not required, reasonable efforts shall be made to make it possible for the child to safely return to the family's home.

Sec. 115. Section 232.143, subsection 1, Code 2007, is amended to read as follows:

- 1. <u>a.</u> A statewide expenditure target for children in group foster care placements in a fiscal year, which placements are a charge upon or are paid for by the state, shall be established annually in an appropriation bill by the general assembly. Representatives of the department and juvenile court services shall jointly develop a formula for allocating a portion of the statewide expenditure target established by the general assembly to each of the department's service areas. The formula shall be based upon the service area's proportion of the state population of children and of the statewide usage of group foster care in the previous five completed fiscal years and upon other indicators of need. The expenditure amount determined in accordance with the formula shall be the group foster care budget target for that service area.
- <u>b.</u> A service area may exceed the service area's budget target for group foster care by not more than five percent in a fiscal year, provided the overall funding allocated by the department for all child welfare services in the service area is not exceeded.
- c. If all of the following circumstances are applicable, a service area may temporarily exceed the service area's budget target as necessary for placement of a child in group foster care:
 - (1) The child is thirteen years of age or younger.
- (2) The court has entered a dispositional order for placement of the child in group foster care.
- (3) The child is placed in a juvenile detention facility awaiting placement in group foster care.
- d. If a child is placed pursuant to paragraph "c", causing a service area to temporarily exceed the service area's budget target, the department and juvenile court services shall examine the cases of the children placed in group foster care and counted in the service area's budget target at the time of the placement pursuant to paragraph "c". If the examination indicates it may be appropriate to terminate the placement for any of the cases, the department and juvenile court services shall initiate action to set a dispositional review hearing under this chapter for such cases. In such a dispositional review hearing, the court shall determine whether needed aftercare services are available following termination of the placement and whether termination of the placement is in the best interests of the child and the community.

Sec. 116. NEW SECTION. 234.3 CHILD WELFARE ADVISORY COMMITTEE.

- 1. A child welfare advisory committee is established to advise the administrator and the department of human services on programmatic and budgetary matters related to the provision or purchase of child welfare services. The committee shall meet at least quarterly, or upon the call of the chairperson, to review departmental budgets, policies, and programs, and proposed budgets, policies, and programs, and to make recommendations and suggestions to make the state child welfare budget, programs, and policies more effective in serving families and children.
- 2. The advisory committee shall consist of fifteen voting members, appointed by the governor and confirmed by the senate. The membership shall include representatives of child welfare service providers, juvenile court services, the Iowa foster and adoptive parent association, the child advocacy board, the coalition for family and children's services in Iowa, children's advocates, service consumers, and others who have training or knowledge related to child welfare services. The terms of voting members shall be for three-year staggered terms, beginning and ending as provided in section 69.19. A member shall continue to serve until a successor

is appointed and a vacancy shall be filled for the remainder of the unexpired term. In addition, four members shall be legislators, all serving as ex officio, nonvoting members, with one each appointed by the speaker of the house of representatives, the minority leader of the house of representatives, the majority leader of the senate, and the minority leader of the senate. The director of human services and the administrator, or their designees, shall also be ex officio nonvoting members, and shall serve as resource persons to the committee.

- 3. A chairperson, vice chairperson, and other officers deemed necessary by the committee shall be appointed by the membership of the committee. Committee staffing shall be designated by the administrator.
- Sec. 117. GROUP FOSTER CARE WAITING LIST. On or before December 15, 2007, the department of human services shall report to the general assembly providing detailed information concerning the children who were on a waiting list for group foster care services during the period covered by the report. The information shall include but is not limited to the number and status of children who were on a waiting list, the length of time the children spent on a waiting list, alternative placements while the children were on a waiting list, age and gender of the children, distribution of responsibility between the department and juvenile court services, and the projected funding, services, and programs required to appropriately address the needs of the children on a waiting list or to otherwise eliminate the need for a waiting list.

DIVISION X FINANCIAL RESPONSIBILITY FOR CERTAIN MEDICAID SERVICES

- Sec. 118. Section 225C.6, subsection 1, paragraph e, Code 2007, is amended to read as follows:
- e. Unless another governmental body sets standards for a service available to persons with disabilities, adopt state standards for that service. The commission shall provide that a service provider's compliance with standards for a service set by a nationally recognized body shall be deemed to be in compliance with the state standards adopted by the commission for that service. The commission shall adopt state standards for those residential and community-based providers of services to persons with mental illness or developmental disabilities that are not otherwise subject to licensure by the department of human services or department of inspections and appeals, including but not limited to <u>remedial</u> services payable under the <u>adult rehabilitation option of the</u> medical assistance program and other services payable from funds credited to a county mental health, mental retardation, and developmental disabilities services fund created in section 331.424A. In addition, the commission shall review the licensing standards used by the department of human services or department of inspections and appeals for those facilities providing services to persons with mental illness or developmental disabilities.
 - Sec. 119. Section 249A.26, subsection 4, Code 2007, is amended to read as follows:
- 4. The county of legal settlement shall pay for one hundred percent of the nonfederal share of the cost of services provided to <u>adult</u> persons with chronic mental illness <u>implemented under the adult rehabilitation option of the state medical assistance plan who qualify for habilitation services in accordance with the rules adopted for the services.</u> The state shall pay for one hundred percent of the nonfederal share of the cost of such services provided to such persons who have no legal settlement or the legal settlement is unknown so that the persons are deemed to be state cases.
- Sec. 120. Section 249A.31, Code 2007, is amended to read as follows: 249A.31 COST-BASED REIMBURSEMENT MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES PROVIDERS.

All of the following shall receive cost-based reimbursement for one hundred percent of the reasonable costs for the provision of services to recipients of medical assistance:

- 1. Providers of individual case management services for persons with mental retardation, a developmental disability, or chronic mental illness <u>shall receive cost-based reimbursement for one hundred percent of the reasonable costs for the provision of the services</u> in accordance with standards adopted by the mental health, mental retardation, developmental disabilities, and brain injury commission pursuant to section 225C.6.
- 2. Providers of services to persons with chronic mental illness implemented under the adult rehabilitation option of the state medical assistance plan.
- Sec. 121. Section 331.440A, subsection 7, paragraph b, subparagraph (1), Code 2007, is amended to read as follows:
- (1) The oversight committee may make a determination that implementation by the department of human services of a <u>new</u> significant funding provision such as the rehabilitation option for persons with chronic mental illness <u>remedial services</u> or a waiver under the medical assistance program, or another good cause reason, justifies delay of the implementation of the pilot project phases as provided in subsection 6. If such a determination is made, the department of human services and pilot project counties shall delay implementation of the pilot project phases until a date identified by the oversight committee.
 - Sec. 122. Section 249A.26A, Code 2007, is repealed.
- Sec. 123. IMPLEMENTATION OF DIVISION. Section 25B.2, subsection 3, shall not apply to this division of this Act.

DIVISION XI FAMILY OPPORTUNITY ACT

Sec. 124. Section 249A.3, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. u. As allowed under the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171, section 6062, is an individual who is less than nineteen years of age who meets the federal supplemental security income program rules for disability but whose income or resources exceed such program rules, who is a member of a family whose income is at or below three hundred percent of the most recently revised official poverty guidelines published by the United States department of health and human services for the family, and whose parent complies with the requirements relating to family coverage offered by the parent's employer. Such assistance shall be provided on a phased-in basis, based upon the age of the individual.

Sec. 125. DEVELOPMENT AND SUPPORT OF FAMILY-TO-FAMILY HEALTH INFORMATION CENTER.

- $1.\,$ As provided under the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171, section 6064, the department of public health shall aggressively pursue the establishment of a family-to-family health information center in Iowa. The center shall provide for all of the following:
- a. Assistance to families of children with disabilities or special health care needs to make informed choices about health care in order to promote good treatment decisions, cost-effectiveness, and improved health outcomes for such children.
 - b. Information regarding health care needs of and resources available for such children.
 - c. Identification of successful health delivery models for such children.
- d. Development, with representatives of health care providers, managed care organizations, health care purchasers, and appropriate state agencies, of a model for collaboration between families of such children and health professionals.
 - e. Training and guidance regarding caring for such children.
- f. Conducting of outreach activities to the families of such children, health professionals, schools, and other appropriate entities and individuals.
 - 2. The center shall be staffed by families of children with disabilities or special health care

needs who have expertise in federal and state public and private health care systems and by health professionals.

Sec. 126. FUNDING — CONTINGENCY.

- 1. The provision in this division of this Act relating to eligibility for certain persons with disabilities under the medical assistance program shall only be implemented if the department of human services determines that funding is available in appropriations made in this Act, in combination with federal allocations to the state, for the state children's health insurance program, in excess of the amount needed to cover the current and projected enrollment under the state children's health insurance program. If such a determination is made, the department of human services shall transfer funding from the appropriations made in this Act for the state children's health insurance program, not otherwise required for that program, to the appropriations made in this Act for medical assistance, as necessary, to implement such provision of this division of this Act.
- 2. The provision in this division of this Act relating to the development and support of a family-to-family health information center shall be implemented only if discretionary funding is received from the health resources and services administration of the United States department of health and human services for this purpose.

DIVISION XII COMMISSION ON AFFORDABLE HEALTH CARE

Sec. 127. LEGISLATIVE COMMISSION ON AFFORDABLE HEALTH CARE PLANS FOR SMALL BUSINESSES AND FAMILIES.

- 1. A legislative commission on affordable health care plans for small businesses and families is created for the 2007 legislative interim. The legislative services agency shall provide staffing assistance to the commission.
- a. The commission shall include 10 members of the general assembly, three appointed by the majority leader of the senate, two appointed by the minority leader of the senate, three appointed by the speaker of the house of representatives, and two appointed by the minority leader of the house of representatives.
- b. The commission shall include members of the public appointed by the legislative council from designees of the following:
- (1) Two members who are small business owners, one designated by the Iowa association of business and industry, and one designated by the national federation of independent business.
 - (2) One hospital administrator designated by the Iowa hospital association.
- (3) Two health care providers, one a physician designated by the Iowa medical society, and one a nurse designated by the Iowa nurses association.
- (4) One individual insurance agent designated by the independent insurance agents of Iowa.
- (5) One representative of an insurance carrier designated by the federation of Iowa insurers.
- (6) One individual health insurance agent designated by the Iowa association of health underwriters.
 - c. The commission shall include five consumers appointed by the governor.
- d. The commission shall include the following members, or their designees, as ex officio members:
 - (1) The commissioner of insurance.
 - (2) The director of human services.
 - (3) The director of public health.
- e. At least one of the members appointed or designated pursuant to paragraph "a", "b", or "c" shall be a member of a racial minority group.

- 2. The chairpersons of the commission shall be those members of the general assembly so appointed by the majority leader of the senate and the speaker of the house of representatives. Legislative members of the commission are eligible for per diem and reimbursement of actual expenses as provided in section 2.10. Consumers appointed to the commission by the governor pursuant to subsection 1, paragraph "c", are entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties as members, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members of the commission.
- 3. The commission shall review, analyze, and make recommendations on issues relating to the affordability of health care for Iowans including but not limited to:
- a. The benefits and costs of requiring all residents of Iowa to have health insurance coverage, including but not limited to individual mandates and proposals from other states.
- b. The benefits and costs of providing health insurance coverage to all children in the state, with a particular emphasis on children's health issues.
- c. Uninsured and underinsured Iowans with a special focus on determining the characteristics of the uninsured and underinsured populations, why such persons are uninsured or underinsured, and the most effective and efficient means to provide insurance coverage to such persons, including through government programs.
- d. Major factors and trends that are likely to impact the cost of premiums and affordability of health care during the next ten years, including but not limited to effects of mandates, levels of coverage, costs and pricing of treatments, cost-sharing and cost-cutting measures, cost-shifting measures, collaborative opportunities, subsidies, reinsurance plans, risk pooling, and wellness and disease prevention initiatives.
- 4. The commission shall utilize the expertise of the health care data research advisory council in carrying out the commission's duties.
- 5. The commission may hold public hearings to allow persons and organizations to be heard and to gather information.
- 6. The commission may request from any state agency or official information and assistance as needed to perform the review and analysis required in subsection 3. A state agency or official shall furnish the information or assistance requested within the authority and resources of the state agency or official. This subsection does not allow the examination or copying of any public record required by law to be kept confidential.
- 7. The commission may employ staff and consultants as necessary to assist the commission in carrying out its duties as set forth in this section.
- 8. The commission shall complete its deliberations in December 2007 and submit a final report to the general assembly for consideration during the 2008 Legislative Session, summarizing the commission's activities, analyzing issues studied, making recommendations for legislative reforms that will make health insurance coverage more affordable for small businesses and families in this state, and including any other information that the commission deems relevant and necessary.

Sec. 128. HEALTH CARE DATA RESEARCH ADVISORY COUNCIL.

- 1. A health care data research advisory council is created for the purpose of assisting the legislative commission on affordable health care plans for small businesses and families in carrying out the commission's duties by conducting research, providing research data and analysis, and performing other functions within the expertise of the members of the council at the direction of the commission.
- 2. The council membership shall be appointed by the legislative council and shall include but is not limited to the following:
 - a. A representative of the university of Iowa college of medicine.
 - b. A representative of the university of Iowa college of dentistry.
 - c. A representative of the university of Iowa college of pharmacy.
 - d. A representative of the university of Iowa college of nursing.

- e. A representative of the university of Iowa college of public health.
- f. A representative of Des Moines university osteopathic medical center.
- g. A representative of the Drake university college of pharmacy.
- h. A representative of an Iowa college of health sciences.
- i. A representative of the Iowa public health association.

Sec. 129. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION XIII HOME AND COMMUNITY-BASED SERVICES WAIVER RECIPIENT RESIDENCE — ZONING

Sec. 130. $\,$ NEW SECTION. 335.34 HOME AND COMMUNITY-BASED SERVICES WAIVER RECIPIENT RESIDENCE.

- 1. A county, county board of supervisors, or county zoning commission shall consider the residence of the recipient of services under a home and community-based services waiver as a residential use of property for the purposes of zoning and shall treat the use of the residence as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the county.
- 2. A county, county board of supervisors, or a county zoning commission shall not require that the recipient, or the owner of such a residence if other than the recipient, obtain a conditional use permit, special use permit, special exception, or variance. A county, county board of supervisors, or county zoning commission shall not establish limitations regarding the proximity of one such residence to another.
- 3. This section applies to the residence of a recipient of services under a home and community-based services waiver if the residence meets any of the following conditions:
 - a. The residence is a single-family dwelling owned or rented by the recipient.
- b. The residence is a multifamily dwelling which does not hold itself out to the public as a community-based residential provider otherwise regulated by law including but not limited to a residential care facility, and which provides dwelling units to no more than four recipients of services under a home and community-based services waiver at any one time.
- 4. For the purposes of this section, "home and community-based services waiver" means "waiver" as defined in section 249A.29.

Sec. 131. <u>NEW SECTION</u>. 414.32 HOME AND COMMUNITY-BASED SERVICES WAIVER RECIPIENT RESIDENCE.

- 1. A city, city council, or city zoning commission shall consider the residence of the recipient of services under a home and community-based services waiver as a residential use of property for the purposes of zoning and shall treat the use of the residence as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the city.
- 2. A city, city council, or city zoning commission shall not require that the recipient, or owner of such residence if other than the recipient, obtain a conditional use permit, special use permit, special exception, or variance. A city, city council, or city zoning commission shall not establish limitations regarding the proximity of one such residence to another.
- 3. This section applies to the residence of a recipient of services under a home and community-based services waiver if the residence meets any of the following conditions:
 - a. The residence is a single-family dwelling owned or rented by the recipient.
- b. The residence is a multifamily dwelling which does not hold itself out to the public as a community-based residential provider otherwise regulated by law including but not limited to a residential care facility, and which provides dwelling units to no more than four recipients of services under a home and community-based services waiver at any one time.
- 4. For the purposes of this section, "home and community-based services waiver" means "waiver" as defined in section 249A.29.

Sec. 132. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION XIV NATIONAL DISASTER MEDICAL SYSTEM — EMPLOYMENT PROTECTION

- Sec. 133. Section 29A.28, subsection 1, Code 2007, is 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, 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, 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. The provisions of this section shall also apply to a leave of absence by a member of the national disaster medical system of the United States when activated for federal service with the system.
- Sec. 134. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment and is applicable on and after that date.
- Sec. 135. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, Code 2007, shall not apply to this division of this Act.

DIVISION XV ENERGY UTILITY ASSESSMENT AND RESOLUTION PROGRAM

Sec. 136. <u>NEW SECTION</u>. 216A.104 ENERGY UTILITY ASSESSMENT AND RESOLUTION PROGRAM.

- 1. The general assembly finds that provision of assistance to prevent utility disconnections will also prevent the development of public health risks due to such disconnections. The division shall establish an energy utility assessment and resolution program administered by each community action agency for persons with low incomes who have or need a deferred payment agreement or are in need of an emergency fuel delivery to address home energy utility costs.
 - 2. A person must meet all of the following requirements to be eligible for the program:
 - a. The person is eligible for the federal low-income home energy assistance program.
- b. The person is a residential customer of an energy utility approved for the program by the division.
- c. The person has or is in need of a deferred payment agreement to address the person's home energy utility costs.
- d. The person is able to maintain or regain residential energy utility service in the person's own name.
- e. The person provides the information necessary to determine the person's eligibility for the program.
 - f. The person complies with other eligibility requirements adopted in rules by the division.
 - 3. The program components shall include but are not limited to all of the following:
 - a. Analysis of a program participant's current financial situation.

- b. Review of a program participant's resource and money management options.
- c. Skills development and assistance for a program participant in negotiating a deferred payment agreement with the participant's energy utility.
 - d. Development of a written household energy affordability plan.
 - e. Provision of energy conservation training and assistance.
- f. A requirement that a program participant must make uninterrupted, regular utility payments while participating in the program.
- 4. The division shall implement accountability measures for the program and require regular reporting on the measures by the community action agencies.
- 5. The division shall implement the program statewide, subject to the funding made available for the program.

DIVISION XVI PASSPORT SANCTIONS

- Sec. 137. Section 252B.5, subsection 11, paragraph a, Code 2007, is amended to read as follows:
- a. Comply with federal procedures to periodically certify to the secretary of the United States department of health and human services, a list of the names of obligors determined by the unit to owe delinquent support, under a support order as defined in section 252J.1, in excess of five two thousand five hundred dollars. The certification of the delinquent amount owed may be based upon one or more support orders being enforced by the unit if the delinquent support owed exceeds five two thousand five hundred dollars. The certification shall include any amounts which are delinquent pursuant to the periodic payment plan when a modified order has been retroactively applied. The certification shall be in a format and shall include any supporting documentation required by the secretary.
- Sec. 138. Section 252B.5, subsection 11, paragraph b, subparagraph (1), subparagraph subdivision (b), Code 2007, is amended to read as follows:
- (b) A statement providing information that if the delinquency is in excess of <u>five two</u> thousand <u>five hundred</u> dollars, the United States secretary of state may apply a passport sanction by revoking, restricting, limiting, or refusing to issue a passport as provided in 42 U.S.C. § 652(k).
- Sec. 139. Section 252B.5, subsection 11, paragraph b, subparagraph (2), subparagraph subdivision (a), unnumbered paragraph 1, Code 2007, is amended to read as follows:

A challenge shall be based upon mistake of fact. For the purposes of this subsection, "mistake of fact" means a mistake in the identity of the obligor or a mistake in the amount of the delinquent child support owed if the amount did not exceed five two thousand five hundred dollars on the date of the unit's decision on the challenge.

- Sec. 140. Section 252B.5, subsection 11, paragraph c, Code 2007, is amended to read as follows:
- c. Following certification to the secretary, if the unit determines that an obligor no longer owes delinquent support in excess of $\underline{\text{five}} \, \underline{\text{two}}$ thousand $\underline{\text{five}} \, \underline{\text{hundred}}$ dollars, the unit shall provide information and notice as the secretary requires to withdraw the certification for passport sanction.
 - Sec. 141. EFFECTIVE DATE. This division of this Act takes effect October 1, 2007.

DIVISION XVII MANDATORY REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS

Sec. 142. Section 252B.26, Code 2007, is amended to read as follows: 252B.26 SERVICE OF PROCESS.

Notwithstanding any provision of law to the contrary, the unit may serve a petition, notice,

or rule to show cause under chapter 252A, 252C, 252F, 252H, 252K, 598, or 665 as specified in each chapter, or <u>as follows:</u>

- 1. The unit may serve a petition, notice, or rule to show cause by certified mail. Return acknowledgment is required to prove service by certified mail, rules of civil procedure 1.303(5) and 1.308(5) shall not apply, and the return acknowledgment shall be filed with the clerk of court.
- 2. The unit may serve a notice of intent under chapter 252H, or a notice of decision under section 252H.14A, upon any party or parent who is receiving family investment program assistance for the parent or child by sending the notice by regular mail to the address maintained by the department. Rules of civil procedure 1.303(5) and 1.308(5) shall not apply and the unit shall file proof of service as provided in chapter 252H. If the notice is determined to be undeliverable, the unit shall serve the notice as otherwise provided in this section or by personal service.
- Sec. 143. Section 252H.7, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A parent may waive the postreview waiting period provided for in section 252H.8, subsection <u>1A or</u> 6, for a court hearing or in section 252H.17 for requesting of a second review.

- Sec. 144. Section 252H.8, subsection 1, Code 2007, is amended to read as follows:
- 1. For actions initiated under subchapter II section 252H.15, either parent or the unit may request a court hearing within thirty days from the date of issuance of the notice of decision under section 252H.16, or within ten days of the date of issuance of the second notice of decision under section 252H.17, whichever is later.
- Sec. 145. Section 252H.8, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 1A. For actions initiated under section 252H.14A, either parent or the unit may request a court hearing within ten days of the issuance of the second notice of decision under section 252H.17.
- Sec. 146. Section 252H.8, subsection 4, paragraph b, Code 2007, is amended to read as follows:
- b. The return of service, <u>proof of service</u>, acceptance of service, or signed statement by the parent requesting review and adjustment or requesting modification, waiving service of the notice.
 - Sec. 147. Section 252H.8, subsection 6, Code 2007, is amended to read as follows:
- 6. For actions initiated under subchapter II section 252H.15, a hearing shall not be held for at least thirty-one days following the date of issuance of the notice of decision unless the parents have jointly waived, in writing, the thirty-day postreview period.
 - Sec. 148. Section 252H.9, subsection 1, Code 2007, is amended to read as follows:
- 1. If timely request for a court hearing is not made pursuant to section 252H.8, the unit shall prepare and present an administrative order for adjustment or modification, as applicable, for review and approval, ex parte, to the district court where the order to be adjusted or modified is filed. Notwithstanding any other law to the contrary, if more than one support order exists involving children with the same legally established parents, for the purposes of this subsection, the district court reviewing and approving the matter shall have jurisdiction over all other support orders entered by a court of this state and affected under this subsection.
- Sec. 149. Section 252H.10, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Pursuant to section 598.21C, any administrative or court order resulting from an action initiated under this chapter may be made retroactive only to <u>from three months after</u> the date that all parties were successfully served the notice required under section <u>252H.14A</u>, <u>252H.15</u>, or section <u>252H.19</u>, as applicable.

- Sec. 150. Section 252H.11, subsection 2, Code 2007, is amended to read as follows:
- 2. If the modification action filed by the parent is subsequently dismissed before being heard by the court, the unit shall continue the action previously initiated under subchapter II or III, or initiate a new action as follows:
- a. If the unit previously initiated an action under subchapter II, and had not issued a notice of decision as required under section <u>252H.14A or</u> 252H.16, the unit shall proceed as follows:
- (1) If notice of intent to review was served ninety days or less prior to the date the modification action filed by the parent is dismissed, the unit shall complete the review and issue the notice of decision.
- (2) If the modification action filed by the parent is dismissed more than ninety days after the original notice of intent to review was served, the unit shall serve or issue a new notice of intent to review and conduct the review.
- (3) If the unit initiated a review under section 252H.14A, the unit may issue the notice of decision.
- b. If the unit previously initiated an action under subchapter II and had issued the notice of decision as required under section <u>252H.14A or</u> 252H.16, the unit shall proceed as follows:
- (1) If the notice of decision was issued ninety days or less prior to the date the modification action filed by the parent is dismissed, the unit shall request, obtain, and verify any new or different information concerning the financial circumstances of the parents and issue a revised notice of decision to each parent, or if applicable, to the parent's attorney.
- (2) If the modification action filed by the parent is dismissed more than ninety days after the date of issuance of the notice of decision, the unit shall serve or issue a new notice of intent to review pursuant to section 252H.15 and conduct a review pursuant to section 252H.16, or conduct a review and serve a new notice of decision under section 252H.14A.
- c. If the unit previously initiated an action under subchapter III, the unit shall proceed as follows:
- (1) If the modification action filed by the parent is dismissed more than ninety days after the original notice of intent to modify was served, the unit shall serve a new notice of intent to modify pursuant to section 252H.19.
- (2) If the modification action filed by the parent is dismissed ninety days or less after the original notice of intent to modify was served, the unit shall complete the original modification action initiated by the unit under this subchapter.
- (3) Each parent shall be allowed at least twenty days from the date the administrative modification action is reinstated to request a court hearing as provided for in section 252H.8.

Sec. 151. NEW SECTION. 252H.14A REVIEWS INITIATED BY THE CHILD SUPPORT RECOVERY UNIT — ABBREVIATED METHOD.

- 1. Notwithstanding section 252H.15, to assist the unit in meeting the requirement for reviews and adjustments under the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171, the unit may use procedures under this section to review a support order if all the following apply:
- a. The right to ongoing child support is assigned to the state of Iowa due to the receipt of family investment program assistance, and a review of the support order is required under section 7302 of the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171.
- b. The unit has access to information concerning the financial circumstances of each parent and one of the following applies:
- (1) The parent is a recipient of family investment program assistance, medical assistance, or food assistance from the department.
- (2) The parent's income is from supplemental security income paid pursuant to 42 U.S.C. § 1381a.
- (3) The parent is a recipient of disability benefits under the Act because of the parent's disability.
- (4) The parent is an inmate of an institution under the control of the department of corrections.

- 2. If the conditions of subsection 1 are met, the unit may conduct a review and determine whether an adjustment is appropriate using information accessible by the unit without issuing a notice under section 252H.15 or requesting additional information from the parent.
- 3. Upon completion of the review, the unit shall issue a notice of decision to each parent, or if applicable, to each parent's attorney. The notice shall be served in accordance with the rules of civil procedure or as provided in section 252B.26.
 - 4. All of the following shall be included in the notice of decision:
- a. The legal basis and purpose of the action, including an explanation of the procedures for determining child support, the criteria for determining the appropriateness of an adjustment, and a statement that the unit used the child support guidelines established pursuant to section 598.21B and the provisions for medical support pursuant to chapter 252E.
- b. Information sufficient to identify the affected parties and the support order or orders affected.
- c. An explanation of the legal rights and responsibilities of the affected parties, including time frames in which the parties must act.
- d. A statement indicating whether the unit finds that an adjustment is appropriate and the basis for the determination.
- e. Procedures for contesting the action, including that if a parent requests a second review both parents will be requested to submit financial or income information as necessary for application of the child support guidelines established pursuant to section 598.21B.
 - f. Other information as appropriate.
- 5. Section 252H.16, subsection 5, regarding a revised notice of decision shall apply to a notice of decision issued under this section.
- 6. Each parent shall have the right to challenge the notice of decision issued under this section by requesting a second review by the unit as provided in section 252H.17. If there is no new or different information to consider for the second review, the unit shall issue a second notice of decision based on prior information. Each parent shall have the right to challenge the second notice of decision by requesting a court hearing as provided in section 252H.8.
 - Sec. 152. Section 252H.15, subsection 1, Code 2007, is amended to read as follows:
- 1. Prior <u>Unless an action is initiated under section 252H.14A, prior</u> to conducting a review of a support order, the unit shall issue a notice of intent to review and adjust to each parent, or if applicable, to each parent's attorney. However, notice to a child support agency or an agency entitled to receive child or medical support payments as the result of an assignment of support rights is not required.
 - Sec. 153. Section 252H.16, subsection 1, Code 2007, is amended to read as follows:
- 1. The For actions initiated under section 252H.15, the unit shall conduct the review and determine whether an adjustment is appropriate. As necessary, the unit shall make a determination of the controlling order or the amount of delinquent support due based upon the receipt of social security disability payments as provided in sections 598.22 and 598.22C.
- Sec. 154. Section 252H.17, subsections 1, 2, and 6, Code 2007, are amended to read as follows:
- 1. Each parent shall have the right to challenge the notice of decision issued under section <u>252H.14A or</u> 252H.16, by requesting a second review by the unit.
- 2. A challenge shall be submitted, in writing, to the local child support office that issued the notice of decision, within thirty days of service of the notice of decision under section 252H.14A or within ten days of the issuance of the notice of decision under section 252H.16.
- 6. The unit shall conduct a second review, utilizing any new or additional information provided or available since issuance of the notice of decision under section <u>252H.14A</u> or under <u>section</u> 252H.16, to determine whether an adjustment is appropriate.
 - Sec. 155. RULES. Until the department of human services amends rules pursuant to chap-

ter 17A necessary to conform with this Act, any existing rule relating to review and adjustment of support orders shall also apply to reviews initiated under section 252H.14A, as created in this Act, except that a provision for a time limit, notice, or other procedure which conflicts with a provision of this Act shall not apply.

Sec. 156. EFFECTIVE DATE. This division of this Act takes effect October 1, 2007.

DIVISION XVIII MEDICAL SUPPORT

- Sec. 157. Section 252B.5, subsection 2, Code 2007, is amended to read as follows:
- 2. Aid in establishing paternity and securing a court or administrative order for support pursuant to chapter 252A, 252C, 252F, or 600B, or any other chapter providing for the establishment of paternity or support. In an action to establish support, the resident parent may be a proper party defendant for purposes of determining medical support as provided in section 252E.1A. The unit's independent cause of action shall not bar a party from seeking support in a subsequent proceeding.
 - Sec. 158. Section 252C.1, subsection 6, Code 2007, is amended to read as follows:
- 6. "Medical support" means either the provision of coverage under a health benefit plan, including a group or employment-related or an individual health benefit plan, or a health benefit plan provided pursuant to chapter 514E, to meet the medical needs of a dependent and the cost of any premium required by a health benefit plan, or the payment to the obligee of a monetary amount in lieu of providing coverage under a health benefit plan, either of which is an obligation separate from any monetary amount of child support ordered to be paid. "Medical support" which consists of payment of a monetary amount in lieu of a health benefit plan is also an obligation separate from any monetary amount a parent is ordered to pay for uncovered medical expenses pursuant to the guidelines established pursuant to section 598.21B.
- Sec. 159. Section 252C.3, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The administrator may issue a notice stating the intent to secure an order for either payment of medical support established as defined provided in chapter 252E or payment of an accrued or accruing support debt due and owed to the department or an individual under section 252C.2, or both. The notice shall be served upon the responsible person in accordance with the rules of civil procedure. The notice shall include all of the following:

- Sec. 160. Section 252C.3, subsection 1, paragraph c, subparagraph (1), Code 2007, is amended to read as follows:
- (1) A statement that if the responsible person desires to discuss the amount of support that the \underline{a} responsible person should be required to pay, the responsible person may, within ten days after being served, contact the office of the child support recovery unit which sent the notice and request a negotiation conference.
 - Sec. 161. Section 252C.12, subsection 2, Code 2007, is amended to read as follows:
- 2. Upon receipt of a signed statement from the <u>each</u> responsible person waiving the time limitations established in section 252C.3, the administrator may proceed to enter an order for support and the court may approve the order, whether or not the time limitations have expired.
 - Sec. 162. Section 252D.18A, Code 2007, is amended to read as follows:
- 252D.18A MULTIPLE INCOME WITHHOLDING ORDERS ORDERS FOR HEALTH BENEFIT PLANS AMOUNTS WITHHELD BY PAYOR.

When the obligor is responsible for paying <u>has</u> more than one support obligation <u>and or</u> the payor of income has received more than one <u>income withholding</u> order or notice <u>of an order</u> for the obligor <u>for income withholding</u> or <u>for coverage under a health benefit plan pursuant to chapter 252E</u>, the payor shall withhold amounts in accordance with all of the following:

- 1. The total of all amounts withheld shall not exceed the amounts specified in 15 U.S.C. § 1673(b). For orders or notices issued by the child support recovery unit, the limit for the amount to be withheld shall be specified in the order or notice.
- 2. As reimbursement for the payor's processing costs, the payor may deduct a fee of no more than two dollars for each payment withheld in addition to the amount withheld for support.
- 3. Priority shall be given to the withholding of current support rather than delinquent support. The payor shall not allocate amounts withheld in a manner which results in the failure to withhold an amount for one or more of the current child or spousal support obligations. If the limits specified in subsection 1 prevent withholding the full amount specified in the order or notice, the payor shall withhold amounts in the following priority:
- a. Withhold the amount specified for current child and spousal support. To arrive at the amount to be withheld for each obligee, the payor shall total the amounts due for current child and spousal support under the income withholding orders and the notices of orders and determine the proportionate share for each obligee. The proportionate share shall be determined by dividing the amount due for current child and spousal support for each order or notice of order by the total due for current child and spousal support for all orders and notices of orders. The results are the percentages of the obligor's net income which shall be withheld for each obligee.
- b. If, after completing the calculation in paragraph "a", the withholding limit specified under subsection 1 has not been attained, the payor shall withhold the amount necessary to comply with an order or notice of order for a current premium for coverage of a child under a health benefit plan as provided in section 252D.30 or section 252E.1A, subsection 2, or for a current monetary amount for the child for medical support. If there is more than one medical support order or notice of order for a current monetary amount for a child, the payor shall total the amounts due for current monetary amounts for all children for medical support and determine the proportionate share for each obligee. The proportionate amounts shall be established utilizing the procedures established in paragraph "a" for current child and spousal support obligations.
- b. c. If, after completing the calculation calculations in paragraph paragraphs "a" and "b", the withholding limit specified under subsection 1 has not been attained, the payor shall total the amounts due for arrearages and determine the proportionate share for each obligee. The proportionate share amounts shall be established utilizing the procedures established in paragraph "a" for current child and spousal support obligations.
- d. If after completing the calculations in paragraphs "a", "b", and "c", the withholding limit specified in subsection 1 has not been attained, the payor shall withhold the amount necessary for other child support obligations, unless the order or notice directs otherwise as provided by Title IV, part D, of the federal Social Security Act.
- 4. The payor shall identify and report payments by the obligor's name, account number, amount, and date withheld pursuant to section 252D.17. Until October 1, 1999, if payments for multiple obligees are combined, the portion of the payment attributable to each obligee shall be specifically identified. Beginning October 1, 1999, if If payments for multiple obligees are combined, the portion of the payment attributable to each obligee shall be specifically identified only if the payor is directed to do so by the child support recovery unit.
 - Sec. 163. Section 252E.1. subsection 9. Code 2007, is amended to read as follows:
- 9. "Medical support" means either the provision of a health benefit plan, including a group or employment-related or an individual health benefit plan, or a health benefit plan provided pursuant to chapter 514E, to meet the medical needs of a dependent and the cost of any premium required by a health benefit plan, or the payment to the obligee of a monetary amount in lieu of a health benefit plan, either of which is an obligation separate from any monetary amount of child support ordered to be paid. Medical support is not alimony. "Medical support" which consists of payment of a monetary amount in lieu of a health benefit plan is also an obligation separate from any monetary amount a parent is ordered to pay for uncovered medical expenses pursuant to the guidelines established pursuant to section 598.21B.

Sec. 164. <u>NEW SECTION</u>. 252E.1A ESTABLISHING AND MODIFYING ORDERS FOR MEDICAL SUPPORT.

This section shall apply to all initial or modified orders for support entered under chapter 234, 252A, 252C, 252F, 252H, 598, 600B, or any other applicable chapter.

- 1. An order or judgment that provides for temporary or permanent support for a child shall include a provision for medical support for the child as provided in this section.
- 2. The court shall order as medical support for the child a health benefit plan if available to either parent at the time the order is entered or modified. A plan is available if the plan is accessible and the cost of the plan is reasonable.
- a. The cost of a health benefit plan is considered reasonable, and such amount shall be stated in the order, if one of the following applies:
- (1) The premium cost for a child to the parent ordered to provide the plan does not exceed five percent of that parent's gross income.
- (2) The premium cost for a child exceeds five percent of the gross income of the parent ordered to provide the plan and that parent consents or does not object to entry of that order.
- b. For purposes of this section, "gross income" has the same meaning as gross income for calculation of support under the guidelines established under section 598.21B.
- c. For purposes of this section, the premium cost for a child to the parent ordered to provide the plan means the amount of the premium cost for family coverage to the parent which is in excess of the premium cost for single coverage, regardless of the number of individuals covered under the plan. However, this paragraph shall not be interpreted to reduce the amount of the health insurance premium deduction a parent may be entitled to when calculating the amount of a child support obligation under Iowa court rule 9.5 of the child support guidelines.
- 3. If a health benefit plan is not available at the time of the entry of the order, the court shall order a reasonable monetary amount in lieu of a health benefit plan, which amount shall be stated in the order. For purposes of this subsection, a reasonable amount means five percent of the gross income of the parent ordered to provide the monetary amount for medical support. This subsection shall not apply in any of the following circumstances:
- a. If the parent's monthly support obligation established pursuant to the child support guidelines prescribed by the supreme court pursuant to section 598.21B is the minimum obligation amount.
 - b. If subsection 7, paragraph "e" applies.
- 4. If the court orders the custodial parent to provide a health benefit plan under subsection 2, the court may also order the noncustodial parent to provide a reasonable monetary amount in lieu of a health benefit plan. For purposes of this subsection, a reasonable monetary amount means an amount not to exceed the lesser of a reasonable amount as described in subsection 3, or the premium cost of coverage for the child to the custodial parent as described in subsection 2, paragraph "c".
- 5. Notwithstanding the requirements of this section, the court may order provisions in the alternative to those provided in this section to address the health care needs of the child if the court determines that extreme circumstances so require and documents the court's written findings in the order.
- 6. An order, decree, or judgment entered before March 1, 2008, that provides for the support of a child may be modified in accordance with this section.
- 7. If the child support recovery unit is providing services under chapter 252B and initiating an action to establish or modify support, all the following shall also apply:
- a. If a health benefit plan is available as described in subsection 2 to the noncustodial parent, the unit shall seek an order for the noncustodial parent to provide the plan.
- b. If a health benefit plan is available as described in subsection 2 to the custodial parent and not to the noncustodial parent, the unit shall seek an order for the custodial parent to provide the plan.
- c. If a health benefit plan is available as described in subsection 2 to each parent, and if there is an order for joint physical care, the unit shall seek an order for the parent currently ordered

to provide a health benefit plan to provide the plan. If there is no current order for a health benefit plan for the child, the unit shall seek an order for the parent who is currently providing a health benefit plan to provide the plan.

- d. If a health benefit plan is not available, and the noncustodial parent does not have income which may be subject to income withholding for collection of a reasonable monetary amount in lieu of a health benefit plan at the time of the entry of the order, the unit shall seek an order that the noncustodial parent provide a health benefit plan when a plan becomes available at reasonable cost, and the order shall specify the amount of reasonable cost as defined in subsection 2.
 - e. This section shall not apply to chapter 252H, subchapter IV.
- Sec. 165. <u>NEW SECTION</u>. 252E.2A SATISFACTION OF MEDICAL SUPPORT ORDER. This section shall apply if the child support recovery unit is providing services under chapter 252B.
- 1. Notwithstanding any law to the contrary and without a court order, a medical support order for a child shall be deemed satisfied with regard to the department, the child, the obligor, and the obligee for the period during which all the following conditions are met:
 - a. The order is issued under any applicable chapter of the Code.
- b. The unit is notified that the conditions of paragraph "c" are met and there is a pending action to establish or modify support initiated by the unit, or the parent ordered to provide medical support submits a written statement to the unit that the requirements of paragraph "c" are met.
- c. The parent ordered to provide medical support or the parent from whom the unit is seeking to establish or modify medical support meets at least one of the following conditions:
- (1) The parent is an inmate of an institution under the control of the department of corrections or a comparable institution in another state.
- (2) The parent's monthly child support obligation under the guidelines established pursuant to section 598.21B is the minimum obligation amount.
- (3) The parent is a recipient of assistance under chapter 239B or 249A, or under comparable laws of another state.
- (4) The parent is residing with any child for whom the parent is legally responsible and that child is a recipient of assistance under chapter 239B, 249A, or 514I, or under comparable laws of another state. For purposes of this subparagraph, "legally responsible" means the parent has a legal obligation to the child as specified in Iowa court rule 9.7 of the child support guidelines.
- d. The unit files a notice of satisfaction with the clerk of the district court. The effective date of the satisfaction shall be stated in the notice and the effective date shall be no later than forty-five days after the unit issues the notice of satisfaction.
- 2. If a medical support order is satisfied under subsection 1, the satisfaction shall continue until all of the following apply:
- a. The unit is notified that none of the conditions specified in subsection 1, paragraph "c", still applies.
- b. The unit files a satisfaction termination notice that the requirements for a satisfaction under this section no longer apply. The effective date shall be stated in the satisfaction termination notice and the effective date shall be no later than forty-five days after the unit issues the satisfaction termination notice.
- 3. The unit shall mail a copy of the notice of satisfaction and the satisfaction termination notice to the last known address of the obligor and obligee.
- 4. The department of human services may match data for enrollees of the hawk-i program created pursuant to chapter 514I with data of the unit to assist the unit in implementing this section.
- 5. An order, decree, or judgment entered or pending on or before March 1, 2008, that provides for the support of a child may be satisfied as provided in this section.

Sec. 166. Section 252E.4, subsection 1, Code 2007, is amended to read as follows:

1. When a support order requires an obligor to provide coverage under a health benefit plan, the district court or the department may enter an ex parte order directing an employer to take all actions necessary to enroll an obligor's dependent for coverage under a health benefit plan or may include the provisions in an ex parte income withholding order or notice of income withholding pursuant to chapter 252D. The child support recovery unit, where appropriate, shall issue a national medical support notice to an employer within two business days after the date information regarding a newly hired employee is entered into the centralized employee registry and matched with a noncustodial parent in the case being enforced by the unit, or upon receipt of other employment information for such parent. The department may amend the information in the ex parte order or may amend or terminate the national medical support notice regarding health insurance provisions if necessary to comply with health insurance requirements including but not limited to the provisions of section 252E.2, subsection 2, or to correct a mistake of fact.

Sec. 167. Section 252E.5, subsection 3, Code 2007, is amended to read as follows:

3. The employer shall withhold from the employee's compensation, the employee's share, if any, of premiums for the health benefit plan in an amount that does not exceed the amount specified in the national medical support notice or order or the amount specified in 15 U.S.C. § 1673(b) and which is consistent with federal law. The employer shall forward the amount withheld to the insurer. If the employee has more than one obligation and if there is insufficient compensation available to meet the employee's share necessary for coverage of the child under a health benefit plan as required under this section or section 252D.30, and to comply with an order to withhold or notice under section 252D.17, the employer shall allocate the funds available in accordance with section 252D.18A.

Sec. 168. Section 252F.1, Code 2007, is amended by adding the following new subsection: <u>NEW SUBSECTION</u>. 3A. "Party" means a putative father or a mother.

Sec. 169. Section 252F.3, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The unit may prepare a notice of alleged paternity and support debt to be served on the putative father a party if the mother of the child provides a written statement to the unit certifying in accordance with section 622.1 that the putative father is or may be the biological father of the child or children involved. The notice shall be accompanied by a copy of the statement and served on the putative father in accordance with rule of civil procedure 1.305. Service upon the mother shall not constitute valid service upon the putative father. The notice shall include or be accompanied by all of the following:

Sec. 170. Section 252F.3, subsection 1, paragraphs d, f, g, h, j, k, and m, Code 2007, are amended to read as follows:

- d. A statement that if paternity is established, the <u>putative father a party</u> has a duty to provide accrued and accruing medical support to the child or children in accordance with chapter 252E.
- f. (1) The right of the putative father <u>a party</u> to request a conference with the unit to discuss paternity establishment and the amount of support that the putative father <u>a party</u> may be required to pay <u>provide</u>, within ten days of the date of service of the original notice or, if paternity is contested and paternity testing is conducted, within ten days of the date the paternity test results are issued or mailed to the putative father <u>a party</u> by the unit.
- (2) A statement that if a conference is requested, the putative father a party shall have one of the following time frames, whichever is the latest, to send a written request for a court hearing on the issue of support to the unit:
 - (a) Ten days from the date set for the conference.
 - (b) Twenty days from the date of service of the original notice.

- (c) If paternity was contested and paternity testing was conducted, and the putative father a party does not deny paternity after the testing or challenge the paternity test results, twenty days from the date paternity test results are issued or mailed by the unit to the putative father party.
- (3) A statement that after the holding of the conference, the unit shall issue a new notice of alleged paternity and finding of financial responsibility for child support or medical support, or both, to be provided in person to the putative father each party or sent to the putative father each party by regular mail addressed to the putative father's party's last known address or, if applicable, to the last known address of the putative father's party's attorney.
- (4) A statement that if the unit issues a new notice of alleged paternity and finding of financial responsibility for child support or medical support, or both, the putative father a party shall have one of the following time frames, whichever is the latest, to send a written request for a court hearing on the issue of support to the unit:
 - (a) Ten days from the date of issuance of the new notice.
 - (b) Twenty days from the date of service of the original notice.
- (c) If paternity was contested and paternity testing conducted, and the putative father a party does not deny paternity after the testing or challenge the paternity test results, twenty days from the date the paternity test results are issued or mailed to the putative father party by the unit.
- g. A statement that if a conference is not requested, and the putative father a party does not deny paternity or challenge the results of any paternity testing conducted but objects to the finding of financial responsibility or the amount of child support or medical support, or both, the putative father party shall send a written request for a court hearing on the issue of support to the unit within twenty days of the date of service of the original notice, or, if paternity was contested and paternity testing conducted, and the putative father a party does not deny paternity after the testing or challenge the paternity test results, within twenty days from the date the paternity test results are issued or mailed to the putative father party by the unit, whichever is later.
- h. A statement that if a timely written request for a hearing on the issue of support is received by the unit, the <u>putative father party</u> shall have the right to a hearing to be held in district court and that if no timely written request is received and paternity is not contested, the administrator shall enter an order establishing the putative father as the father of the child or children and establishing child support or medical support, or both, in accordance with the notice of alleged paternity and support debt.
- j. A written explanation of the putative father's a party's right to deny paternity, the procedures for denying paternity, and the consequences of the denial.
- k. A statement that if the putative father a party contests paternity, the putative father party shall have twenty days from the date of service of the original notice to submit a written denial of paternity to the unit.
- m. A statement that if paternity tests are conducted, the unit shall provide a copy of the test results to the putative father <u>each party</u> in person or send a copy to the <u>putative father each party</u> by regular mail, addressed to the <u>putative father's party's</u> last known address, or, if applicable, to the last known address of the <u>putative father's party's</u> attorney.
- Sec. 171. Section 252F.3, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

If notice is served on the putative father a party, the unit shall file a true copy of the notice and the original return of service with the appropriate clerk of the district court as follows:

Sec. 172. Section 252F.3, subsection 4, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A putative father party or the child support recovery unit may request a court hearing regarding establishment of paternity or a determination of support, or both.

- Sec. 173. Section 252F.3, subsection 4, paragraph c, Code 2007, is amended to read as follows:
- c. Any objection to the results of paternity tests shall be filed no later than twenty days after the date paternity test results are issued or mailed to the putative father each party by the unit. Any objection to paternity test results filed by a party more than twenty days after the date paternity tests are issued or mailed to the putative father party by the unit shall not be accepted or considered by the court.
 - Sec. 174. Section 252F.3, subsection 5, Code 2007, is amended to read as follows:
- 5. If a timely written response and request for a court hearing is not received by the unit and the putative father a party does not deny paternity, the administrator shall enter an order in accordance with section 252F.4.
- Sec. 175. Section 252F.3, subsection 6, paragraphs a, f, and m, Code 2007, are amended to read as follows:
- a. If a party contests the establishment of paternity, the party shall submit, within twenty days of service of the notice on the putative father party under subsection 1, a written statement contesting paternity establishment to the unit. Upon receipt of a written challenge of paternity establishment, or upon initiation by the unit, the administrator shall enter ex parte administrative orders requiring the mother, child or children involved, and the putative father to submit to paternity testing. Either the mother or putative father may contest paternity under this chapter.
- f. An original copy of the test results shall be filed with the clerk of the district court in the county where the notice was filed. The child support recovery unit shall issue a copy of the filed test results to the putative father and mother of the child or children each party in person, or by regular mail to the last known address of each, or if applicable, to the last known address of the attorney for each. However, if the action is the result of a request from a foreign jurisdiction, the unit shall issue a copy of the results to the initiating agency in that foreign jurisdiction.
- m. If the paternity test results exclude the putative father as a potential biological father of the child or children, and additional tests are not requested by either party or conducted on the unit's initiative, or if additional tests exclude the putative father as a potential biological father, the unit shall withdraw its action against the putative father and shall file a notice of the withdrawal with the clerk of the district court, and shall provide a copy of the notice to the putative father each party in person, or by regular mail sent to the putative father's each party's last known address, or if applicable, the last known address of the putative father's party's attorney.

Sec. 176. Section 252F.4, Code 2007, is amended to read as follows: 252F.4 ENTRY OF ORDER.

- 1. If the putative father fails both parties fail to respond to the initial notice within twenty days after the date of service of the notice or fails fail to appear at a conference pursuant to section 252F.3 on the scheduled date of the conference, and paternity has not been contested and the putative father fails both parties fail to timely request a court hearing on the issue of support, the administrator shall enter an order against the putative father parties, declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21B, and medical support pursuant to chapter 252E, against the father.
- 2. If paternity is contested pursuant to section 252F.3, subsection 6, and the party contesting paternity fails to appear for a paternity test and fails to request a rescheduling pursuant to section 252F.3, or fails to appear for both the initial and the rescheduled paternity tests and the putative father fails both parties fail to timely request a court hearing on the issue of support, the administrator shall enter an order against the putative father parties declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21B, and medical support pursuant to chapter 252E, against the father.

- 3. If the putative father appears at a conference pursuant to section 252F.3 is held, and paternity is not contested, and the putative father fails both parties fail to timely request a court hearing on the issue of support, the administrator shall enter an order against the putative father parties after the second notice has been sent declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21B, and medical support pursuant to chapter 252E, against the father.
- 4. If paternity was contested and paternity testing was performed and the putative father was not excluded, if the test results indicate that the probability of the putative father's paternity is ninety-five percent or greater, if the test results are not timely challenged, and if the putative father fails both parties fail to timely request a court hearing on the issue of support, the administrator shall enter an order against the putative father parties declaring the putative father to be the legal father of the child or children involved and assessing any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21B, and medical support pursuant to chapter 252E, against the father.
- 5. The administrator shall establish a support obligation under this section based upon the best information available to the unit and pursuant to section 252B.7A.
 - 6. The order shall contain all of the following:
 - a. A declaration of paternity.
 - b. The amount of monthly support to be paid, with direction as to the manner of payment.
 - c. The amount of accrued support.
 - d. The name of the custodial parent or caretaker.
 - e. The name and birth date of the child or children to whom the order applies.
- f. A statement that property of the father a party ordered to provide support is subject to income withholding, liens, garnishment, tax offset, and other collection actions.
 - g. The medical support required pursuant to chapter 598 and chapter 252E.
- h. A statement that the father a party who is ordered to provide support is required to inform the child support recovery unit, on a continuing basis, of the name and address of the father's party's current employer, whether the father party has access to health insurance coverage through employment or at reasonable cost through other sources as required in the order, and if so, the health insurance policy information.
- i. If paternity was contested by the putative father, the amount of any judgment assessed to the father for costs of paternity tests conducted pursuant to this chapter.
 - j. Statements as required pursuant to section 598.22B.
- 7. If paternity is not contested but the <u>putative father a party</u> does wish to challenge the issues of child or medical support, the administrator shall enter an order establishing paternity and reserving the issues of child or medical support for determination by the district court.
 - Sec. 177. Section 252F.5, subsection 2, Code 2007, is amended to read as follows:
- 2. An action under this chapter may be certified to the district court if a party timely contests paternity establishment or paternity test results, or if the putative father a party requests a court hearing on the issues of child or medical support, or both, or upon the initiation of the unit as provided in this chapter. Review by the district court shall be an original hearing before the court.
- Sec. 178. Section 252F.5, subsection 3, paragraph c, Code 2007, is amended to read as follows:
- c. A timely written objection to paternity establishment or paternity test results has been received from a party, or a timely written request for a court hearing on the issue of support has been received from the putative father a party by the unit, or the unit has requested a court hearing on the unit's own initiative.
- Sec. 179. Section 252H.2, subsection 2, paragraph b, Code 2007, is amended to read as follows:
- b. An addition of or change to provisions for medical support as defined provided in section 252E.1 chapter 252E.

- Sec. 180. Section 252H.2, subsection 13, Code 2007, is amended to read as follows:
- 13. "Support order" means a "court order" as defined in section 252C.1 or an order establishing support entered pursuant to an administrative or quasi-judicial process if authorized by law an order for support issued pursuant to chapter 232, 234, 252A, 252C, 252E, 252F, 252H, 598, 600B, or any other applicable chapter, or under a comparable statute of a foreign jurisdiction as registered with the clerk of court or certified to the child support recovery unit.

Sec. 181. NEW SECTION. 252H.3A ADDING A PARTY.

A mother or father may be added as a proper party defendant to a support order upon service of a notice as provided in this chapter and without a court order as provided in the rules of civil procedure.

- Sec. 182. Section 252H.14, subsection 1, paragraph b, Code 2007, is amended to read as follows:
- b. The right to any ongoing medical support obligation is currently assigned to the state due to the receipt of public assistance unless:
- (1) <u>b.</u> The support order <u>does not</u> already <u>includes include</u> provisions <u>requiring the parent</u> ordered to pay child support to also provide <u>for</u> medical support.
- (2) The parent entitled to receive support has satisfactory health insurance coverage for the children, excluding coverage resulting from the receipt of public assistance benefits.
 - Sec. 183. Section 252H.14, subsection 2, Code 2007, is amended to read as follows:
- 2. The unit may periodically initiate a request to a child support agency of another state to conduct a review of a support order entered in that state when the right to any ongoing child or medical support obligation due under the order is currently assigned to the state of Iowa or if the order does not include provisions for medical support.
 - Sec. 184. Section 598.21B, subsection 3, Code 2007, is amended to read as follows:
- 3. MEDICAL SUPPORT. The court shall order as child medical support a health benefit plan as defined in chapter 252E if available to either parent at a reasonable cost. A health benefit plan is considered reasonable in cost if it is employment-related or other group health insurance, regardless of the service delivery mechanism as provided in section 252E.1A. The premium cost of the <u>a</u> health benefit plan may be considered by the court as a reason for varying from the child support guidelines. If a health benefit plan is not available at a reasonable cost, the court may order any other provisions for medical support as defined in chapter 252E.
- Sec. 185. Section 598.21C, subsection 2, paragraph a, Code 2007, is amended to read as follows:
- a. Subject to 28 U.S.C. § 1738B, but notwithstanding subsection 1, a substantial change of circumstances exists when the court order for child support varies by ten percent or more from the amount which would be due pursuant to the most current child support guidelines established pursuant to section 598.21B or the obligor a parent has access to a health benefit plan, available as provided in section 252E.1A and the current order for support does not contain provisions for medical support, and the dependents are not covered by a health benefit plan provided by the obligee, excluding coverage pursuant to chapter 249A or a comparable statute of a foreign jurisdiction.

Sec. 186. AMENDING AND NULLIFICATION OF ADMINISTRATIVE RULES.

- 1. Until the department of human services amends rules pursuant to chapter 17A necessary to conform with this Act, all of the following shall apply:
- a. The child support recovery unit may initiate proceedings to establish or modify orders for medical support for a child in accordance with section 252E.1A as created in this Act, regardless of whether support is assigned to the state.
- b. The term "child support account" in existing rules shall also mean a specified monetary amount for medical support, unless the context otherwise requires.

- c. A reference to a health benefit plan at reasonable cost shall mean reasonable cost as defined in section 252E.1A, as enacted in this Act.
- d. A requirement for including a provision for an employment-related or other group health benefit plan, or for determining medical support, shall be limited and applied in accordance with section 252E.1A, as created in this Act.
- 2. 441 Iowa administrative Code, rule 98.3, relating to the establishment of medical support is nullified.
 - Sec. 187. EFFECTIVE DATE. This division of this Act takes effect March 1, 2008.

DIVISION XIX PHYSICIAN ASSISTANTS

Sec. 188. Section 147.14, subsection 12, Code 2007, is amended to read as follows:

12. For the board of physician assistant examiners, three <u>five</u> members licensed to practice as physician assistants, at least two of whom practice in counties with a population of less than fifty thousand, one member licensed to practice medicine and surgery who supervises a physician assistant, one member licensed to practice osteopathic medicine and surgery who supervises a physician assistant, and two members who are not licensed to practice either medicine and surgery or osteopathic medicine and surgery or licensed as a physician assistant and who shall represent the general public. At least one of the physician members shall be in practice in a county with a population of less than fifty thousand. A majority of members of the board constitutes a quorum.

Sec. 189. NEW SECTION. 148C.12 ANNUAL REPORT.

By January 31 of each year the board and the board of medical examiners shall provide to the general assembly and the governor a joint report detailing the boards' collaborative efforts and team building practices.

DIVISION XX TELECOMMUTING

*Sec. 190. STATE EMPLOYEE TELECOMMUTING — POLICY DEVELOPMENT — IMPLEMENTATION.

- 1. The director of a department or state agency to which appropriations are made pursuant to the provisions of this Act shall assess the extent to which job classifications or individual employment positions with the department or agency might be effectively performed from an employee's residence or other remote location through telecommuting, thereby increasing office space within the department or agency and reducing administrative costs. The assessment shall include an estimate of the number of department or agency employees whose job responsibilities could be effectively performed on a telecommuting basis, projected costs of establishing and maintaining work stations at an employee's residence or other remote location and providing telecommuter support, anticipated savings to the department or agency through a reduction in the office-based workforce, and anticipated time and cost savings to telecommuting employees. A report summarizing the assessment shall be submitted to the director of the department of administrative services, and the members of the general assembly, by November 1, 2007.
- 2. Based on the assessment conducted pursuant to subsection 1, the director shall develop a telecommuter employment policy for the department or agency and a timeline for initial policy implementation and plans for expanding the number of telecommuting employees. Specific office-based workforce reduction percentages shall be left to the discretion of the director, but the director shall implement a policy transferring some number of office-based employees to telecommuter status by January 1, 2008. The director shall report to the director of the department of administrative services and the members of the general assembly on an annual basis beginning January 1, 2009, the number of telecommuting employees, cost savings achieved by

^{*} Item veto; see message at end of the Act

the department or agency, and plans for continued transfer of office-based employees to telecommuter status.*

DIVISION XXI DENTAL BOARD

- Sec. 191. Section 10A.402, subsection 1, Code 2007, as amended by 2007 Iowa Acts, Senate File 74, 14 section 6, is amended to read as follows:
- 1. Investigations relative to the practice of regulated professions and occupations, except those within the jurisdiction of the board of medicine, the board of pharmacy, the <u>dental</u> board of <u>dentistry</u>, and the board of nursing.
- Sec. 192. Section 135.11A, unnumbered paragraph 1, Code 2007, as amended by 2007 Iowa Acts, Senate File 74, 15 section 19, is amended to read as follows:

There shall be a professional licensure division within the department of public health. Each board under chapter 147 or under the administrative authority of the department, except the board of nursing, board of medicine, <u>dental</u> board <u>of dentistry</u>, and board of pharmacy, shall receive administrative and clerical support from the division and may not employ its own support staff for administrative and clerical duties.

- Sec. 193. Section 135.24, subsection 2, paragraph a, Code 2007, as amended by 2007 Iowa Acts, Senate File 74, 16 section 20, is amended to read as follows:
- a. Procedures for registration of health care providers deemed qualified by the board of medicine, the board of physician assistants, the <u>dental</u> board <u>of dentistry</u>, the board of nursing, the board of chiropractic, the board of psychology, the board of social work, the board of behavioral science, the board of pharmacy, the board of optometry, the board of podiatry, the board of physical and occupational therapy, the board for respiratory care, and the Iowa department of public health, as applicable.
- Sec. 194. Section 135.31, Code 2007, as amended by 2007 Iowa Acts, Senate File 74, 17 section 21, is amended to read as follows:
 - 135.31 LOCATION OF BOARDS RULEMAKING.

The offices for the board of medicine, the board of pharmacy, the board of nursing, and the <u>dental</u> board <u>of dentistry</u> shall be located within the department of public health. The individual boards shall have policymaking and rulemaking authority.

Sec. 195. Section 136C.3, subsection 2, unnumbered paragraph 1, Code 2007, as amended by 2007 Iowa Acts, Senate File 74,18 section 23, is amended to read as follows:

Establish minimum training standards including continuing education requirements, and administer examinations and disciplinary procedures for operators of radiation machines and users of radioactive materials. A state of Iowa license to practice medicine, osteopathy, chiropractic, podiatry, dentistry, dental hygiene, or veterinary medicine, or licensure as a physician assistant pursuant to chapter 148C, or certification by the <u>dental</u> board of <u>dentistry</u> in dental radiography, or by the board of podiatry in podiatric radiography, or enrollment in a program or course of study approved by the Iowa department of public health which includes the application of radiation to humans satisfies the minimum training standards for operation of radiation machines only.

Sec. 196. Section 139A.22, subsection 6, Code 2007, as amended by 2007 Iowa Acts, Senate File 74,19 section 25, is amended to read as follows:

6. The board of medicine, the board of physician assistants, the board of podiatry, the board

^{*} Item veto; see message at end of the Act

 $^{^{14}}$ Chapter 10 herein

¹⁵ Chapter 10 herein

¹⁶ Chapter 10 herein

 $^{^{17}}$ Chapter 10 herein

¹⁸ Chapter 10 herein

 $^{^{19}}$ Chapter 10 herein

of nursing, the <u>dental</u> board <u>of dentistry</u>, and the board of optometry shall require that licensees comply with the recommendations issued by the centers for disease control and prevention of the United States department of health and human services for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures, with the recommendations of the expert review panel established pursuant to subsection 3, with hospital protocols established pursuant to subsection 1, and with health care facility procedures established pursuant to subsection 2, as applicable.

Sec. 197. Section 147.13, subsection 8, Code 2007, as amended by 2007 Iowa Acts, Senate File 74,20 section 32, is amended to read as follows:

8. For dentistry, dental hygiene, and dental assisting, the dental board of dentistry.

Sec. 198. Section 147.40, Code 2007, as amended by 2007 Iowa Acts, Senate File 74,²¹ section 50, is amended to read as follows:

147.40 CERTIFICATION OF APPLICANTS.

Every examination shall be passed upon in accordance with the established rules of the board and shall be satisfactory to at least a majority of the professional members of the board. In the case of the <u>dental</u> board <u>of dentistry</u>, only licensed dentist members of the board shall determine whether an applicant has passed the examination to practice as a licensed dentist. After each examination, the board shall certify the names of the successful applicants to the department in the manner prescribed by it. The department shall then issue the proper license.

Sec. 199. Section 147.80, subsections 1 and 11, Code 2007, as amended by 2007 Iowa Acts, Senate File 74,²² section 63, are amended to read as follows:

- 1. License to practice dentistry issued upon the basis of an examination given by the <u>dental</u> board of <u>dentistry</u>, license to practice dentistry issued under a reciprocal agreement, resident dentist's license, renewal of a license to practice dentistry.
- 11. License to practice dental hygiene issued upon the basis of an examination given by the <u>dental</u> board <u>of dentistry</u>, license to practice dental hygiene issued under a reciprocal agreement, renewal of a license to practice dental hygiene.

Sec. 200. Section 147.80, unnumbered paragraph 3, Code 2007, as amended by 2007 Iowa Acts, Senate File 74,²³ section 63, is amended to read as follows:

The board of medicine, the board of pharmacy, the <u>dental</u> board <u>of dentistry</u>, and the board of nursing shall retain individual executive officers, but shall make every effort to share administrative, clerical, and investigative staffs to the greatest extent possible. The department shall annually submit a status report to the general assembly in December regarding the sharing of staff during the previous fiscal year.

Sec. 201. Section 147.88, Code 2007, as amended by 2007 Iowa Acts, Senate File 74,²⁴ section 65, is amended to read as follows:

147.88 INSPECTIONS.

The department of inspections and appeals may perform inspections as required by this subtitle, except for the board of medicine, board of pharmacy, board of nursing, and the <u>dental</u> board of dentistry. The department of inspections and appeals shall employ personnel related to the inspection functions.

Sec. 202. Section 147.107, subsection 2, unnumbered paragraph 1, Code 2007, as amended by 2007 Iowa Acts, Senate File 74,²⁵ section 78, is amended to read as follows:

A pharmacist, physician, dentist, or podiatric physician who dispenses prescription drugs, including but not limited to controlled substances, for human use, may delegate nonjudgmen-

²⁰ Chapter 10 herein

²¹ Chapter 10 herein

²² Chapter 10 herein

 $^{^{23}}$ Chapter 10 herein

²⁴ Chapter 10 herein

²⁵ Chapter 10 herein

tal dispensing functions to staff assistants only when verification of the accuracy and completeness of the prescription is determined by the pharmacist or practitioner in the pharmacist's or practitioner's physical presence. However, the physical presence requirement does not apply when a pharmacist or practitioner is utilizing an automated dispensing system. When using an automated dispensing system the pharmacist or practitioner shall utilize an internal quality control assurance plan that ensures accuracy for dispensing. Verification of automated dispensing accuracy and completeness remains the responsibility of the pharmacist or practitioner and shall be determined in accordance with rules adopted by the board of pharmacy, the board of medicine, the <u>dental</u> board of <u>dentistry</u>, and the board of podiatry for their respective licensees.

Sec. 203. Section 147.114, Code 2007, as amended by 2007 Iowa Acts, Senate File 74, ²⁶ section 81, is amended to read as follows:

147.114 INSPECTOR.

An inspector may be appointed by the <u>dental</u> board <u>of dentistry</u> pursuant to the provisions of chapter 8A, subchapter IV.

Sec. 204. Section 153.12, as enacted by 2007 Iowa Acts, Senate File 74,²⁷ section 132, is amended to read as follows:

153.12 BOARD DEFINED.

As used in this chapter, "board" means the <u>dental</u> board of dentistry, created under chapter 147.

Sec. 205. Section 272C.1, subsection 6, paragraph j, Code 2007, as amended by 2007 Iowa Acts, Senate File 74,28 section 171, is amended to read as follows:

j. The <u>dental</u> board of dentistry, created pursuant to chapter 147.

DIVISION XXII GRANDPARENT AND GREAT-GRANDPARENT VISITATION

Sec. 206. <u>NEW SECTION</u>. 600C.1 GRANDPARENT AND GREAT-GRANDPARENT VISITATION.

- 1. The grandparent or great-grandparent of a minor child may petition the court for grand-child or great-grandchild visitation.
- 2. The court shall consider a fit parent's objections to granting visitation under this section. A rebuttable presumption arises that a fit parent's decision to deny visitation to a grandparent or great-grandparent is in the best interest of a minor child.
- 3. The court may grant visitation to the grandparent or great-grandparent if the court finds all of the following by clear and convincing evidence:
- a. The grandparent or great-grandparent has established a substantial relationship with the child prior to the filing of the petition.
- b. The parent who is being asked to temporarily relinquish care, custody, and control of the child to provide visitation is unfit to make the decision regarding visitation.
 - c. It is in the best interest of the child to grant such visitation.
- 4. For the purposes of this section, "court" means the district court or the juvenile court if that court currently has jurisdiction over the child in a pending action. If an action is not pending, the district court has jurisdiction.
- 5. Notwithstanding any provision of this chapter to the contrary, venue for any action to establish, enforce, or modify visitation under this section shall be in the county where either parent resides if no final custody order determination relating to the grandchild or great-grandchild has been entered by any other court. If a final custody order has been entered by any other court, venue shall be located exclusively in the county where the most recent final custody order was entered. If any other custodial proceeding is pending when an action to establish, enforce, or modify visitation under this section is filed, venue shall be located exclusively in the county where the pending custodial proceeding was filed.

²⁶ Chapter 10 herein

²⁷ Chapter 10 herein

²⁸ Chapter 10 herein

- 6. Notice of any proceeding to establish, enforce, or modify visitation under this section shall be personally served upon all parents of a child whose interests are affected by a proceeding brought pursuant to this section and all grandparents or great-grandparents who have previously obtained a final order or commenced a proceeding under this section.
- 7. The court shall not enter any temporary order to establish, enforce, or modify visitation under this section.
- 8. An action brought under this section is subject to chapter 598B, and in an action brought to establish, enforce, or modify visitation under this section, each party shall submit in its first pleading or in an attached affidavit all information required by section 598B.209.
- 9. In any action brought to establish, enforce, or modify visitation under this section, the court may award attorney fees to the prevailing party in an amount deemed reasonable by the court.
- 10. If a proceeding to establish or enforce visitation under this section is commenced when a dissolution of marriage proceeding is pending concerning the parents of the affected minor child, the record and evidence of the dissolution action shall remain impounded pursuant to section 598.26. The impounded information shall not be released or otherwise made available to any person who is not the petitioner or respondent or an attorney of record in the dissolution of marriage proceeding. Access to the impounded information by the attorney of record for the grandparent or great-grandparent shall be limited to only that information relevant to the grandparent's or great-grandparent's request for visitation.

Sec. 207. Section 600.11, subsection 2, paragraph e, Code 2007, is amended to read as follows:

e. A person who has been granted visitation rights with the child to be adopted pursuant to section $598.35 \pm 600C.1$.

Sec. 208. Section 598.35, Code 2007, is repealed.

Approved May 29, 2007, with exceptions noted.

CHESTER J. CULVER, Governor

Dear Mr. Secretary:

I hereby transmit House File 909, an Act relating to and making appropriations for health and human services and including other related provisions and appropriations, and including effective date provisions. House File 909 is approved on this date, with the exceptions noted below, which I hereby disapprove.

I am unable to approve the designated portion of Section 3, subsection 1, unnumbered paragraph 2. This paragraph transfers funds from the Gambler's Assistance Fund for other purposes, such as adult drug courts, the family development and sufficiency grant program, and the energy utility assessment and resolution program. This designated paragraph would divert revenues from the purposes for which the Gambler's Assistance Fund was established to accomplish. Furthermore, this designated language would use these one-time carry-over funds for ongoing programs, thereby creating future expectations of additional funding. While adult drug courts, the family development and sufficiency grant program, and the utility assessment and resolution program are worthwhile, diverting these funds would be inconsistent with the statutorily mandated purposes of the Gambler's Assistance Fund.

I am unable to approve the designated portion of Section 4, subsection 3, unnumbered para-

graph 2. This paragraph transfers \$150,000 to the Department of Cultural Affairs from the Veterans Trust Fund to staff and support the conservation lab facility. I am unable to support this paragraph because it creates expectations for new or ongoing funding that is not sustainable. These funds are more appropriately used in the Veterans Trust Fund. Diverting these funds would be inconsistent with the statutorily mandated purposes of the Veterans Trust Fund, even though these other designated programs are worthwhile.

I am unable to approve the designated portion of Section 97, subsection 3, paragraph e. This paragraph allocates \$10,000 to the Department of Public Health to provide extracorporeal support for donation after cardiac death. I am unable to support this subsection because it creates expectations for new or ongoing funding that is not sustainable. Within the Fiscal year 2008 appropriations for the Board of Regents – University of Iowa Hospitals and Clinics, I believe there are sufficient funds available to cover this important program.

I am unable to approve the item designated as Section 100 in its entirety. This designated section requires the Department of Public Health to expedite volunteer health care provider program registration. I am unable to approve this language because no funds were provided to implement this provision and it places an unreasonable requirement on the Department of Public Health. I will direct the Director of the Department of Public Health to develop a more streamlined registration process.

I am unable to approve the item designated as Division XX, Section 190 in its entirety. This provision requires a director of a department or agency included in House File 909 to examine employee telecommuting options, develop a telecommuter employment policy, and implement a plan designed to increase the number of telecommuting employees. Many departments maintain employee telecommuting policies currently. These policies and procedures have been in place for several years and are well established. The designated language in Section 190 directing a department or agency to conduct an assessment of its telecommuting policy is duplicative and unnecessary and introduces a legislatively mandated management process into what is appropriately an executive branch decision. I will direct the Department of Administrative Services and the Department of Management to review the current state government telecommuting policy and make recommendations for any improvements as part of our overall executive branch strategic planning process.

For the above reasons, I respectfully disapprove of the designated items in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 909 are hereby approved this date.

Sincerely, CHESTER J. CULVER, Governor

CHAPTER 219

APPROPRIATIONS — INFRASTRUCTURE AND CAPITAL PROJECTS

H.F. 911

AN ACT relating to and making appropriations to state departments and agencies from the rebuild Iowa infrastructure fund, vertical infrastructure fund, the endowment for Iowa's health restricted capitals fund, and the technology reinvestment fund, and related matters, and providing an effective date.

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, 2007, and ending June 30, 2008, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

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 cap
tol complex and for facility lease payments, notwithstanding section 8.57, subsection 6, para
graph "c":
\$ 1,824,50
b. For routine maintenance of state buildings and facilities, notwithstanding section 8.57
subsection 6, paragraph "c":
5,000,00
c. For costs associated with capitol interior and exterior restoration: 6,300,00
d. For upgrades to the electrical distribution system serving the capitol complex:
3,460,96
e. For costs associated with the enterprise resource planning system, notwithstanding sec
tion 8.57, subsection 6, paragraph "c":
\$ 1,500,00
f. For costs associated with the restoration of the west capitol terrace:
\$ 1,600,00
*g. For the purchase and installation of decorative planters on state property west of the wes
capitol terrace, notwithstanding section 8.57, subsection 6, paragraph "c":
\$ 120,000
h. For costs to repair parking lots and sidewalks on the capitol complex:
\$ 1,650,00
i. To provide funding and related services for capitol complex property acquisition, notwith
standing section 8.57, subsection 6, paragraph "c":
\$ 1,000,00
j. For costs associated with the relocation of the vehicle dispatch fueling station:
350,00
k. For costs associated with the central energy plant addition and improvements:
\$ 998,00
l. For heating, ventilating, and air conditioning improvements in the Hoover state offic
building:
\$ 1,320,00
m. For a feasibility study relating to renovations to the capitol complex utility tunnel system
notwithstanding section 8.57, subsection 6, paragraph "c":
\$ 260,00
200,00

^{*} Item veto; see message at end of the Act

n. For costs associated with a feasibility study concerning asbestos abatement and related building renovation work at the Iowa workforce development building located at 1000 E. Grand Avenue in Des Moines, notwithstanding section 8.57, subsection 6, paragraph "c": 1,000,000
o. For deposit into the Iowa workforce foundation for the worker's monument committee for the purpose of constructing a worker's monument to be located on the capitol complex:
p. For capital improvements at the civil commitment unit for sexual offenders facility at Cherokee:
q. For a contribution to the American veterans disabled for life memorial fund for funding the construction of the American veterans disabled for life memorial in Washington, D.C., notwithstanding section 8.57, subsection 6, paragraph "c":
2. For distribution to other governmental entities:
Moneys appropriated in this lettered paragraph shall be separately accounted for in a distribution account and shall be distributed to other governmental entities based upon a formula established by the department to pay for services provided during the fiscal year to such other governmental entities by the department associated with the integrated information for Iowa system, notwithstanding section 8.57, subsection 6, paragraph "c": 3. DEPARTMENT OF CORRECTIONS 2. For costs associated with the Coder Papids mental health facility:
a. For costs associated with the Cedar Rapids mental health facility:
c. For the master planning process for the possible remodel, expansion, and demolition of buildings at the Iowa correctional institution for women; to develop, validate, and implement custody classification systems; and a research-based study of the substance abuse, sex offender, and medical and mental health treatment programs to ensure adherence to evidence-based practices, notwithstanding section 8.57, subsection 6, paragraph "c":
d. For the lease payment under the lease-purchase agreement to connect the electrical system supporting the special needs unit at Fort Madison:
e. For costs associated with boiler improvements at the correctional facility located at Anamosa:
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":
The department is authorized an additional 1.50 full-time equivalent positions for a conservation assistant and a part-time historian for work related to the stabilization and preservation of the battle flag collection. b. For historical site preservation grants to be used for the restoration, preservation, and de-
velopment of historic sites:
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.

4,000,000

2,500,000

3.000,000

Notwithstanding the provisions of this lettered paragraph, \$200,000 shall be allocated to the last surviving Frank Lloyd Wright hotel located in a county with a population between 46,000 and 47,000. *c. For repairs to the historic Kimball organ located in Clermont, Iowa, notwithstanding section 8.57, subsection 6, paragraph "c":\$ 80.000* 5. DEPARTMENT OF ECONOMIC DEVELOPMENT a. For infrastructure expenses to support the development and expansion of targeted industry areas of advanced manufacturing, bioscience, and information technology pursuant to 2007 Iowa Acts, House File 829,1 if enacted, notwithstanding section 8.57, subsection 6, paragraph "c": b. For accelerated career education program capital projects at community colleges that are authorized under chapter 260G and that meet the definition of "vertical infrastructure" in section 8.57, subsection 6, paragraph "c": The moneys appropriated in this lettered paragraph shall be allocated equally among the community colleges in the state. If any portion of the equal allocation to a community college is not obligated or encumbered by April 1, 2008, the unobligated and unencumbered portions shall be available for use by other community colleges. c. For equal distribution to regional sports authority districts certified by the department pursuant to section 15E.321, as enacted in this Act: 500,000 d. For deposit into the workforce training and economic development funds created for each community college in section 260C.18A, notwithstanding section 8.57, subsection 6, paragraph "c": 2.000,000 6. DEPARTMENT OF EDUCATION a. To provide resources for structural and technological improvements to local libraries and for the enrich Iowa program, notwithstanding section 8.57, subsection 6, paragraph "c": Of the amount appropriated in this lettered paragraph, \$50,000 shall be allocated equally to each library service area. b. To the public broadcasting division to upgrade and replace mechanical equipment: c. For allocation to the northeast Iowa community college for merged area I for the national education center for agricultural safety training for equipment purchase, notwithstanding section 8.57, subsection 6, paragraph "c": \$ 7. DEPARTMENT OF HUMAN SERVICES For the renovation and construction of certain nursing facilities, consistent with the provisions of chapter 249K, as enacted in this Act: 1,000,000 8. IOWA FINANCE AUTHORITY a. For grants for distribution for water quality improvement projects for the wastewater treatment financial assistance program pursuant to section 16.134:

b. For deposit into the housing trust fund created in section 16.181:

.....\$

the construction of an agricultural exhibition center on the Iowa state fairgrounds:

For infrastructure improvements to the Iowa state fairgrounds including but not limited to

9. IOWA STATE FAIR

^{*} Item veto; see message at end of the Act

¹ Chapter 122 herein

10. DEPARTMENT OF NATURAL RESOURCES	
a. For state park infrastructure renovations:\$ 2,500,000	n
b. 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, notwithstanding section 8.57, subsection 6, paragraph "c":	n
(1) It is the intent of the general assembly that the department of natural resources shall implement the lake restoration annual report and plan submitted to the joint appropriations subcommittee on transportation, infrastructure, and capitals and the legislative services agency on December 26, 2006, pursuant to section 456A.33B. The lake restoration projects that are recommended by the department to receive funding for fiscal year 2007-2008 and that satisfy the criteria in section 456A.33B, including local commitment of funding for the projects, shall be funded in the amounts provided in the report. Of the amounts appropriated in this lettered paragraph, at least the following amounts shall be allocated as follows: (a) For clear lake in Cerro Gordo county:	e y ell
(b) For storm lake in Buena Vista county: \$ 2,500,000	J
\$ 1,000,000	C
(c) For crystal lake in Hancock county:\$ 250,000	0
(2) Of the moneys appropriated in this lettered paragraph, \$200,000 shall be used for the purposes of supporting a low head dam public hazard improvement program. The moneys shall be used to provide grants to local communities, including counties and cities, for projects approved by the department.	e s s
(a) The department shall establish a grant application process and shall require each local community applying for a project grant to submit a project plan for the expenditure of the moneys, and to file a report with the department regarding the project, as required by the department.(b) The department shall only award moneys on a matching basis, pursuant to which the	-
local community shall contribute a dollar for each dollar awarded by the department, in order to finance a project. c. For infrastructure improvements for a state river recreation area located in a county with a population between 21,900 and 22,100:	r
d. For lake dredging and related improvements including ongoing dam maintenance and operation on a lake with public access that has the support of a benefited lake district located in a county with a population between 18,015 and 18,050 according to the 2005 population estimate issued by the federal government, notwithstanding section 8.57, subsection 6, paragraph "c":	d d l- h
e. For the construction and installation of an angled well, pumps, and piping to connect the existing infrastructure from the new well to a lake located in a county with a population between 87,500 and 88,000:	e :-
Moneys appropriated in this lettered paragraph are contingent upon receipt of matching funds from a state taxing authority surrounding such lake. f. For the EB Lyons nature and interpretive center at the mines of Spain state recreation	g
area: \$ 100,000	0
11. DEPARTMENT OF PUBLIC DEFENSE a. For construction costs associated with the Camp Dodge armed forces readiness center: 50,000	

b. For construction costs associated with the new Iowa City readiness center:
\$ 1,200,000
c. For renovation and modernization of the Waterloo aviation readiness center:
\$ 500,000
d. For upgrades to the Camp Dodge water distribution system:
\$ 400,000
e. For major maintenance projects at national guard armories and facilities:\$ 1,500,000
f. For renovation and modernization of the national guard armory in Ottumwa:
1. For renovation and modernization of the national guard armory in Ottumwa. 1. 1,000,000
g. For renovation and modernization of the Newton readiness center:
\$ 400,000
h. For renovation and modernization of the Eagle Grove readiness center:
\$ 400,000
i. For construction costs associated with the joint public defense/Iowa law enforcement
academy shoothouse:
i. For general infrastructure improvements at the gold stor museum at Comp Dedge.
j. For general infrastructure improvements at the gold star museum at Camp Dodge:\$ 1,000,000
12. DEPARTMENT OF PUBLIC SAFETY
a. For construction of an Iowa state patrol post in district 8:
\$ 2,400,000
b. For construction of a state emergency response training facility to be located in merged
area XI:
2,000,000
c. To provide grants to regional emergency response training centers established under sec-
tion 100B.22 for infrastructure improvements:
west Iowa community college.
Of the amount appropriated in this lettered paragraph, \$100,000 shall be allocated to Iowa
valley community college.
Of the amount appropriated in this lettered paragraph, \$100,000 shall be allocated to eastern
Iowa community college district for the water rescue training center.
Moneys allocated in this lettered paragraph are contingent upon the receipt of revised appli-

Moneys allocated in this lettered paragraph are contingent upon the receipt of revised applications pursuant to section 100B.22 reflecting the merged areas added pursuant to this Act.

Priority for funding shall be given to those regional emergency response training centers whose initial plans were submitted and approved by the fire service training bureau and who have demonstrated progress in implementing their plans including but not limited to bid letting, conducting training, and obligating a portion of their first year's allocation. Grants awarded pursuant to this lettered paragraph shall not exceed \$300,000 each.

13. SECRETARY OF STATE

For deposit into the voting machine reimbursement fund to provide reimbursement to counties for the purposes authorized in this subsection, notwithstanding section 8.57, subsection 6, paragraph "c":

- a. The moneys appropriated in this subsection shall be used to reimburse counties for the cost of complying with section 52.7, subsection 1, paragraph "1", if enacted by 2007 Iowa Acts, Senate File 369. The office of secretary of state shall establish, by administrative rule, a procedure for reimbursing counties for such costs. The rules adopted by the office of secretary of state shall include but not be limited to the following:
- (1) That on or before June 15, 2007, the county board of supervisors shall submit to the office of secretary of state a resolution adopted by the board declaring the method by which the coun-

² Chapter 190, §7 herein

ty intends to comply with section 52.7, subsection 1, paragraph "1", 2007 Iowa Acts, Senate File 369,3 if enacted.

- (2) That when applying for reimbursement, a county shall submit a receipt for the purchase and documentation relating to any moneys received by the county or deducted from the purchase price for a trade-in on equipment replaced as part of the transaction required to comply with section 52.7, subsection 1, paragraph "1", 2007 Iowa Acts, Senate File 369,4 if enacted.
- b. If any other federal funding is received for the same or similar purposes authorized in paragraph "a", of the moneys appropriated in this subsection, an amount equal to the federal funding received shall revert to the rebuild Iowa infrastructure fund at the end of the fiscal year.
- c. A county shall not receive an amount of reimbursement that exceeds the amount allotted to the county by the secretary of state based on the conditions in paragraph "a", subparagraphs (1) and (2).
- d. On or before December 31, 2007, the secretary of state shall submit a report to the chair-persons and ranking members of the joint appropriations subcommittee on administration and regulation regarding the expenditures of the moneys appropriated in this subsection. The report shall also include recommendations, if necessary, to the general assembly for enacting waiver provisions for counties unable to comply with the requirements of section 52.1, subsection 1, paragraph "1", if enacted by 2007 Iowa Acts, Senate File 369.5

14. 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 costs associated with the establishment of the Iowa institute for	r bior	medical discovery
at the state university of Iowa:		

c. For planning, design, and construction costs associated with the construction of a new renewable fuels building at Iowa state university of science and technology:

or Iowa state university of science and technology actively pursuing the hiring of new research teams to provide world class expertise in the area of biorenewable fuels research.

15. DEPARTMENT OF TRANSPORTATION

a. For acquiring, constructing, and improving recreational trails within the state:

Hamilton county conservation board for the Jewell-Ellsworth trail for the development of an abandoned railroad right-of-way, \$200,000 shall be allocated to the city of Fairfield for the development of the Fairfield loop trail, and \$30,000 shall be allocated for general infrastructure improvements for the Crawford county trail.

Moneys appropriated in this lettered paragraph may be used for purposes of building equestrian or snowmobile trails that run parallel to a recreational trail. It is the intent of the general assembly to promote multiple uses for trails funded in this lettered paragraph and to maximize the number of trail users.

b. For 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 air service airport, 40 percent of the funds shall be allocated based on the percentage that the number of enplaned passengers at each commercial air service air-

³ Chapter 190, §7 herein

⁴ Chapter 190, §7 herein

⁵ Chapter 190, §7 herein

ments.

port 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 air service airport bears to the total air cargo tonnage in the state during the previous fiscal year. In order for a commercial air 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.

Of the moneys deposited into the railroad revolving loan and grant fund pursuant to this lettered paragraph, up to \$100,000 may be used for the acquisition and installation of close-clearance warning devices along railroad tracks, consistent with the provisions of 2007 Iowa Acts, Senate File 472,6 if enacted.

16. TREASURER OF STATE

For county fair infrastructure improvements for distribution in accordance with chapter 174 to qualified fairs which belong to the association of Iowa fairs:

1,590,000

17. DEPARTMENT OF VETERANS AFFAIRS

For vertical infrastructure improvements and construction of resident living areas at the Iowa veterans home consistent with the Iowa veterans home comprehensive plan, contingent upon submission of a report by the department by January 15, 2008, to the general assembly detailing the estimated costs, timing of construction, and related improvements associated with the Iowa veterans home comprehensive plan:

.....\$ 532,000

- Sec. 2. REVERSION. 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.
- Sec. 3. DEPARTMENT OF ADMINISTRATIVE SERVICES. There is appropriated from the rebuild Iowa infrastructure fund 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 purpose designated:

For capital improvements at the civil commitment unit for the sexual offenders facility at Cherokee:

.....\$ 829,000

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.

*Sec. 4. DEPARTMENT OF ECONOMIC DEVELOPMENT. There is appropriated from the rebuild Iowa infrastructure fund 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 purpose designated:

⁶ Chapter 164 herein

^{*} Item veto; see message at end of the Act

For equal distribution to regional sports authority districts certified by the department pursuant to section 15E.321, as enacted in this Act:
10 Section 13E.321, as enacted in this Act. ### 500,000*
*Sec. 5. DEPARTMENT OF NATURAL RESOURCES. There is appropriated from the rebuild Iowa infrastructure fund 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:
a. For infrastructure improvements for a state river recreation area located in a county with a population between 21,900 and 22,100:
b. For the construction and installation of an angled well, pumps, and piping to connect the existing infrastructure from the new well to a lake located in a county with a population between 87,500 and 88,000:
\$ 500,000 Moneys appropriated in this lettered paragraph are contingent upon receipt of matching funds from a state taxing authority surrounding such lake.
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. DEPARTMENT OF PUBLIC DEFENSE. There is appropriated from the rebuild Iowa infrastructure fund for the designated fiscal years, the following amounts, or so much thereof as is necessary, to be used for the purposes designated: For infrastructure improvements at the gold star museum at Camp Dodge: FY 2008-2009 \$ 2,000,000 FY 2009-2010 \$ 1,000,000 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, 2012, or until the project for which the appropriation was made is completed, whichever is earlier.
Sec. 7. STATE BOARD OF REGENTS. There is appropriated from the rebuild Iowa infrastructure fund for the designated fiscal years, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:
1. For costs associated with the establishment of the Iowa institute for biomedical discovery at the state university of Iowa:
FY 2008-2009 \$ 10,000,000 FY 2009-2010 \$ 10,000,000 2. For planning, design, and construction costs associated with the construction of a new
renewable fuels building at Iowa state university of science and technology:
FY 2008-2009 \$ 14,756,000 FY 2009-2010 \$ 11,597,000
Moneys appropriated in this lettered paragraph are contingent upon the board of regents or Iowa state university of science and technology actively pursuing the hiring of new research teams to provide world class expertise in the area of biorenewable fuels research.
Up to \$4,000,000 of the moneys appropriated in this subsection for the fiscal year beginning July 1, 2009, and ending June 30, 2010, may be used for necessary and related expenditures, including the property of the propert

Notwithstanding section 8.33, moneys appropriated in this section for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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

including furnishings and scientific equipment, notwithstanding section 8.57, subsection 6,

paragraph "c".

^{*} Item veto; see message at end of the Act

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.

Notwithstanding section 8.33, moneys appropriated in this section for the fiscal year beginning July 1, 2009, and ending June 30, 2010, 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, 2012, or until the project for which the appropriation was made is completed, whichever is earlier.

- 3. EFFECTIVE DATE. The provision of this division of this Act appropriating moneys to the secretary of state for deposit into the voting machine reimbursement fund, being deemed of immediate importance, takes effect upon enactment.
- Sec. 8. 2007 Iowa Acts, House File 874,7 section 1, subsection 1, paragraph "c", if enacted, is amended by striking the paragraph.

DIVISION II VERTICAL INFRASTRUCTURE FUND

- Sec. 9. There is appropriated from the vertical infrastructure fund 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 purposes designated:
- 1. For vertical infrastructure projects related to major repairs and major maintenance including fire safety improvements at state board of regents institutions and facilities:

2. For vertical infrastructure expenses for the veterinary diagnostic laboratory at Iowa state university of science and technology:

Sec. 10. REVERSION. 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.

DIVISION III ENDOWMENT FOR IOWA'S HEALTH RESTRICTED CAPITALS FUND

Sec. 11. There is appropriated from the endowment for Iowa's health restricted capitals fund to the department of corrections 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:

Sec. 12. TAX-EXEMPT STATUS — USE OF APPROPRIATIONS. Payment of moneys from the appropriations in this division of this Act 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.

⁷ Chapter 217 herein

Sec. 13. REVERSION. Notwithstanding section 8.33, moneys appropriated for the fiscal year that begins 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, 2011, or until the project for which the appropriation was made is completed, whichever is earlier.

DIVISION IV TECHNOLOGY REINVESTMENT FUND

Sec. 14. There is appropriated from the technology reinvestment fund created in section 8.57C to the following departments and agencies 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 a. For technology improvement projects:\$ 3,810,375 b. For costs to establish a service-oriented architecture:\$ 254,992 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: Of the amount appropriated in this lettered paragraph, \$5,000 shall be allocated to the tristate graduate center for the purchase of technology-related equipment and software. b. For maintenance and lease costs associated with connections for Part III of the Iowa communications network: 2,727,000 c. For the implementation of an educational data warehouse that will be utilized by teachers, parents, school district administrators, area education agency staff, department of education staff, and policymakers: 600,000 4. DEPARTMENT OF HUMAN RIGHTS For the cost of equipment and computer software for the implementation of Iowa's criminal iustice information system:\$ 2,881,466 5. DEPARTMENT OF HUMAN SERVICES For the purchase of payment processing equipment for the child support recovery unit: 272,000 6. IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION For replacement of equipment for the Iowa communications network: 2,067,000 The commission may continue to enter into contracts pursuant to section 8D.13 for the replacement of equipment and for operations and maintenance costs of the network. 7. IOWA WORKFORCE DEVELOPMENT a. For costs associated with the automated workers' compensation appeal processing system:\$ 500,000 b. For the purchase of computer hardware and software for the outcome tracking system: 580,000 8. DEPARTMENT OF PUBLIC DEFENSE For information technology upgrades for the Iowa national guard: 111,000 \$

9. DEPARTMENT OF PUBLIC SAFETY
a. For continuation of payments on the lease of the automated fingerprint identification sys-
tem:
\$ 560,000
b. For information technology hardware and software upgrades for the department of public safety:
\$ 1,900,000
10. STATE BOARD OF REGENTS. For allocation by the state board of regents to the uni-
versity of northern Iowa to purchase mobile computer labs to serve communities statewide,
replace technology equipment, and build advanced technology resources associated with
MyEntreNet:
\$ 235,000
===,····

Sec. 15. REVERSION. 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 beginning July 1, 2009, or until the project for which the appropriation was made is completed, whichever is earlier.

DIVISION V MISCELLANEOUS APPROPRIATIONS

Sec. 16. STATE AVIATION FUND — DEPARTMENT OF TRANSPO	RTATION.	There is
appropriated from the state aviation fund created in section 328.56, as ea	nacted in 20)06 Iowa
Acts, chapter 1179, section 57, to the department of transportation to assis		
ity that has lost service of a federally funded essential air service carrie	r to regain o	daily en-
planement rates:		
	\$	20,000

DIVISION VI CHANGES TO PRIOR APPROPRIATIONS

- Sec. 17. 2001 Iowa Acts, chapter 185, section 30, as amended by 2005 Iowa Acts, chapter 178, section 22, and 2006 Iowa Acts, chapter 1179, section 27, is amended to read as follows: SEC. 30. REVERSION.
- 1. Except as provided in subsection subsections 2 and 3 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, 2006, or until the project for which the appropriation was made is completed, whichever is earlier.
- 3. Notwithstanding section 8.33, moneys appropriated in 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, 2007, or until the project for which the appropriation was made is completed, whichever is earlier.
- Sec. 18. 2003 Iowa Acts, chapter 177, section 22, subsection 13, is amended to read as follows:
 - 13. REVERSION.
 - 1. Notwithstanding Except as provided in subsection 2 and notwithstanding section 8.33,

moneys appropriated in this section shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2006, or until the project for which the appropriation was made is completed, whichever is earlier.

- 2. Notwithstanding section 8.33, moneys appropriated in subsection 2 and subsection 9, paragraph "c", 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, 2007, or until the project for which the appropriation was made is completed, whichever is earlier.
- Sec. 19. 2003 Iowa Acts, chapter 177, section 23, subsection 3, as amended by 2004 Iowa Acts, chapter 1175, section 309, is amended to read as follows:
- 3. Notwithstanding section 8.33, moneys appropriated in this section shall not revert at the close of the fiscal year for which they were appropriated, but shall remain available for the purpose designated until the close of the fiscal year that begins July 1, 2006 2007, or until the project for which the appropriation was made is completed, whichever is earlier.
- Sec. 20. 2005 Iowa Acts, chapter 178, section 19, subsection 3, is amended to read as follows:
 - 3. REVERSION.
- 1. Notwithstanding Except as provided in subsection 2 and notwithstanding section 8.33, moneys appropriated in this section shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2006, or until the project for which the appropriation was made is completed, whichever is earlier.
- 2. Notwithstanding section 8.33, moneys appropriated in subsection 1, paragraph "a", subparagraph (1), and subsection 1, paragraph "g", 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, 2007, or until the project for which the appropriation was made is completed, whichever is earlier.
- Sec. 21. 2006 Iowa Acts, chapter 1179, section 1, subsection 12, paragraph h, is amended to read as follows:
- h. To provide a grant for the <u>design</u>, 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 <u>and for bioprocessing other feedstocks important for biofuels production and processing:</u>

.....\$ 1,000,000

- Sec. 22. 2006 Iowa Acts, chapter 1179, section 5, is amended to read as follows:
- 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
	3,600,000
FY 2008-2009	\$ 16,800,000
	23,300,000
FY 2009-2010	\$ 6,657,100
	12.657.100

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 pur-

6.200,000

poses 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.

The design specifications of the new state office building shall include, at a minimum, energy efficiency specifications that exceed state building code requirements and have the potential for leadership in energy and environmental design silver certification from the United States green building council.

- Sec. 23. 2006 Iowa Acts, chapter 1179, section 16, subsection 1, paragraph b, Code 2007, is amended to read as follows:
- b. For planning, design, and construction costs associated with the construction of a new approximately 350,000-gross-square-foot state office building:
- (1) Of the amount appropriated in this lettered paragraph, up to \$750,000 may be used by the department to provide an earnest deposit on the purchase of no more than ten acres of certain property adjacent to the capitol complex and generally located north of grand avenue and between east 12th and east 14th street, if such purchase is made; to provide for parking lot improvements necessary to facilitate an exchange of property consistent with the planned construction of the new state office building; and to provide for the demolition of a structure located on the property to be used for the construction of the new state office building or to provide for the sale by auction and relocation of such structure in an effort to reduce or eliminate the costs associated with the removal of such structure from the property. Any amount received from the sale of a structure as permitted under this lettered paragraph shall be retained by the department for the use specified for the moneys appropriated pursuant to this lettered paragraph.
- (2) Upon the department's decision to purchase property as described in subparagraph (1), the department shall determine the feasibility of including all or a portion of any amount expended pursuant to subparagraph (1) in the financing mechanism to be used by the department to complete such purchase. The department shall provide a report to the department of management and the legislative services agency that includes the results of the department's determination.

Notwithstanding provisions of law to the contrary, the department is hereby authorized to honor and maintain existing leases located on property to be acquired by the department if such property is acquired, as long as such leased property is used for providing health care and pharmaceutical services to citizens in the community. Such leases may be maintained for a period deemed appropriate by the director of the department, but in no case shall such leases continue or be renewed for a period of more than ten years or if a lessee of the property ceases to occupy such property or provide such services.

Sec. 24. 2006 Iowa Acts, chapter 1179, section 16, subsection 12, is amended to read as follows:

12. DEPARTMENT OF VETERANS AFFAIRS

For capital improvement projects at the Iowa veterans home:

...... \$

Of the moneys appropriated in this subsection, the department shall use an amount necessary for planning and design services related to the construction of new facilities at the Iowa veterans home consistent with the Iowa veterans home comprehensive plan. The department shall submit a report by January 15, 2008, to the general assembly, the department of management, and the legislative services agency detailing the estimated costs and timing of construction and related improvements associated with the project consistent with the Iowa veterans

home comprehensive plan.

It is the intent of the general assembly to provide state match requirements necessary for the construction and repair of buildings and facilities at the Iowa veterans home that results in the improved care and living standards of veterans residing at the Iowa veterans home. Upon receipt of the estimated construction and facility improvement costs at the Iowa veterans

home, it is the intent of the general assembly to explore funding options for completion of the Iowa veterans home projects including but not limited to bonding.

- Sec. 25. 2006 Iowa Acts, chapter 1179, section 19, is amended to read as follows:
- SEC. 19. REPORT. Annually, on or before January 1 15 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, and 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 completed or in progress. 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 the date the project was completed or an estimated completion date of the project, where applicable.
- Sec. 26. 2006 Iowa Acts, chapter 1179, section 24, subsection 1, is amended to read as follows:
 - 1. DEPARTMENT OF NATURAL RESOURCES

report submitted to the Eighty-first General Assembly.

 \underline{a} . 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:

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

Of the amounts appropriated in this subsection <u>lettered paragraph</u>, at least the following amounts shall be allocated as follows:

a. (1) For clear take in Cerro Gordo county:	¢	4 000 000
b. (2) For storm lake in Buena Vista county:	Ψ	4,000,000
······································	\$	500,000
e- (3) For crystal lake in Hancock county:		
	\$	1,400,000

d. $\underline{(4)}$ 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 2363,8 if enacted, or in any other Act of the Eighty-first General Assembly, 2006 Session:

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 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 VII MISCELLANEOUS CODE CHANGES

Sec. 27. Section 8.57, subsection 6, paragraph h, Code 2007, is amended to read as follows: h. Annually, on or before January ± 15 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, and 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 completed or in progress. The report shall include a description

⁸ 2006 Iowa Acts, chapter 1145, §3

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 the date the project was completed or an estimated completion date of the project, where applicable.

- Sec. 28. Section 8.57A, subsection 5, Code 2007, is amended to read as follows:
- 5. Annually, on or before January $1\,15$ 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, and 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 completed or in progress. 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 the date the project was completed or an estimated completion date of the project, where applicable.
 - Sec. 29. Section 8.57B, subsection 5, Code 2007, is amended to read as follows:
- 5. Annually, on or before January 1 15 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, and 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 completed or in progress. 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 the date the project was completed or an estimated completion date of the project, where applicable.
 - Sec. 30. Section 8.57C, subsection 4, Code 2007, is amended to read as follows:
- 4. Annually, on or before January 1 15 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, and 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 completed or in progress. 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 the date the project was completed or an estimated completion date of the project, where applicable.
 - Sec. 31. Section 8A.321, subsection 11, Code 2007, is amended to read as follows:
- 11. Prepare annual status reports for all ongoing capital projects in progress of the department, and submit the status reports to the joint transportation, infrastructure, and capitals appropriation subcommittee legislative services agency and the department of management on or before January 15 of each year.
 - Sec. 32. NEW SECTION. 15E.321 REGIONAL SPORTS AUTHORITY DISTRICTS.
- 1. As used in this section, "district" means a regional sports authority district certified under this section.
- 2. A convention and visitors bureau may apply to the department for certification of a regional sports authority district which may include more than one city and more than one convention and visitors bureau within the district. The department shall not certify more than ten such districts.

- 3. Each district shall actively promote youth sports, high school athletic activities, the special olympics, and other nonprofessional sporting events in the local area.
- 4. Each district shall be governed by a seven-member board consisting of seven members appointed by the convention and visitors bureau filing the application pursuant to subsection 2. At least three members of the board shall consist of city council members of any cities located in the district. Each board shall be responsible for administering programs designed to promote the activities enumerated in subsection 3.
- Sec. 33. Section 100B.22, subsection 1, paragraphs c and h, Code 2007, are amended to read as follows:
- c. Iowa lakes community college for merged area III <u>and northwest Iowa community college</u> for merged area IV.
- h. Des Moines area community college for merged area XI and <u>Iowa valley community college for merged area VI and</u> 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.

Sec. 34. NEW SECTION. 47.9 VOTING MACHINE REIMBURSEMENT FUND.

A voting machine reimbursement fund is established in the office of the treasurer of state. Moneys in the fund shall be expended to reimburse counties for the costs of complying with section 52.7, subsection 1, paragraph "1", if enacted by 2007 Iowa Acts, Senate File 369.9 The office of secretary of state shall establish, by administrative rule, a procedure for reimbursing counties for such costs. Notwithstanding section 8.33, moneys in the voting machine reimbursement fund shall not revert but shall remain available indefinitely for expenditure under this section.

Sec. 35. NEW SECTION. 249K.1 PURPOSE — INTENT.

The purpose of this chapter is to provide a mechanism to support the appropriate number of nursing facility beds for the state's citizens and to financially assist nursing facilities in remaining compliant with applicable regulations. It is the intent of this chapter that the administrative burden on both the state and nursing facilities be minimal.

Sec. 36. NEW SECTION. 249K.2 DEFINITIONS.

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

- 1. "Complete replacement" means completed construction on a new nursing facility to replace an existing licensed and certified facility. The replacement facility shall be located in the same geographical service area as the facility that is replaced and shall have the same number or fewer licensed beds than the original facility.
 - 2. "Department" means the department of human services.
 - 3. "Iowa Medicaid enterprise" means Iowa Medicaid enterprise as defined in section 249J.3.
- 4. "Major renovations" means construction or facility improvements to a nursing facility in which the total amount expended exceeds one million five hundred thousand dollars.
- 5. "Medical assistance" or "medical assistance program" means the medical assistance program created pursuant to chapter 249A.
- 6. "New construction" means the construction of a new nursing facility which does not replace an existing licensed and certified facility and requires the provider to obtain a certificate of need pursuant to chapter 135, division VI.
- 7. "Nondirect care component" means the portion of the reimbursement rate under the medical assistance program attributable to administrative, environmental, property, and support care costs reported on the provider's financial and statistical report.
 - 8. "Nursing facility" means a nursing facility as defined in section 135C.1.
- 9. "Provider" means a current or future owner or operator of a nursing facility that provides medical assistance program services.

⁹ Chapter 190, §7 herein

- 10. "Rate determination letter" means the letter that is distributed quarterly by the Iowa Medicaid enterprise to each nursing facility, which is based on previously submitted financial and statistical reports from each nursing facility.
- Sec. 37. <u>NEW SECTION</u>. 249K.3 GENERAL PROVISIONS INSTANT RELIEF NON-DIRECT CARE LIMIT EXCEPTION.
- 1. A provider that constructs a complete replacement, makes major renovations to or newly constructs a nursing facility may be entitled to the rate relief and exceptions provided under this chapter. The total period during which a provider may participate in any relief shall not exceed two years. The total period during which a provider may participate in any nondirect care limit exception shall not exceed ten years. A provider seeking assistance under this chapter may request both instant relief and the nondirect care limit exception.
 - 2. If the provider requests instant relief, the following provisions shall apply:
- a. The provider shall submit a written request for instant relief to the Iowa Medicaid enterprise explaining the nature, timing, and goals of the project and the time period during which the relief is requested. The written request shall clearly state if the provider is also requesting the nondirect care limit exception. The written request for instant relief shall be submitted no earlier than thirty days prior to the placement of the provider's assets in service. The written request for relief shall provide adequate details to calculate the estimated value of relief including but not limited to the total cost of the project, the estimated annual depreciation expenses using generally accepted accounting principles, the estimated useful life based upon existing medical assistance and Medicare provisions, and a copy of the most current depreciation schedule. If interest expenses are included, a copy of the general terms of the debt service and the estimated annual amount of the interest expenses shall be submitted with the written request for relief.
 - b. The following shall apply to the value of relief amount:
- (1) If interest expenses are disclosed, the amount of these expenses shall be added to the value of relief.
- (2) The calculation of the estimated value of relief shall take into consideration the removal of existing assets and debt service.
- (3) The calculation of the estimated value of relief shall be demonstrated as an amount per patient day to be added to the nondirect care component for the relevant period. The estimated annual patient days for this calculation shall be determined based upon budgeted amounts or the most recent annual total as demonstrated on the provider's Medicaid financial and statistical report. For the purposes of calculating the per diem relief, total patient days shall be the greater of the estimated annual patient days or eighty-five percent of the facility's estimated licensed capacity.
- (4) The combination of the nondirect care component and the estimated value of relief shall not exceed one hundred and ten percent of the nondirect care median for the relevant period. If a nondirect care limit exception has been requested and granted, the combination of the nondirect care component and the estimated value of relief shall not exceed one hundred twenty percent of the nondirect care median for the relevant period.
- c. Instant relief granted under this subsection shall begin the first day of the calendar quarter following placement of the provider's assets in service. If the required information to calculate the instant relief, as specified in paragraph "a", is not submitted prior to the first day of the calendar quarter following placement of the provider's assets in service, instant relief shall instead begin on the first day of the calendar quarter following receipt of the required information.
- d. Instant relief granted under this subsection shall be terminated at the time of the provider's subsequent biannual rebasing when the submission of the annual cost report for the provider includes the new replacement costs and the annual property costs reflect the new assets.
- e. During the period in which instant relief is granted, the Iowa Medicaid enterprise shall recalculate the value of the instant relief based on allowable costs and patient days reported on the annual financial and statistical report. For purposes of calculating the per diem relief,

total patient days shall be the greater of actual annual patient days or eighty-five percent of the facility's licensed capacity. The actual value of relief shall be added to the nondirect care component for the relevant period, not to exceed one hundred ten percent of the nondirect care median for the relevant period or not to exceed one hundred twenty percent of the nondirect care median for the relevant period if the nondirect care limit exception is requested and granted. The provider's quarterly rates for the relevant period shall be retroactively adjusted to reflect the revised nondirect care rate. All claims with dates of service from the date that instant relief is granted to the date that the instant relief is terminated shall be repriced to reflect the actual value of the instant relief per diem utilizing a mass adjustment.

- 3. If the provider requests the nondirect care limit exception, all of the following shall apply:
- a. The nondirect care limit for the rate setting period shall be increased to one hundred and twenty percent of the median for the relevant period.
- b. The exception period shall not exceed a period of two years. If the provider is requesting only the nondirect care limit exception, the request shall be submitted within sixty days of the release of the July 1 rate determination letters following each biannual rebasing cycle, and shall be effective the first day of the month following receipt of the request. If applicable, the provider shall identify any time period in which instant relief was granted and shall indicate how many times the instant relief or nondirect care limit exception was granted previously.

Sec. 38. NEW SECTION. 249K.4 PRELIMINARY EVALUATION.

- 1. A provider preparing cost or other feasibility projections for a request for relief or an exception pursuant to section 249K.3 may submit a request for preliminary evaluation.
- 2. The request shall contain all of the information required for the type of assistance sought pursuant to section 249K.3.
- 3. The provider shall estimate the timing of the initiation and completion of the project to allow the department to respond with estimates of both instant relief and the nondirect care limit exception.
- 4. The department shall respond to a request for preliminary evaluation under this section within thirty days of receipt of the request. A preliminary evaluation does not guarantee approval of instant relief or the nondirect care limit exception upon submission of a formal request. A preliminary evaluation provides only an estimate of value of the instant relief or nondirect care limit exception based only on the projections.

Sec. 39. NEW SECTION. 249K.5 PARTICIPATION CRITERIA.

- 1. The Iowa Medicaid enterprise shall administer this chapter. The department of human services shall adopt rules, pursuant to chapter 17A, to administer this chapter.
- 2. A provider requesting instant relief or a nondirect care limit exception under this chapter shall meet one of the following criteria:
- a. The nursing facility for which relief or an exception is requested is in violation of life safety code requirements and changes are necessary to meet regulatory compliance.
- b. The nursing facility for which relief or an exception is requested is proposing development of a home and community-based services waiver program service that meets the following requirements:
 - (1) The service is provided on the direct site and is a nonnursing service.
- (2) The service is provided in an underserved area, which may include a rural area, and the nursing facility provides documentation of this.
 - (3) The service meets all federal and state requirements.
- (4) The service is adult day care, consumer directed attendant care, assisted living, day habilitation, home delivered meals, personal emergency response, or respite.
- 3. In addition to any other factors to be considered in determining if a provider is eligible to participate under this chapter, the Iowa Medicaid enterprise shall consider all of the following:
 - a. The history of the provider's regulatory compliance.
- b. The historical access to nursing facility services for medical assistance program beneficiaries.

- c. The provider's dedication to and participation in quality of care, considering all quality programs in which the provider has participated.
 - d. The provider's plans to facilitate person-directed care.
 - e. The provider's plans to facilitate dementia units and specialty post-acute services.
- 4. a. Any relief or exception granted under this chapter is temporary and shall be immediately terminated if all of the participation requirements under this chapter are not met.
- b. If a provider's medical assistance program or Medicare certification is revoked, any existing exception or relief shall be terminated and the provider shall not be eligible to request subsequent relief or an exception under this chapter.
- 5. Following a change in ownership, relief or an exception previously granted shall continue and future rate calculations shall be determined under the provisions of 441 IAC 81.6(12) relating to termination or change of ownership of a nursing facility.
- Sec. 40. Section 328.56, subsection 2, as enacted by 2006 Iowa Acts, chapter 1179, section 57, is amended to read as follows:
- 2. Moneys in the <u>state aviation</u> fund in a fiscal year shall be used as appropriated by the general assembly are appropriated to the department of transportation for use by the department for airport engineering studies, construction or improvements, and the windsock program for public airports and marketing at commercial service airports. In awarding moneys, the department shall give preference to projects that demonstrate a collaborative effort between airports.

Sec. 41. IMPLEMENTATION — LIMITATION.

- 1. Chapter 249K, as enacted by this division of this Act, shall only be implemented if the department of human services receives approval from the centers for Medicare and Medicaid services of the United States department of health and human services for a medical assistance state plan amendment. If approval is received, the chapter shall not be implemented retroactively to the effective date of the chapter in this division of this Act, but shall be implemented only on or after the date of approval.
- 2. The Iowa Medicaid enterprise shall only approve instant relief or a nondirect care limit exception under chapter 249K, as enacted by this division of this Act, to the extent funding is available.
 - Sec. 42. Section 8A.330, Code 2007, is repealed.
- Sec. 43. EFFECTIVE DATE. The sections of this division creating new chapter 249K, being deemed of immediate importance, take effect upon enactment.

Approved May 29, 2007, with exceptions noted.

CHESTER J. CULVER, Governor

Dear Mr. Secretary:

I hereby transmit House File 911, an Act relating to and making appropriations to state departments and agencies from the Rebuild Iowa Infrastructure Fund, Vertical Infrastructure Fund, the Endowment for Iowa's Health Restricted Capitals Fund, and the Technology Reinvestment Fund. House File 911 is approved on this date, with the exceptions noted below, which I hereby disapprove.

I am unable to approve the designated portion of Section 1, subsection 1, paragraph g. This designated paragraph appropriates \$120,000 for the purchase and installation of decorative

planters on the west side of the West Capitol Terrace Project. Since Fiscal Year 2006, the West Capitol Terrace Project has received nearly \$2.8 million in state funding, and I am approving an additional \$1.6 million for this project again in Fiscal Year 2008. I also believe that the local community interests should be able to contribute to the cost of these planters.

I am unable to approve the designated portion of Section 1, subsection 4, paragraph c. This designated item appropriates \$80,000 for repair of the Kimball organ located in Clermont, Iowa. The Department of Cultural Affairs has submitted an application to the Save America's Treasures organization to obtain the necessary funding to restore this important piece of Iowa history. With approval of this application pending, it is premature to approve limited state funding at this time.

I am unable to approve the item designated as Section 4 in its entirety. This designated section appropriates \$500,000 in Fiscal Year 2009 for equal distribution to regional sports authority districts. I am unable to approve this item because it provides second-year funding in advance for this project. I will re-evaluate the feasibility of a Fiscal Year 2009 appropriation for this project after the first year of funding appropriated in HF 911.

Finally, I am unable to approve the item designated as Section 5 in its entirety. This designated provision provides for Fiscal Year 2009 appropriations of \$750,000 for the continuation of the Volga River State Recreation Area project and \$500,000 for the Levi Carter Lake project. I am unable to approve this designated item because it provides second-year funding in advance for these two projects. I will re-evaluate the feasibility of a Fiscal Year 2009 appropriation for these projects after the first year of funding appropriated in House file 911.

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 911 are hereby approved this date.

Sincerely, CHESTER J. CULVER, Governor

CHAPTER 220

WORLD FOOD PRIZE AWARDS CEREMONY S.J.R.~4

A JOINT RESOLUTION authorizing the temporary use and consumption of wine in the State Capitol, and the temporary display of ceremonial banners, 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, the placement of ceremonial banners signifying the awards ceremony is an appropriate way to announce and commemorate the event; 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 18, 2007, 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.

Sec. 2. Three ceremonial banners may be temporarily displayed either inside or outside the state capitol commemorating the ceremony.

Approved May 24, 2007

CHAPTER 221

HY-VEE WORLD CUP TRIATHLON AWARDS CEREMONY S.J.R. 5

A JOINT RESOLUTION authorizing the temporary use and consumption of alcoholic beverages on the state capitol complex grounds in conjunction with the Hy-Vee Bg World Cup Triathlon, and providing an effective date.

WHEREAS, on June 17, 2007, athletes from around the world will gather in Des Moines, Iowa, to compete for the largest purse prize in triathlon history; and

WHEREAS, the city of Des Moines has the honor of being the only city in the United States on the 2007 World Cup schedule of 16 triathlons; and

WHEREAS, Iowa's state capitol complex grounds provide a unique and memorable setting for the finish line of the triathlon and the following awards ceremony; and

WHEREAS, a champagne toast is a traditional part of the awards ceremony; and

WHEREAS, because 11 IAC 100.4(8) prohibits the consumption of alcoholic beverages on the state capitol complex grounds, it is not possible to serve champagne or other alcoholic beverage¹ at this type of awards ceremony on the state capitol complex grounds; 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, alcoholic beverages may be used and consumed on the state capitol complex grounds at an awards ceremony,

¹ According to enrolled Act; the word "beverages" probably intended

to be held on or around June 17, 2007, hosted and organized in whole or in part by Hy-Vee, Incorporated, if the person providing the food and alcoholic beverages at the awards ceremony possesses an appropriate valid liquor control license. For the purpose of this section and section 123.95, the state capitol complex grounds is a private place.

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

Approved May 24, 2007

CHAPTER 222

WEST CAPITOL TERRACE AND CAPITOL GROUNDS IMPROVEMENTS — ACKNOWLEDGEMENTS OF PRIVATE CONTRIBUTORS $S.J.R.\ 6$

A JOINT RESOLUTION approving the permanent acknowledgement of elementary and secondary schools and individual citizens of this state for their contributions of foliage and items to be permanently located on the West Capitol Terrace and other Capitol grounds and providing an effective date.

WHEREAS, the state has committed resources to the improvement of the West Capitol Terrace project and continues to develop that area for the citizens of Iowa; and

WHEREAS, work on phase 1 of this project is scheduled to be completed by June of this year in time for the 2007 Hy-Vee Triathlon — International Triathlon Union World Cup event; and WHEREAS, the General Assembly believes all Iowans should be proud of the improvements being made and given the opportunity to participate in the completion of this project; and

WHEREAS, the Department of Administrative Services is planning an event to encourage all Iowans to participate in the sponsorship of trees, benches, and other foliage and items to be located on the West Capitol Terrace and other areas of the Capitol grounds; NOW THEREFORE,

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

That the department of administrative services is hereby authorized, as provided in section 8A.108, subsection 2, paragraph "b", to establish permanent acknowledgements for contributions made by or on behalf of elementary and secondary schools and individual citizens of this state of trees, benches, and other foliage and items to be permanently located on the west capitol terrace and other areas of the capitol grounds. The type and design of plaques to be used for the permanent acknowledgements authorized by this joint resolution shall be approved by the capitol planning commission prior to placement on the west capitol terrace or other capitol grounds.

This joint resolution, being deemed of immediate importance, takes effect upon enactment.

Approved May 24, 2007

CHAPTER 223

PROPOSED CONSTITUTIONAL AMENDMENT — QUALIFICATION OF ELECTORS

H.J.R. 3

Second 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. RATIFICATION. The foregoing proposed amendment to the Constitution of the State of Iowa, having been adopted and agreed to by the Eighty-first General Assembly, 2006 Session, thereafter duly published, and now adopted and agreed to by the Eighty-second General Assembly in this joint resolution, shall be submitted to the people of the State of Iowa at the general election in November of the year 2008 in the manner required by the Constitution of the State of Iowa and the laws of the State of Iowa.

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ANALYSIS OF TABLES

- Conversion Tables of Senate and House Files and Joint Resolutions to Chapters of the Acts of the General Assembly
- 2007 Code Chapters and Sections Amended or Repealed, 2007 Regular Session
- New Code Chapters and Sections Assigned by the Eighty-second General Assembly, 2007 Regular Session
- Session Laws Amended or Repealed in Acts of the Eighty-second General Assembly, 2007 Regular Session
- Session Laws Referred to in Acts of the Eighty-second General Assembly, 2007 Regular Session
- Iowa Codes Referred to in Acts of the Eighty-second General Assembly, 2007 Regular Session
- Iowa Administrative Code Referred to in Acts of the Eighty-second General Assembly, 2007 Regular Session
- Iowa Administrative Code Rule Nullified in Acts of the Eighty-second General Assembly, 2007 Regular Session
- Acts of Congress and United States Code Referred to
- Code of Federal Regulations Referred to
- Iowa Court Rules Referred to
- Proposed Amendment to the Constitution of the State of Iowa
- Constitution of the State of Iowa Referred to
- Constitution of the United States Referred to
- Vetoed Bills
- Item Vetoes
- **Acts Containing State Mandates**

CONVERSION TABLES OF SENATE AND HOUSE FILES AND JOINT RESOLUTIONS TO CHAPTERS OF THE ACTS OF THE GENERAL ASSEMBLY

2007 REGULAR SESSION

SENATE FILES

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
	Chapter		Chapter	No. 477 479 480 485 489 499 502 503 509 510 512 518 528 529 530 535 538 539 540 546 548 551 554 557 558 559 562 563 564 566 575 578 579 580 586	Chapter
272 277 278		450 457 463		588 590 592 593	
284	50	$\begin{array}{c} 469 \\ 472 \end{array}$		601	215

SENATE JOINT RESOLUTIONS

4	 220
5	 221
6	 222

CONVERSION TABLES OF SENATE AND HOUSE FILES AND JOINT RESOLUTIONS TO CHAPTERS OF THE ACTS OF THE GENERAL ASSEMBLY — Continued

2007 REGULAR SESSION

HOUSE FILES

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
566 579		780 787		925 927	
585 587	81 96	790 793	57 143	932	200

HOUSE JOINT RESOLUTION

3 223

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED

or Section Chapter or Section Chapter 2.27 59, \$1, 19 12C.13 174, \$77 2.47A(1c) 115, \$1 12C.16(1b(4)) 174, \$78 2.C.11 126, \$1 12C.17(1c) 174, \$79 3.3 41, \$40 12C.17(4) 174, \$81 3.20(2) 10, \$1 12C.23(3b) 174, \$81 4.1(28) 33, \$1 13.31 27, \$1 6B.14 22, \$1 138.4[4d(8)] 22, \$7 6B.53 54, \$45 138.8A 126, \$113 7A.3(1) 115, \$2 15.102(4) 207, \$3, 18 7E.4(2) 10, \$2 15.102(4) 207, \$3, 18 7E.4(8) 10, \$3 15.102(56) 20, \$4, 18 7E.7(1) 215, \$78 15.108(5) 20, \$4, 18 7E.7(2) 215, \$78 15.108(7c) 207, \$6, 18 8.57(6h) 22, \$2 15.247(2) 207, \$7, 18 8.576(6) 22, \$2 15.247(2) 207, \$7, 18 8.576(6) 219, \$29 15.335(4)	Code Chapter	Acts	Code Chapter	Acts
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6B.14 22, \$1 13B.4[4d(8)] 22, \$7 6B.53 54, \$45 13B.8A 126, \$113 7A.3(1) 115, \$2 15 45, \$1; 122, \$1; 162, \$1-3, 13 7E.4(2) 10, \$2 15.102(4) 207, \$3, 18 7E.4(8) 10, \$3 15.102[5b(3)] 207, \$4, 18 7E.7(1) 215, \$77 15.102[5b(3)] 207, \$4, 18 7E.7(2) 215, \$78 15.108(7c) 207, \$6, 18 8-(15) 22, \$2 15.247(2) 207, \$6, 18 8-(15) 22, \$2 15.247(2) 207, \$7, 18 8.576(b) 219, \$27 15.247(2) 207, \$7, 18 8.576(b) 219, \$28 15.318(16) 22, \$8 8.574(4) 215, \$8 15.318(16) 22, \$8 8.578(5) 219, \$28 15.335(4) 12, \$1, 7, 8 8.57(4) 219, \$30 15A.9(8e) 12, \$1, 7, 8 8.64 117, \$1, 7 15E 219, \$32 8.64 117, \$1, 7 15E 219, \$32 8A.101(1) 10, \$4<				
6B.53 54, §45 13B.8A 1.26, §113 7A.3(1) 115, §2 15. 102(4) 207, §3, 18 7E.4(2) 10, §2 15.102(3) 207, §4, 18 7E.4(8) 10, §3 15.102[5a(3)] 207, §4, 18 7E.7(1) 215, §78 15.102[5b(3)] 207, §5, 18 7E.7(2) 215, §78 15.108(5) 126, §5 8 117, §2 - 7; 215, §240 15.108(7c) 207, §6, 18 8.6(15) 22, §2 15.247 207, §8, 18 8.57(6h) 219, §27 15.24(22) 207, §7, 18 8.57(4) 215, §8 15.318(16) 22, §8 8.57A(5) 219, §28 15.333(1) 174, §82 8.57C(4) 219, §30 15A, 9(8e) 12, §27, 8 8.64 117, §1, 7 15E 219, §32 8.101(1) 10, §4 15E, 43(1a) 174, §83 8A.122(1) 115, §3 15E, 44(1) 186, §2 8A.201(4) 54, §1 15E, 44(4) 174, §83 8A.201(4) 15,				
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8 117, §2 - 7; 215, §240 15.108(7c) 207, §6, 18 8.6(15) 22, §2 15.247 207, §8, 18 8.57(6h) 219, §27 15.247(2) 207, §7, 18 8.57A(4) 215, §8 15.318(16) 22, §8 8.57A(5) 219, §28 15.333(1) 174, §82 8.57B(5) 219, §29 15.335(4) 12, §1, 7, 8 8.57C(4) 219, §30 15A.9(8e) 12, §2, 7, 8 8.64 117, §1, 7 15E 219, §32 8.A.101(1) 10, §4 15E.43(1a) 174, §83 8A.122(1) 115, §3 15E.44(1) 186, §1 8A.201(4) 54, §1 15E.45(1) 186, §1 8A.204(2c) 115, §4 15E.45(3a(1)] 186, §2 8A.311 115, §6, 18; 215, §79 15E.54(4) 174, §86 8A.311(10) 207, §1, 18 15E.62(6) 174, §87 8A.32(11) 219, §31 15E.19(2) 174, §86 8A.331 15E, §6, 18; 215, §79 15E.192(3) 126, §6 8A.331 15E, §6, 18; 215, §79 15E.192(3) 126, §6			- ' ' -	
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8.57B(5) 219, §29 15.335(4) 12, §1, 7, 8 8.57C(4) 219, §30 15A.9(8e) 12, §2, 7, 8 8.64 117, §1, 7 15E 219, §32 8A.101(1) 10, §4 15E.43(1a) 174, §83 8A.122(1) 115, §3 15E.44(1) 186, §1 8A.201(4) 54, §1 15E.44(4) 174, §84 8A.204(2c) 115, §4 15E.45[3a(1)] 186, §2 8A.311 115, §6, 18; 215, §79 15E.51(2) 174, §86 8A.311(1) 207, §1, 18 15E.62(6) 174, §87 8A.321(11) 219, §31 15E.191 - 15E.149 126, §14 8A.321(12) 115, §7 15E.192(3) 126, §6 8A.330 219, §42 15E.193(1f) 126, §7 8A.362(4c) 115, §8 15E.194(5a) 183, §1 8A.454(4) 115, §9, 18 15E.232(2a) 174, §88 8D.11(1) 116, §1 15E.303(3e) 215, §88 8B.2(1) 10, §5, 218, §191 15E.303(3e) 215, §81 8F.2(1) 10, §6, 218, §191 15G.111(1a) 122, §4 <tr< td=""><td>, ,</td><td></td><td>` /</td><td>, -</td></tr<>	, ,		` /	, -
8.57C(4) 219, §30 15A.9(8e) 12, §2, 7, 8 8.64 117, §1, 7 15E 219, §32 8A.101(1) 10, §4 15E.43(1a) 174, §83 8A.122(1) 115, §3 15E.44(1) 186, §1 8A.201(4) 54, §1 15E.44(4) 174, §84 8A.204(2c) 115, §4 15E.45[3a(1)] 186, §2 8A.204(2d) 115, §5 15E.45(3a(1)) 174, §85 8A.311 115, §6, 18; 215, §79 15E.51(2) 174, §86 8A.311(10) 207, §1, 18 15E.62(6) 174, §87 8A.321(11) 219, §31 15E.19(6) 174, §87 8A.321(12) 115, §7 15E.192(3) 126, §14 8A.330 219, §42 15E.193(1f) 126, §6 8A.362(4c) 115, §8 15E.193(1f) 126, §7 8A.454(4) 115, §9, 18 15E.232(2a) 174, §88 8D.11(1) 116, §1 15E.305(1) 174, §88 8F.2(1) 10, §5 15F.303(3e) 215, §81 8F.2(1) 10, §5 15F.303(3b) 215, §81 8F.3(1d)				
$\begin{array}{c ccccccccccccccccccccccccccccccccccc$				
8A.101(1) 10, \$4 15E.43(1a) 174, \$83 8A.122(1) 115, \$3 15E.44(1) 186, \$1 8A.201(4) 54, \$1 15E.44(4) 174, \$84 8A.204(2c) 115, \$4 15E.45[3a(1)] 186, \$2 8A.204(2d) 115, \$5 15E.45(4) 174, \$85 8A.311 115, \$6, 18; 215, \$79 15E.51(2) 174, \$86 8A.311(10) 207, \$1, 18 15E.62(6) 174, \$87 8A.321(11) 219, \$31 15E.131 – 15E.149 126, \$114 8A.321(12) 115, \$7 15E.192(3) 126, \$6 8A.330 219, \$42 15E.193(1f) 126, \$7 8A.362(4c) 115, \$8 15E.194(5a) 183, \$1 8A.45(2) 22, \$3 15E.197 126, \$8 8A.454(4) 115, \$9, 18 15E.232(2a) 174, \$88 8D.11(1) 116, \$1 15E.305(1) 174, \$89 8F.2(1) 10, \$5 15F.303(3b) 215, \$58 8F.2(1) 10, \$5 15F.303(3b) 215, \$58 8F.3(1d) 126, \$2 15G.111(1a) 122, \$2 10A.402(1) </td <td></td> <td></td> <td></td> <td></td>				
8A.122(1) 115, §3 15E.44(1) 186, §1 8A.201(4) 54, §1 15E.44(4) 174, §84 8A.204(2c) 115, §4 15E.45[3a(1)] 186, §2 8A.204(2d) 115, §5 15E.45(4) 174, §85 8A.311 115, §6, 18; 215, §79 15E.51(2) 174, §86 8A.311(10) 207, §1, 18 15E.62(6) 174, §87 8A.321(11) 219, §31 15E.131 – 15E.149 126, §114 8A.321(12) 115, §7 15E.192(3) 126, §6 8A.330 219, §42 15E.193(1f) 126, §7 8A.362(4c) 115, §8 15E.194(5a) 183, §1 8A.415(2) 22, §3 15E.197 126, §8 8A.454(4) 115, §9, 18 15E.232(2a) 174, §88 8D.3(3f) 116, §1 15E.305(1) 174, §88 8D.11(1) 116, §2 15F.203(3e) 215, §58 8F.2(1) 10, §5 15F.303(3b) 215, §81 8F.3(1d) 126, §2 15G.111 122, §4 10A.402(1) 10, §6; 218, §191 15G.111(1a) 122, §3 1				
8A.204(2c) 115, §4 15E.45[3a(1)] 186, §2 8A.204(2d) 115, §5 15E.45(4) 174, §85 8A.311 115, §6, 18; 215, §79 15E.51(2) 174, §86 8A.311(10) 207, §1, 18 15E.62(6) 174, §87 8A.321(11) 219, §31 15E.131 – 15E.149 126, §114 8A.321(12) 115, §7 15E.192(3) 126, §6 8A.330 219, §42 15E.193(1f) 126, §7 8A.362(4c) 115, §8 15E.194(5a) 183, §1 8A.415(2) 22, §3 15E.197 126, §8 8A.454(4) 115, §9, 18 15E.232(2a) 174, §88 8D.3(3f) 116, §1 15E.305(1) 174, §89 8D.11(1) 116, §2 15F.203(3e) 215, §58 8F.2(1) 10, §5 15F.303(3b) 215, §81 8F.3(1d) 126, §2 15G.111 (1a) 122, §4 10A.402(1) 10, §6; 218, §191 15G.111(1a) 122, §3 11 207, §2, 18 15G.203(1, 3) 126, §9 11.2(1) 126, §4 15G.203(7) 211, §46			` ,	·
8A.204(2c) 115, §4 15E.45[3a(1)] 186, §2 8A.204(2d) 115, §5 15E.45(4) 174, §85 8A.311 115, §6, 18; 215, §79 15E.51(2) 174, §86 8A.311(10) 207, §1, 18 15E.62(6) 174, §87 8A.321(11) 219, §31 15E.131 – 15E.149 126, §114 8A.321(12) 115, §7 15E.192(3) 126, §6 8A.330 219, §42 15E.193(1f) 126, §7 8A.362(4c) 115, §8 15E.194(5a) 183, §1 8A.415(2) 22, §3 15E.197 126, §8 8A.454(4) 115, §9, 18 15E.232(2a) 174, §88 8D.3(3f) 116, §1 15E.305(1) 174, §89 8D.11(1) 116, §2 15F.203(3e) 215, §58 8F.2(1) 10, §5 15F.303(3b) 215, §81 8F.3(1d) 126, §2 15G.111 (1a) 122, §4 10A.402(1) 10, §6; 218, §191 15G.111(1a) 122, §3 11 207, §2, 18 15G.203(1, 3) 126, §9 11.2(1) 126, §4 15G.203(7) 211, §46	8A.201(4)	54, §1	15E.44(4)	174, §84
$\begin{array}{c ccccccccccccccccccccccccccccccccccc$				
8A.311 115, §6, 18; 215, §79 15E.51(2) 174, §86 8A.311(10) 207, §1, 18 15E.62(6) 174, §87 8A.321(11) 219, §31 15E.131 – 15E.149 126, §114 8A.321(12) 115, §7 15E.192(3) 126, §6 8A.330 219, §42 15E.193(1f) 126, §7 8A.362(4c) 115, §8 15E.194(5a) 183, §1 8A.415(2) 22, §3 15E.197 126, §8 8A.454(4) 115, §9, 18 15E.232(2a) 174, §88 8D.3(3f) 116, §1 15E.305(1) 174, §89 8D.11(1) 116, §2 15F.203(3e) 215, §58 8F.2(1) 10, §5 15F.303(3b) 215, §81 8F.3(1d) 126, §2 15G.111 122, §4 10A.402(1) 10, §6; 218, §191 15G.111(1a) 122, §4 10B.7 126, §3 15G.111(2) 122, §3 11 207, §2, 18 15G.203(1, 3) 126, §9 11.2(1) 126, §4 15G.203(7) 211, §46 11.36 22, §4 15G.204(2) 126, §10 12.8				
8A.311(10) 207, \$1, 18 15E.62(6) 174, \$87 8A.321(11) 219, \$31 15E.131 – 15E.149 126, \$114 8A.321(12) 115, \$7 15E.192(3) 126, \$6 8A.330 219, \$42 15E.193(1f) 126, \$7 8A.362(4c) 115, \$8 15E.194(5a) 183, \$1 8A.415(2) 22, \$3 15E.197 126, \$8 8A.454(4) 115, \$9, 18 15E.232(2a) 174, \$88 8D.3(3f) 116, \$1 15E.305(1) 174, \$89 8D.11(1) 116, \$2 15F.203(3e) 215, \$58 8F.2(1) 10, \$5 15F.303(3b) 215, \$81 8F.3(1d) 126, \$2 15G.111 122, \$4 10A.402(1) 10, \$6; 218, \$191 15G.111(1a) 122, \$4 10B.7 126, \$3 15G.111(2) 122, \$3 11 207, \$2, 18 15G.203(7) 211, \$46 11.36 22, \$4 15G.204(2) 126, \$10 12.8 39, \$8 15I.2(1a) 174, \$90 12.76 22, \$5 15I.3(1) 22, \$9			` '	·
8A.321(11) 219, §31 15E.131 – 15E.149 126, §114 8A.321(12) 115, §7 15E.192(3) 126, §6 8A.330 219, §42 15E.193(1f) 126, §7 8A.362(4c) 115, §8 15E.194(5a) 183, §1 8A.415(2) 22, §3 15E.197 126, §8 8A.454(4) 115, §9, 18 15E.232(2a) 174, §88 8D.3(3f) 116, §1 15E.305(1) 174, §89 8D.11(1) 116, §2 15F.203(3e) 215, §58 8F.2(1) 10, §5 15F.303(3b) 215, §81 8F.3(1d) 126, §2 15G.111 122, §4 10A.402(1) 10, §6; 218, §191 15G.111(1a) 122, §2 10B.7 126, §3 15G.111(2) 122, §3 11 207, §2, 18 15G.203(1, 3) 126, §9 11.2(1) 126, §4 15G.203(7) 211, §46 11.36 22, §4 15G.204(2) 126, §10 12.8 39, §8 15I.2(1a) 174, §90 12.76 22, §5 15I.3(1) 22, §9				
$\begin{array}{cccccccccccccccccccccccccccccccccccc$, ,			
8A.330 219, §42 15E.193(1f) 126, §7 8A.362(4c) 115, §8 15E.194(5a) 183, §1 8A.415(2) 22, §3 15E.197 126, §8 8A.454(4) 115, §9, 18 15E.232(2a) 174, §88 8D.3(3f) 116, §1 15E.305(1) 174, §89 8D.11(1) 116, §2 15F.203(3e) 215, §58 8F.2(1) 10, §5 15F.303(3b) 215, §81 8F.3(1d) 126, §2 15G.111 122, §4 10A.402(1) 10, §6; 218, §191 15G.111(1a) 122, §2 10B.7 126, §3 15G.111(2) 122, §3 11 207, §2, 18 15G.203(1, 3) 126, §9 11.2(1) 126, §4 15G.203(7) 211, §46 11.36 22, §4 15G.204(2) 126, §10 12.8 39, §8 15I.2(1a) 174, §90 12.76 22, §5 15I.3(1) 22, §9				
$\begin{array}{cccccccccccccccccccccccccccccccccccc$, ,			
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	8A.362(4c)	115, §8		
$\begin{array}{cccccccccccccccccccccccccccccccccccc$, ,			
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	8A.454(4)		15E.232(2a)	174, §88
$\begin{array}{cccccccccccccccccccccccccccccccccccc$, ,			
8F.3(1d) 126, §2 15G.111 122, §4 10A.402(1) 10, §6; 218, §191 15G.111(1a) 122, §2 10B.7 126, §3 15G.111(2) 122, §3 11 207, §2, 18 15G.203(1, 3) 126, §9 11.2(1) 126, §4 15G.203(7) 211, §46 11.36 22, §4 15G.204(2) 126, §10 12.8 39, §8 15I.2(1a) 174, §90 12.76 22, §5 15I.3(1) 22, §9	8D.11(1)		15F.203(3e)	215, §58
8F.3(1d) 126, §2 15G.111 122, §4 10A.402(1) 10, §6; 218, §191 15G.111(1a) 122, §2 10B.7 126, §3 15G.111(2) 122, §3 11 207, §2, 18 15G.203(1, 3) 126, §9 11.2(1) 126, §4 15G.203(7) 211, §46 11.36 22, §4 15G.204(2) 126, §10 12.8 39, §8 15I.2(1a) 174, §90 12.76 22, §5 15I.3(1) 22, §9	8F.2(1)	10, §5	15F.303(3b)	215, §81
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	8F.3(1d)	126, §2		
$\begin{array}{cccccccccccccccccccccccccccccccccccc$			15G.111(1a)	122, §2
11 207, §2, 18 15G.203(1, 3) 126, §9 11.2(1) 126, §4 15G.203(7) 211, §46 11.36 22, §4 15G.204(2) 126, §10 12.8 39, §8 15I.2(1a) 174, §90 12.76 22, §5 15I.3(1) 22, §9	, ,			
11.36 22, §4 15G.204(2) 126, §10 12.8 39, §8 15I.2(1a) 174, §90 12.76 22, §5 15I.3(1) 22, §9	11	207, §2, 18		
11.36 22, §4 15G.204(2) 126, §10 12.8 39, §8 15I.2(1a) 174, §90 12.76 22, §5 15I.3(1) 22, §9	11.2(1)	126, §4		
12.8			, ,	
	12.8	39, §8		
12.91(16)	12.76	22, §5	15I.3(1)	22, §9
	12.91(16)	22, §6	15I.3(4)	215, §82

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter	Acts	Code Chapter	Acts
or Section	Chapter	or Section	Chapter
16 5	4 812 14 20	16 102(1)	54, §29
16.1		` ,	54, §29
16.1(3, 5)			54, §45
16.1(11, 12)			54, §31
16.1(20, 21)			
16.1(29)			207, §9, 18
16.1(30)		, ,	88, §1
16.1(33 – 36)	, .		
16.2		` ,	
16.2(1)			22, §11
16.3			37, §1; 175, §1
16.4	•		62, §1
16.4(1 – 3, 5)	•		
16.4(6)		` ,	144, §10
16.4(8)			
16.5		` '	
16.5A	·		144, §3
16.5B		, , ,	144, §4
16.10(1)	·		144, §5
16.11 – 16.14			144, §6
16.15(1)		26.11	144, §7
16.15(2-8)			144, §8
16.16 – 16.19		` '	144, §9
16.22 – 16.25	•		215, §83, 129
16.29	54, §45		158, §1, 4
16.32	54, §45		
16.35	54, §45	28E.32(3)	96, §1, 2
16.36	54, §45		
16.38	54, §45	28H.1(14)	
16.39	54, §45	28M.4(6)	143, §36
16.40	. 54, §24, 44	29A.12(1)	74, §1
16.43	54, §45	29A.28(1)	. 126, §12; 218, §133, 134
16.45	54, §45	29A.57(2)	126, §13
16.53		29A.57(3)	74, §2
16.61 – 16.65	54, §45	29A.101A(5)	22, §12
16.71	54, §45	29B.18(1)	22, §13
16.72			145, §1
16.73		29C.9(6)	149, §1
16.81 – 16.84			211, §31
16.91(1)			211, §32
16.92(1)	52, §1		213, §21
16.92(1b)			202, §1
16.92(3b)			87, §1; 215, §241
16.92(8)			202, §2
16.101			202, §3
16.102	54, §28	35A.5	202, §4

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
35A.5(8)		49.8	59, §6, 19 34, §1
	202, §6		138, §1
	126, §14	` ,	59, §7, 19
	178, §1, 3; 184, §1, 7		34, §2; 138, §2
` '	202, §7	` '	190, §19
` '	142, §1		
35A.14(5a)	* -	` '	190, §20
` '	202, §8	` '	190, §21
	22, §14		190, §22
	202, §9 202, §10		25, §3
			190, §23 190, §24
	25, §1		190, §2
	35, §1, 7		59, §9, 19
	59, §20, 38		59, §8, 19
	59, §20, 38; 215, §222		59, §10, 19
	190, §14		59, §22, 38
	59, §21, 38		59, §11, 19
42.3(1)	78, §2	49.79	59, §12, 19
42.3(2)	78, §3	49.90	190, §25
42.3(3)		49.99	190, §26
	78, §5		59, §13, 19
	78, §6		59, §15, 19
` '	78, §7	` ,	59, §14, 19
42.6(3)			190, §3
42.6(4b)			138, §3
	59, §2, 19	` '	190, §4
	59, §3, 19	` '	190, §5
, ,	190, §15		190, §6
` '	190, \$16		190, \$27
	190, §17 25, §2		190, §28 190, §29
	59, §4, 19		
	59, §5, 19		190, §30
` ,			
	86, §2		190, §13
	190, §18		190, §13
	219, §34		190, §13
	35, §2, 4, 7; 215, §242	52.23	190, §31
48A.2	59, §39, 43	52.25	59, §16, 19; 190, §32
	59, §40, 43	` '	190, §33
` '	35, §3, 7	52.26(1a)	
	59, §41, 43		190, §35
	59, §42, 43		190, §36
48A.37(2)	35, §5, 7	52.29	190, §37

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter	Acts	Code Chapter	Acts
or Section	Chapter	or Section	Chapter
	-		-
52.31		68A.401(1)	
52.32	· ·	68A.401(3)	
52.33		68A.402(1)	
52.34	190, §13	68A.402(8)	14, §6; 65, §1
52.35		68A.403(1)	
52.35(1, 3)	190, §11	68A.406(2)	14, §7; 215, §244
52.36	190, §13	68A.501	14, §8
52.37	190, §39	68A.503(2)	61, §2
52.38	190, §13	68B.3	5, §1
52.40	190, §13	68B.22(3)	5, §2
53.2(1, 4)	59, §23, 38	68B.32A(4)	126, §15
53.7(1)	59, §24, 38	68B.32A(6)	5, §3
53.8(2) 59,	, §25, 38; 215, §223	68B.32B(1)	126, §16
53.8(3)		68B.32C(3)	-
53.10		68B.37(1, 2)	
53.11(1)		69.15	
53.11(2)		70A.28(6)	
53.11(2b)		72.5(2)	-
53.17(1a) 59,		73.16(2)	
53.17(1b, c)		80	
53.17(4)		80.9(1)	
53.17(5)		80.9(2)	
53.18		80.9(3)	
53.19		80.33	
53.21		80.34	·
53.22(1a)		80B.11	
		80B.13(8)	-
53.23(3) 59,			
53.24	•	80D	
53.25		80D.1A	
53.27		80D.3	·
	59, §30, 38	80D.4	
	215, §236	81.2(6)	
	59, §37, 38	84A.5(3)	
	, §31, 38; 215, §243	85.1(6)	
	, §32, 38; 215, §237	85.27(3)	
	215, §238	85.27(6)	
	59, §33, 38	85.61(11 – 13)	
	215, §239	85.66	
53.49		85.67	
53.53(4a)		87.1	
53.53(4b)		87.11	, -
58.1		87.23	
68A.102(10b)		88.5(11)	
68A.201(1)	14, §2	88.19	
68A.201(5)	14, §3	88B	, -
68A.203(2)	14, §4	88B.1(1)	125, §1

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

88B.11 125, \$2 99B.9(1) 119, \$4 89 135, \$6 99B.10 173, \$2 89.3(3, 4) 135, \$1 99B.10A(1) 173, \$3 89.3(8) 135, \$2 99B.10A(2c) 173, \$4 89.3(9) 135, \$3 99B.10B(1) 173, \$5 89.4(1) 135, \$4 99B.10B(1) 173, \$6 89.11 135, \$7 99B.10C(2, 3) 173, \$6 89.14(5, 8) 135, \$8 99B.10C(2, 3) 173, \$6 89.1.1 16, \$2 99D.5(5c) 188, \$4 89.2 16, \$3 99B.6 215, \$26 89A.3(1, 2) 16, \$4 99D.25(5, 9) 48, \$17, \$2 89A.5 16, \$5 99D.25A(1) 48, \$2, 7 89A.6 16, \$6 99D.25A(2) 48, \$3, 7 89A.9 16, \$8 99D.25A(2) 48, \$3, 7 89A.1 16, \$7 99D.25A(2) 48, \$3, 7 89A.1 16, \$1 99F.1 188, \$9 89A.1 16, \$1 99F.2 48, \$1, 7 89A.1 16, \$1 99D.25A(2) 48, \$1, 7	Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
$\begin{array}{c ccccccccccccccccccccccccccccccccccc$	89		99B.10 99B.10A(1) 99B.10A(2c) 99B.10B 99B.10B(1) 99B.10B(2) 99B.10C(2, 3) 99B.12(1)	173, §2 173, §3 173, §4 173, §7 173, §5 173, §6 173, §8 119, §5
$\begin{array}{c ccccccccccccccccccccccccccccccccccc$	89A.3(1, 2)		99D.22(5)	211, §35 48, §1, 7 48, §2, 7
$\begin{array}{c ccccccccccccccccccccccccccccccccccc$	89A.9		99D.25A(4)	48, §4, 7 48, §5, 7 188, §9
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	89A.14		99F.1(12) 99F.3 99F.4 99F.4(24)	188, §6 188, §7 188, §8 215, §86
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	91.16(1)		99F.6(8a)	48, §6, 7 188, §11 188, §12
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	96.5(3a)		99F.10(1, 2, 4)	188, §14 188, §15 100, §1
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	96.11(6f)		99F.12(2)	188, §16 188, §17 188, §18
97C.19 22, §31 100C.2 197, §4, 50 99B 119, §1 100C.3 197, §5, 50 99B.1(12, 18, 19, 23) 173, §1 100C.4 197, §6, 50 99B.6(8) 188, §3 100C.5(1) 197, §7, 50 99B.8 119, §3 100C.6(2) 197, §8, 50	97A.3(1)		100.1(7)	197, §1, 50 219, §33 197, §2, 50
- XXD.0(1) 197. Q9. 30	97C.19		100C.2 100C.3 100C.4 100C.5(1)	197, §4, 50 197, §5, 50 197, §6, 50 197, §7, 50 197, §8, 50

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter or Section Acts or Section Code Chapter or Section Chapter Chapter 100C.10 197, \$10, 50 124.556 126, \$33 100C.10(2d) 126, \$20 124.558 126, \$34 103A.10(2c) 22, \$32 124A.2(4) 10, \$14 103A.10A(3) 22, \$33 124B.1 10, \$15 103A.10A(3) 22, \$34 126, 2(2) 8, \$20 103A.19 97, \$2, \$126, \$21 126, 2(2) 8, \$20 103A.19 97, \$2, \$126, \$21 126, 2(2) 8, \$20 123.37 222, \$33 156, \$12, \$18, \$10, \$10 10, \$17 103A.21(1) 126, \$22 135 159, \$13, \$14, \$21, \$21, \$81, \$21, \$10, \$10, \$18 123.33(3) 126, \$23 135, 11 159, \$17 128, \$12 123.183(3) 211, \$41 135, 210 0. \$22, \$11, \$12 128, \$192 123.183(2) 22, \$36 135, 224(3) 10, \$20, \$218, \$193 124, 204(2) 8, \$2 135, 24(2a) 10, \$20, \$218, \$193 124, 204(2) 8, \$3 135, 24(2a) 10, \$22, \$28, \$24 10, \$22, \$24	Cada Chantan	A -4	Codo Chantan	A -4
$\begin{array}{c ccccccccccccccccccccccccccccccccccc$				
$\begin{array}{c ccccccccccccccccccccccccccccccccccc$	or Section	Chapter	or section	Chapter
$\begin{array}{c ccccccccccccccccccccccccccccccccccc$	100C.10	197, §10, 50	124.556	126, §33
103A.10(2c)			124.558	126, §34
103A.10(3)	103A.10(2)	97, §1, 3	124A.2(4)	10, §14
103A.10A(3)	103A.10(2c)	22, §32	124A.3	10, §15
$\begin{array}{c ccccccccccccccccccccccccccccccccccc$	103A.10(3)	22, §33	124B.1	10, §16
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	103A.10A(3)	22, §34	126.2(2)	8, §20
$\begin{array}{c ccccccccccccccccccccccccccccccccccc$	103A.19	97, §2, 3; 126, §21	126.2(3)	10, §17
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	103A.21(1)	126, §22	135	146, §1, 2;
$\begin{array}{c ccccccccccccccccccccccccccccccccccc$	123.37	22, §35	159, §	13, 14, 21; 218, §102, 103
123.138 46, \$2 135.11A 10, \$19; 218, \$192 123.186(2) 22, \$36 135.22D(2) 202, \$11, 12 124.101(3) 10, \$8 135.22B(6, 7) 126, \$35 124.101(17) 8, \$1 135.24(2a) 10, \$20; 218, \$193 124.204(2) 8, \$2 135.24(3) 218, \$101 124.204(2ax) 8, \$3 135.24(5a) 159, \$18 124.204(4m) 10, \$9 135.43(2) 159, \$19 124.204(4m) 10, \$9 135.43(2) 159, \$19 124.204(5) 8, \$6 135.105 159, \$19 124.204(6) 8, \$6 135.105 79, \$1 124.204(7) 10, \$11 135.105D(1A) 215, \$88 124.206(2a, d) 8, \$8 135.105D(1A) 215, \$88 124.206(6a) 8, \$9 135.23(a) 93, \$1 124.206(6a) 8, \$9 135.105D(1A) 215, \$88 124.206(6a) 10, \$12 135C.38(1a) 93, \$2 124.206(6a) 8, \$1 135H.4(5) 159, \$22 124.208(6) 8, \$1 135H.3(6) 159, \$22 124.208(6	123.50(1)	46, §1	135.11	159, §17
123.138 46, \$2 135.11A 10, \$19; 218, \$192 123.186(2) 22, \$36 135.22D(2) 202, \$11, 12 124.101(3) 10, \$8 135.22B(6, 7) 126, \$35 124.101(17) 8, \$1 135.24(2a) 10, \$20; 218, \$193 124.204(2) 8, \$2 135.24(3) 218, \$101 124.204(2ax) 8, \$3 135.24(5a) 159, \$18 124.204(4m) 10, \$9 135.43(2) 159, \$19 124.204(4m) 10, \$9 135.43(2) 159, \$19 124.204(5) 8, \$6 135.105 159, \$19 124.204(6) 8, \$6 135.105 79, \$1 124.204(7) 10, \$11 135.105D(1A) 215, \$88 124.206(2a, d) 8, \$8 135.105D(1A) 215, \$88 124.206(6a) 8, \$9 135.23(a) 93, \$1 124.206(6a) 8, \$9 135.105D(1A) 215, \$88 124.206(6a) 10, \$12 135C.38(1a) 93, \$2 124.206(6a) 8, \$1 135H.4(5) 159, \$22 124.208(6) 8, \$1 135H.3(6) 159, \$22 124.208(6	123.53(3)	126, §23	135.11(9)	10, §18
$\begin{array}{cccccccccccccccccccccccccccccccccccc$, ,			
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	123.183(3)	211, §41		
$\begin{array}{c ccccccccccccccccccccccccccccccccccc$	123.186(2)	22, §36		
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	124.101(3)	10, §8		
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	124.101(17)			
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124.206(2a, d) 8, \$8 135.105D(3) 79, \$3 124.206(6a) 8, \$9 135B.7A 93, \$1 124.206(7a) 10, \$12 135C.38(1a) 93, \$2 124.206(8) 10, \$13 135I.4(5) 159, \$22 124.208 8, \$12 135I.6 159, \$23 124.208(5a(5)] 8, \$10 135M.3(1) 10, \$22 124.208(6) 8, \$11 135M.4(1d) 159, \$24 124.210(3) 8, \$13 136C.3(2) 10, \$23, 218, \$195 124.210(4) 8, \$14 137C.6 215, \$207, 220 124.212 8, \$16 137C.9 215, \$208, 220 124.212(3) 8, \$15 137D.2(1) 215, \$209, 220 124.308(3) 8, \$17 137F 215, \$217, 220 124.401[lb(2)(a - c)] 8, \$18; 126, \$24 137F.1(7) 215, \$210, 220 124.552(1c, d) 126, \$25 137F.1(8) 215, \$211, 220 124.553(3) 8, \$19 137F.3 215, \$214, 220, 221 124.553(6, 7) 126, \$28 137F.6 215, \$214, 220, 221 124.554(1g, h) 126, \$29 137F.10 21	. ,	* -		
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$\begin{array}{cccccccccccccccccccccccccccccccccccc$				
124.553(1a) 126, \$27 137F.3 215, \$213, 220 124.553(3) 8, \$19 137F.3A 215, \$214, 220, 221 124.553(6, 7) 126, \$28 137F.6 215, \$215, 220 124.554(1g, h) 126, \$29 137F.10 215, \$216, 220 124.554(2b, c) 126, \$30 139A.8(2b) 11, \$1 124.555(1) 126, \$31 139A.8(4a) 10, \$24				
124.553(3) 8, §19 137F.3A 215, §214, 220, 221 124.553(6, 7) 126, §28 137F.6 215, §215, 220 124.554(1g, h) 126, §29 137F.10 215, §216, 220 124.554(2b, c) 126, §30 139A.8(2b) 11, §1 124.555(1) 126, §31 139A.8(4a) 10, §24	. ,			
124.553(6, 7) 126, \$28 137F.6 215, \$215, 220 124.554(1g, h) 126, \$29 137F.10 215, \$216, 220 124.554(2b, c) 126, \$30 139A.8(2b) 11, \$1 124.555(1) 126, \$31 139A.8(4a) 10, \$24				
124.554(1g, h) 126, \$29 137F.10 215, \$216, 220 124.554(2b, c) 126, \$30 139A.8(2b) 11, \$1 124.555(1) 126, \$31 139A.8(4a) 10, \$24	, ,			
124.554(2b, c)	* ' *			
124.555(1)				
	` /			

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter Acc or Section Chapter	1	Acts Chapter
139A.22(1, 3) 10, \$2 139A.22(6) 10, \$25; 218, \$19 139A.22(7) 10, \$2 141A.1 70, \$ 141A.2(1, 4, 6) 70, \$ 141A.3 70, \$ 141A.5 70, \$ 141A.6 70, \$ 141A.7(1, 2) 70, \$ 141A.7(2a) 44, \$2 141A.8 70, \$	5 147.13(8) 6 147.14 5 147.14(12) 2 147.16 1 147.18 3 147.19 4 147.20 5 147.22 6 147.24 7 147.25 8 147.26 5 147.28	
141A.9 70, §1 142.4 44, §2 142.8 44, §2	0 147.33 6 147.34 7 147.35	
142C 44, §7, 13, 15, 16, 1 142C.1 44, § 142C.2 44, § 142C.2 44, §	1 147.37 2 147.39	
142C.3 44, § 142C.4 44, § 142C.4A 44, § 142C.5 44, §	4 147.41 5 147.42	10, \$50; 218, \$198 10, \$51 10, \$52 10, \$53
142C.6 44, § 142C.7 44, § 142C.8 44, §	8 147.45 9 147.46(2)	
142C.9 44, §1 142C.10 44, §1 142C.11 44, §1	2 147.49 4 147.50	
142C.13	$ \begin{array}{ccc} 8 & 147.74(7, 15) & \dots \\ 0 & 147.74(22) & \dots \end{array} $	
142C.16(1) 44, \$2 142C.16(1e) 44, \$2 142C.16(2) 44, \$2 142C.18 44, \$2	1 147.80 3 147.80(1, 11)	
144.28(1)	6 147.88 7 147.89	10, §65; 218, §201 10, §66 10, §67
147.1(2b, c, f) 10, \$2 147.1[2e(4)] 10, \$2 147.2 10, \$2	$ \begin{array}{cccccccccccccccccccccccccccccccccccc$	
147.5 10, §2 147.11 10, §3 147.12 10, §3 147.13 10, §3	$0 147.99 \dots \dots 1 147.100 \dots \dots$	10, \$71; 215, \$247 10, \$72 10, \$73 10, \$74

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
147.103		150A.7 150A.9 151 151.2(3) 151.3(2, 3) 151.4 151.8 151.11 151.12 10, §125; 126, §3 152.1(3) 152.1(4c) 152.1 (6e) 152.7 152A.1(1)	10, \$117 10, \$118 10, \$119 10, \$120 10, \$121 10, \$122 10, \$123 10, \$124 37; 215, \$250 10, \$126 159, \$29 159, \$30 22, \$37 10, \$127
148.3	10, §89 10, §90	152B.1(1)	10, §129 10, §130
148.6	10, §92	152D.1(5)	22, §38 32; 218, §204
148.9	10, §95; 215, §248 10, §96	153.14(1)	10, §134 10, §135
148.12	10, §98 10, §99	153.33(2)	10, §137 10, §138
148A.6	10, §101 10, §102	153.37 153.38 153.39(3)	10, §140 10, §141
148B.8	10, §104 218, §189	154.1 10, \$142; 159, \$ 154.3 154.3(3, 4)	§1; 215, §251 159, §2
148C.3(6) 148E.1(3)	10, §106	154.3(5)	43; 215, §252 10, §143
149.3(2)	10, §109 126, §36	154.5	\$144; 159, §4 159, §4
149.7 150.11	10, §111 10, §112 10, §113	154.10 154A.1(1) 154A.24(3e) 154B.6	159, §3 10, §145 10, §146
150A.3	10, §115 215, §249	154C.1(1)	10, §148

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

$\begin{array}{c ccccccccccccccccccccccccccccccccccc$
$\begin{array}{cccccccccccccccccccccccccccccccccccc$
155A.29(1) 19, §5 216.2 191, §1 156.1(1) 10, §156 216.5(6, 8) 191, §2 156.1(6) 159, §5 216.6(1a - c) 191, §3
156.1(7d)
156.8A
156.10
156.15(2a)
157.1(6e)
158.1(5) 10, §159 216.12(1) 191, §14 159.5 211, §36 216.12A 191, §15
161A.4(1)
161D.1(1)
169C
169C.1
175.3(1a)
175.3(7)
175.8
175.37(9a)
175A.5(1)
185C.29
191.6
196.3 215, §218, 220 231.33 218, §38 203.1[10j(2)] 22, §47 231B.1(1) 215, §135
203.5

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter	Acts	Code Chapter	Acts
or Section	Chapter	or Section	Chapter
	-		-
231B.2(1)		231C.18(1)	
231B.2(1b)		231D.1(3)	
231B.2(2)		231D.2(2)	
231B.2(5)	•	231D.2(3, 4)	
231B.2(6, 7, 9, 10)		231D.3(1, 3 – 7)	
231B.3(2)		231D.4(1)	
231B.4		231D.4(2a)	
231B.5(3)		231D.5(1)	
231B.6(1)		231D.5(3)	
231B.6(2)	, -	231D.6	•
231B.7	•	231D.7	
231B.8	•	231D.8	
231B.9		231D.9	
231B.10(1)		231D.9A	
231B.10(2)		231D.10	
231B.11	•	231D.11(1)	
231B.12	, -	231D.11(2c)	
231B.13	•	231D.12	
231B.14(2)		231D.13	
231B.14(3)		231D.15	, -
231B.15		231D.17(3)	
231B.17(1)		231D.18(1)	
231B.20	* *	231D.18(2)	
231C.1(3)	•	232	•
231C.2(3)		232.2	
231C.3(1)		232.2(4)	
231C.3(1b)		232.2(4e)	
231C.3(2)	•	232.2(4i)	
231C.3(5)		232.52(6)	218, §113
231C.3(6 – 8, 10, 11)	215, §166	232.57(1)	172, §4
231C.4		232.58	
231C.5(3)		232.58(2)	172, §5
231C.6(1)		232.69(3a)	
231C.6(2)	215, §170	232.69[3d(1)]	
231C.7	215, §171	232.91(3)	. 172, §13
231C.8	215, §172	232.102(5b)	
231C.9		232.102(10)	
231C.10(1)	215, §174	232.102(10a)	172, §6
231C.10(2)	215, §175	232.104	67, §4
231C.11	215, §176	232.104(1c)	172, §7
231C.12	215, §177	232.116(2c)	. 172, §14
231C.13	215, §178	232.133(2)	. 126, §45
231C.14(2)	215, §179	232.143(1)	218, §115
231C.14(3)		234	218, §116
231C.15		234.6(6c)	
231C.16	215, §182	235A.15[2c(14)]	22, §55

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
235A.15[2d(7)]		252E.5(3)	218, \$167, 187 218, \$168, 187 218, \$169, 187 218, \$170, 187 218, \$171, 187 218, \$172, 187 218, \$173, 187
237A.13		252F.3(6a, f, m) 252F.4 252F.5(2) 252F.5(3c) 252H 218 252H.2(2b)	218, §176, 187 218, §177, 187 218, §178, 187 , §151, 156, 181, 187
239B.4(1)	124, §2 124, §3 124, §6 124, §4 124, §5	252H.2(13) 252H.7(2) 252H.8 252H.8(1) 252H.8(4b)	218, §180, 187 218, §143, 156 218, §145, 156 218, §144, 156 218, §146, 156
239B.17(1)		252H.8(6) 252H.9(1) 252H.10 252H.11(2) 252H.14(1b) 252H.14(2)	218, §148, 156 218, §149, 156 218, §150, 156 218, §182, 187
249A.26(4) 249A.26A 249A.30A 249A.31 249J.8(1)		252H.15(1)	218, §152, 156 218, §153, 156 218, §154, 156 174, §91
252B.5	218, §45 218, §157, 187 218, §137, 141 218, §138, 141 218, §139, 141	256.7	
252B.5(11c)	218, \$142, 156 218, \$158, 187 218, \$159, 187 218, \$160, 187	256.11	
252D.1 252D.18A 252E 252E.1(9) 252E.4(1)	22, §57 218, §162, 187 218, §164, 165, 187 218, §163, 187		

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
256A.2	3, §1, 2	272C.3(2a)	
257.11(2c)		279.34	
257.11(6)	214, §20, 44	279.51(1)	
257.16(1)		280	
257.31(5)	108, §8	282.31(1b)	22, §66
257.40(1)		284	
260C.36(1)	22, §61 214, §21	284.2(9)	108, §12 108, §13
260C.48(1)		284.3(2b)	108, §14 108, §15
260G.10			
	214, §25, 28, 31 214, §24	284.4(1d, e) 284.4(1g)	
	214, §26 214, §27	284.6	
261.111(9)		284.6(1a)	108, §21
261C.6(1)	22, §62	284.7[1a(2)]	108, §24
262.14		284.7[1b(1)(d)] 284.7[1b(2)]	108, §26
262.25A(3a) 262.34A(2)		284.7[2b(1)(c)] 284.7(4)	
	126, §49 122, §5	, ,	
262B.22		284.8	
272.3(1)		284.8(4)	215, §253
272.9A	108, §10	284.12(1c)	
272.27			
272C.1(6j)	10, \$171; 198, \$31, 35 		
= (-, -)		> ==== (==)	100, 300

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
284.13(1f)		321.101(3)	
284A.1			196, §4, 17
284A.2		` '	196, §3, 17
284A.2(4)			141, §1
284A.3			143, §15
285.1(1c)	, -		143, §16, 35
297.14			143, §17
299.4			215, §108
299A.8	22, §67	321E	143, §20, 32, 35
	215, §104		143, §18
303.3C	* -		143, §19
303.3C(1c)			141, §25
303A.7(3)			
306C.11(2)			
307			141, §4
307.21(5a)			
309.17			141, §6
312.2(12, 13)			141, §7
314.1B(2)			
314.1B(2b, d) 315.4			141, §9
321			22, §69
321.16			141, §11
321.18			141, §12
321.20B(2b)			141, §17
321.24(11)			141, §13
321.30			141, §14
321.34		321G.21(9)	
321.34(8) 184		` ,	141, §16
321.34(10A)			141, §18
321.34(12A) 184			141, §19
321.34(15)		321G.27	141, §20
321.34(16 – 20)		321G.29(1, 4, 7)	
321.40		321G.29(10)	141, §22
321.52(4a)	143, §10	321G.30(2, 4)	141, §23

¹ Iowa Code chapter 284A, Code 2007, reorganized and directive given for section transfers in 2007 Iowa Acts, chapter 108, §60 – 63; new sections enacted at sections 284A.1 and 284A.3 placements to be codified in Code Supplement 2007

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter	Acts	Code Chapter	Acts
or Section	Chapter	or Section	Chapter
321G.32(3)	141, §24	327F	164, §1
3211		328.56(2)	
321I.1		331.304(4)	
321I.1(1)	·	331.341(1)	
3211.3	141, §28	331.361(4)	54, §32
321I.4		331.383	
321I.5	·	331.401(1)	
321I.6		331.401(1k)	·
3211.7	·	331.427(1)	
321I.8	141, §33	331.434(1)	, . , , . , .
321I.9(2 - 4)		331.438(1b)	•
321I.12(1)		331.438(2)	
321I.14		331.439(1a)	
321I.14(1g)		331.439(5)	
321I.16		331.440(4)	
321I.20(1)	141, §39	331.440A	
3211.21		331.440A[7b(1)]	
3211.22	·	331.441(2b)	
321I.22(2)		331.441[2b(1)]	
3211.22(6, 8)	·	$331.441[2b(5)(a-e)] \dots$	
3211.22(9)		331.442[5a(1-3)]	
3211.22(10)		331.606A	
321I.25(1)	·	331.610	, . ,
321I.26(1, 2)		331.756(5)	
3211.29		331.756(32)	
321I.31(4, 7)		331.756(40)	
321I.31(10)		331.756(70)	-
3211.32(2, 4)		331.902	· · · · · · · · · · · · · · · · · · ·
321I.34(3)		331.904(1)	•
321J.2(7a)	·	335	
321J.4(9d)		341A.12	
321J.8(3)		351.27	
321J.20(1)		355.5(4)	
322	51, §3	355.7(10)	143, §5
322.4 51, §2	1; 143, §22	355.8(13)	143, §6
322.7(1)	143, §23	356.37	22, §71
322.7(4)	51, §2	357A.11(11)	126, §57
322.29	. 102, §2	357A.22A	126, §58
326	143, §26	358.16	126, §59
326.10A	143, §24	358.40(1)	126, §60
326.16	143, §25	359.17	139, §1
327B.1 14	43, §27, 35	359.49(4)	139, §2
327B.4 14		359A	64, §3
327B.6 14		364.2(4b)	190, §42
327B.7 14		364.7(3)	
327C.5	. 22, §70	372.4	55, §1

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

372.13(2b) 112, §4 422.11D(1) 161, §5, 22; 165, §4, § 376 18, §1 422.11E(1) 161, §6, 22 376.11 59, §18, 19 422.11F 161, §7, 22 380.4 144, §14 422.11G 161, §8, 22 384.4(2) 22, §72 422.11H 161, §10, 22 384.16(1) 186, §4 422.11I(1) 161, §10, 22 384.20 144, §15 422.11J 161, §11, 22 384.23 144, §16 422.11L 161, §12, 22 384.37(5) 126, §61 422.11L 161, §13, 22 384.37(17) 144, §17 422.11M 161, §14, 22 384.94 22, §73 422.11N(5b) 161, §15, 22 384.94 22, §73 422.11N(5b) 126, §6 386.6(6) 144, §19 422.11O(2) 161, §16, 22 386.7(3) 144, §20 422.11P(2) 161, §17, 22 388.2 215, §109, 110 422.11R 161, §19, 22 400.1 127, §1 422.11S(1) 161, §19, 22 400.8(1) 167, §1, 2 422.11S(2) 186, §10, 3
$\begin{array}{cccccccccccccccccccccccccccccccccccc$
$\begin{array}{cccccccccccccccccccccccccccccccccccc$
403.23 186, §28 422.11S[7a(2)] 215, §11 403A.3(10) 54, §34 422.11S(7b) 186, §12 404A.1(1) 165, §1, 9 422.11S(8) 186, §13, 3 404A.4(3) 165, §2, 9 422.12(2) 161, §21, 22 404A.4(4) 165, §3, 9 422.12B(1) 161, §1, 22
404A.4(3) 165, §2, 9 422.12(2) 161, §21, 22 404A.4(4) 165, §3, 9 422.12B(1) 161, §1, 22
411.7(1)
414 218, §131, 132 422.12I(2) 126, §68 421.1A(6) 215, §27 422.13(5) 186, §18 421.9(3) 126, §64 422.16(1) 185, §3 421.17A(1c) 174, §93 422.16(12) 186, §16
421.17A(1c) 174, §55 422.10(12) 180, §16 421.26 186, §5 422.32(7) 12, §5, 7, § 421.27(1) 134, §1, 28; 186, §6 422.33 162, §7, 13 421.27(2) 186, §7 422.33(5d) 12, §6 - §
421B.2(3b) 17, \$1, 11, 12 422.33(10a) 165, \$5, 9 421B.2(4b) 17, \$2, 11, 12 422.35 162, \$8, 13 421B.3 186, \$32 422.35(6c) 54, \$36
422 162, §5, 6, 13 422.35(17) 186, §17 422.3(5) 12, §3, 7, 8 422.60 162, §9, 13 422.5(2A) 126, §65 422.60(4a) 165, §6, § 422.7 27, §2, 11; 162, §4, 13; 176, §2, 4 422.73(3) 186, §18
422.7(12c) 54, §35 422.75 186, §19 422.7(32) 186, §8 423 179, §4, 10 422.10(3) 12, §4, 7, 8 423.1(52) 179, §4 422.11 161, §2, 22 423.2(4) 119, §6 422.11A 161, §3, 22 423.2(6) 186, §20 422.11C(2) 161, §4, 22 423.3 199, §3

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
423.3(56)		452A.31(6b) 452A.54 452A.68 452A.79A(1) 452A.79A(2)	
423.9A(3b)	22, §76	453A.6	
423.18	179, §9	453A.7	
423.41	186, §23	453A.13(5, 9)	
423.57		453A.15(2) 453A.18	
423A.6	, -		
423D.4	186, §26		
426B.5(1)	218, §89, 92		17, §5, 11, 12
427.1	186, §27, 30	453A.36(6)	
430A	. 162, §10, 11, 13	453A.42	
432.12A(1)	165, §7, 9	453A.43	17, §3, 11, 12 17, §10 – 12 186, §46, 54, 55
437A.15(7)	150, §2	453A.45(5)	
437A.19(2b, c)	150, §4	453A.46(1, 3)	
445.3	185, §5	` ,	
446.17	54, §38; 126, §72	455A.17(1)	211, §37 28, §1
446.20(2) 446.38	126, §115	455B.131	120, §4, 5; 213, §22 120, §1
446.39	54, §39	455B.134(3d)	
447.12	54, §41	455B.175	126, §74 82, §1
448.15(1)	101, §2	455B.183(2)	
450.4			

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Codo Chamtan	A -4-	Codo Chantan	A a4a
Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
or Section	Chapter	or section	Chapter
455B.197(3b)	53, §1	462A.14A(3b)	28, §8
455B.306	215, §115	462A.23(2c)	
455B.474	171, §6	462A.43	28, §11
455B.474(1)	141, §3	462A.84(3)	
455B.474(1b)	171, §1	463C.17	215, §116
455B.474[1d(2)(e)]		464A.5	
455B.474[1f(5)]		466A.2(2a)	211, §38
455B.474[1h(3)]		466A.4	
455B.803[2b(7)(c)]	126, §78	468.3(6)	
455D	151, §8 – 11	473	
455D.10A(5)	151, §1	473.7(1)	168, §15, 18
455D.11(9)	151, §2	476.6(14)	
455D.11I(7)	151, §3	479.29(2)	
455D.11I(8)	151, §4	481A	56, §1; 156, §1
455D.19(2a)	151, §5	481A.38(3)	189, §1, 2
455D.19(3)	151, §6	481A.55(1)	
455D.19(8)	151, §7	481A.123	
455G.9(1)	171, §8	481A.130(1g)	28, §15
455G.9(1k)	171, §7	481A.133	
455G.17	171, §11	481A.134	
455G.18	171, §12	481A.135(2 – 4)	28, §18
455G.18(2b)	126, §79	483A	194, §4
455G.18(8)	126, §80	483A.1(1q)	194, §1
455G.31(1a)	211, §47	483A.1(2r)	194, §2
455G.31(2)	22, §80	483A.3	194, §3
455G.31(2b)	211, §48	483A.8	129, §1
455G.31(3)	211, §49	483A.24(3)	
455H.105(5)	171, §9	483A.27(1, 7)	28, §19
456A.33B(2a)	22, §81	490.120	140, §1
456A.33B[2c(4)(d)]	22, §82	490.140	140, §2
459.103(3)	82, §2	490.202	140, §3
459.314B(3)	126, §81	490.601	140, §4
459.601	82, §3	490.602	140, §5
459.603	82, §4	490.624	140, §6
459A.401(1)	126, §82	490.1005(8)	140, §7
459A.501	82, §5	490.1006	140, §8
460.304(2a)		490.1102(4)	
461C.1	22, §84	490.1103(4)	140, §10
462A		490.1601(5)	140, §11
462A.2	28, §2	490.1601(5a)	140, §12
462A.5(1)	28, §3	490A.1501(4)	
462A.5(3)		496C.2(4)	,
462A.7	28, §5	499	23, §6
462A.9		499.15	, -
462A.12	, .	499.16	-, -, -, -, -, -, -, -, -, -, -, -, -, -
462A.14(7a)	10, §176	499.17	23, §3

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
499.44(3) 499.47(3) 499B.6 501A.1101(4c) 502.404(5) 502.602(3) 502.603(1) 502.604(2, 7) 504.801(2) 504.831(2, 4) 505 505.8 505.26 506 507.16 507A.4(1)	23, §4 23, §5; 215, §254 22, §85 126, §86 126, §87 137, §3 137, §5 126, §88 15, §1 137, §7 137, §6; 215, §117 137, §8 137, §8 126, §89 126, §89 152, §52	515.95 515.98 515.101 515.102 515.105 515.106 515.108 515.109 515.110 515.130 515.134 515.134 515.135 515.136 515.136 515.138(5) 515.139	
507B.4(2) 507B.4(8)			152, §75 152, §76
508.10			152, §84
	57, §1, 8		152, §84
509.1(8)			152, §77
509B.5(1)	, -		152, §84
510.21			152, §84
511.4	· · · · · · · · · · · · · · · · · · ·		22, §89
512B.25	· · · · · · · · · · · · · · · · · · ·		
513B			152, §78
513B.2(6a)		` '	152, §79
513B.2[6a(3)]		, ,	152, §80
513B.2(6b) 513B.4			152, §81
514.1		` '	
514.4		` '	
514.19	· · · · · · · · · · · · · · · · · · ·	` '	
514F.1	· · · · · · · · · · · · · · · · · · ·	` '	
514I.5(8)		, ,	22, §91
514J.2(3)		` '	
515			
515.35(2)			
515.50		, ,	152, §82
515.67	, -		137, §23
	152, §84		152, §83
515.80(1)			
	152, §59		137, §30
515.81C(3, 7)		523A	175, §13, 18, 20, 23, 24, 26
515.82			175, §4
515.91 – 515.93	152, §84	523A.102(6)	175, §2

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter	Acts	Code Chapter	Acts
or Section	Chapter	or Section	Chapter
	-		-
523A.102(9b, c)		523A.813	
523A.102(11)		523A.814	
523A.102(21)		523A.901(1)	
523A.102(27)		523A.901(2a – c, e)	
523A.201(3)		523A.901[3a(4, 6 – 14, 17, 18)]	
523A.201(5)		523A.901[4a(1, 2)]	175, §77
523A.201(8, 10)		523A.901(4c)	
523A.202(4)	•	523A.901(5)	
523A.203	, -	523A.901(6a)	
523A.204	•	523A.901(7a)	-
523A.205(1)	175, §53	523A.901[7b(2)]	
523A.206	•	523A.901(8a - c)	175, §83
523A.401(5a, b)		523A.901[9a(1, 2)]	
523A.401(6)		523A.901[9b(2)]	
523A.401(6d)		523A.901(9e, i, j)	
523A.401(8)	175, §57	523A.901[9k(1, 2)]	
523A.402(5a, b)	175, §58	523A.901(13d)	175, §88
523A.402(6)	175, §59	523A.901(16)	
523A.402(6d)	175, §60	523A.901(18)	
523A.402(8)	175, §61	523A.901[18a(1)]	
523A.404(1)		523A.901(19a)	
523A.404(1f, h)	175, §15	523A.901(21b)	
523A.404(4)	175, §62	523A.901(24)	175, §94
523A.405(9)	175, §63	523I 175, §	
523A.405(9c)	175, §64	523I.102(3, 8)	
523A.501	175, §16	523I.102(17)	
523A.502	, -	523I.201	
523A.503	175, §19	523I.201(1)	-
523A.601	175, §22	523I.212	
523A.601(1a)	175, §21	523I.212(1)	
523A.601(2e)	175, §65	523I.212(2)	175, §39
523A.601(5h)	175, §66	523I.213	, -
523A.602[2b(1, 2)]		523I.304	, -
523A.602[2b(3)]		523I.305(3)	
523A.602[2b(3)(d, g)]		523I.808	- , 0
523A.703		523I.810(9)	-
523A.801		523I.813	
523A.801(1)		523I.813(1)	-
523A.802(1)	175, §70	524	
523A.803(1d)	175, §71	524.103	
523A.804	175, §72	524.211(1)	
523A.806(2)	175, §73	524.214(1)	
523A.807	175, §29	524.215	, -
523A.811	175, §31	524.215(4)	
523A.811(1)	175, §30	524.216(2)	
523A.812	175, §32	524.217	. 170, §3

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
524.217(2) 524.1409 524.1410 524.1411 524.1412 524.1413(2) 524.1415	. 88, §8 . 88, §9 88, §10 88, §11 88, §12	534.511(5d) 534.511(8) 534.513(1) 534.513(4) 534.515 534.519 534.606	88, \$40 88, \$41 88, \$42 88, \$48 88, \$49
524.1416	88, §15	535B.4(7)	174, §94
524.1601(1)	22, §93 88, §17	535B.17	22, §96 22, §97
533 ²	18, §1, 3	536A.22	170, §8
533.24	126, §91	536A.34	26, §3
533A.5(1)	126, §93 126, §94	537.2401(1) 537.2402(1)	26, §1 26, §2
533A.10	188, §20	537.3603(6)	118, §2 41, §41 128, §3
534.102(7)	88, §18 88, §19	537.6203(5) 537.7103	22, §98 128, §4
534.103(1)	88, §20 88, §21 88, §22	543B.2	13, §4
534.105 534.108 534.109	88, §23 88, §24	543B.15(6)	13, §5
534.111	88, §25	543B.54	206, §27, 29 153, §1, 2
534.205(6)	88, §27	543D.3	72, §1; 143, §2, 3
534.302(2, 3) 534.401	88, §29 88, §30	543D.18	
534.403		544A.17(1, 2)	126, §96
534.405	88, §34 88, §35	544B.20(1, 3) 546.2(3c)	126, §98 88, §44
534.408	88, §36 88, §37 88, §38	546.3(1) 546.4 546.5	174, §96

² Iowa Code chapter 533, Code 2007, repealed by 2007 Iowa Acts, chapter 174, §98; new Iowa Code chapter enacted at chapter 533 placement

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

546.10 170, \$7 554.4210(3) 30, \$45, 46, 63 553 213, \$23 554.103(3) 41, \$25 554 30, \$6, 41, 45, 46; 554.7101 30, \$1, 45, 46 554.1101 41, \$1 554.7102 30, \$2, 45, 46 554.1102 41, \$58 554.7103 30, \$3, 45, 46 554.1103 41, \$1 554.7105 30, \$5, 45, 46 554.1104 41, \$4 554.7105 30, \$5, 45, 46 554.1105 41, \$5 554.7201 30, \$7, 45, 46 554.1106 41, \$6 554.7203 30, \$8, 45, 46 554.1107 41, \$6 554.7203 30, \$9, 45, 46 554.1108 41, \$9 554.7203 30, \$10, 45, 46 554.1201 41, \$11, 44 554.7204 30, \$10, 45, 46 554.1201 41, \$11, 44 554.7206 30, \$13, 45, 46 554.1201 41, \$11, 44 554.7206 30, \$13, 45, 46 554.1201(16) 30, \$45 - 47; 41, \$43, 44 554.7208 30, \$14, 45, 46 554.1201(26) - 27, 38) 30, \$44 - 47 5	Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	553	213, §23 30, §6, 41, 45, 46; 10, 13, 14, 16, 18, 22, 57	554.5103(3) 554.7101 554.7102	
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$\begin{array}{c} 41,\$43,44 \\ 554.1201(25-27,38) & 30,\$44-47 \\ 554.1201(45) & 30,\$45-47;41,\$43,44 \\ 554.12012 & 41,\$12 \\ 554.1202 & 41,\$12 \\ 554.1204 & 41,\$15 \\ 554.1205 & 41,\$17 \\ 554.1205 & 41,\$17 \\ 554.1206 & 41,\$197 \\ 554.1207 & 30,\$22,45,46 \\ 554.1207 & 41,\$197 \\ 554.1208 & 41,\$20 \\ 554.1208 & 41,\$20 \\ 554.1209 & 41,\$21 \\ 554.1209 & 41,\$21 \\ 554.1209 & 41,\$21 \\ 554.1203 & 30,\$24,45,46 \\ 554.2103 & 30,\$24,45,46 \\ 554.2103 & 30,\$24,45,46 \\ 554.2202 & 30,\$45,46,49 \\ 554.2202 & 41,\$20 \\ 554.2208 & 41,\$20 \\ 554.2208 & 41,\$20 \\ 554.2310 & 30,\$45,46,50 \\ 554.233 & 30,\$45,46,51 \\ 554.253 & 30,\$32,45,46 \\ 554.253 & 30,\$32,45,46 \\ 554.253 & 30,\$32,45,46 \\ 554.2503 & 30,\$45,46,50 \\ 554.2503 & 30,\$45,46,50 \\ 554.2503 & 30,\$45,46,50 \\ 554.2503 & 30,\$45,46,51 \\ 554.2503 & 30,\$45,46,51 \\ 554.2503 & 30,\$45,46,51 \\ 554.2503 & 30,\$45,46,51 \\ 554.2503 & 30,\$45,46,52 \\ 554.2503 & 30,\$45,46,53 \\ 554.2503 & 30,\$45,46,53 \\ 554.2503 & 30,\$45,46,54 \\ 554.2503 & 30,\$45,46,54 \\ 554.2503 & 30,\$45,46,51 \\ 554.2503 & 30,\$45,46,51 \\ 554.2503 & 30,\$45,46,52 \\ 554.7504 & 30,\$32,45,46 \\ 554.2503 & 30,\$45,46,53 \\ 554.2503 & 30,\$45,46,53 \\ 554.2503 & 30,\$45,46,53 \\ 554.2503 & 30,\$45,46,54 \\ 554.2503 & 30,\$45,46,55 \\ 554.7507 & 30,\$34,45,46 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$34,45,46 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$34,45,46 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$34,45,46 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$34,45,46 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$34,45,46 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$34,45,46 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46,56 \\ 554.2506 & 30,\$45,46$				
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554.1206 41, §59 554.7307 30, §22, 45, 46 554.1207(1) 41, §19 554.7308 30, §23, 45, 46 554.1208 41, §20 554.7309 30, §24, 45, 46 554.1209 41, §21 554.7401 30, §25, 45, 46 554.2103(1b) 41, §23 554.7402 30, §26, 45, 46 554.2103(3) 30, §45, 46, 48 554.7403 30, §27, 45, 46 554.2202(a) 41, §24 554.7501 30, §28, 45, 46 554.2202(a) 41, §60 554.7502(1) 30, §30, 45, 46 554.2310 30, §45, 46, 50 554.7502(1d) 30, §31, 45, 46 554.2323(2) 30, §45, 46, 51 554.7502(2) 30, §32, 45, 46 554.2503(4b) 30, §45, 46, 52 554.7502(2) 30, §33, 45, 46 554.2503(5b) 30, §45, 46, 53 554.7504 30, §34, 45, 46 554.2505(2b) 30, §45, 46, 54 554.7506 30, §35, 45, 46 554.2505(2) 30, §45, 46, 55 554.7506 30, §37, 45, 46 554.2505(2) 30, §45, 46, 55 554.7506 30, §37, 45, 46 <		*		
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554.2310 30, §45, 46, 50 554.7502(1d) 30, §31, 45, 46 554.2323(2) 30, §45, 46, 51 554.7502(2) 30, §32, 45, 46 554.2401(3a, b) 30, §45, 46, 52 554.7503 30, §33, 45, 46 554.2503(4b) 30, §45, 46, 53 554.7504 30, §34, 45, 46 554.2503(5b) 30, §45, 46, 54 554.7505 30, §35, 45, 46 554.2505(1b) 30, §45, 46, 55 554.7506 30, §36, 45, 46 554.2505(2) 30, §45, 46, 56 554.7507 30, §37, 45, 46 554.2506(2) 30, §45, 46, 57 554.7508 30, §38, 45, 46 554.2509(2a, c) 30, §45, 46, 58 554.7509 30, §39, 45, 46 554.2705(2c) 30, §45, 46, 69 554.7601 30, §40, 45, 46 554.2705(3c) 30, §45, 46, 61 554.7602 30, §42, 45, 46 554.3103(1d) 41, §25 554.8102(1j) 41, §29 554.3103(1j) 41, §26 554.8103 30, §45, 46, 64	` '	-		
554.2323(2) 30, §45, 46, 51 554.7502(2) 30, §32, 45, 46 554.2401(3a, b) 30, §45, 46, 52 554.7503 30, §33, 45, 46 554.2503(4b) 30, §45, 46, 53 554.7504 30, §34, 45, 46 554.2503(5b) 30, §45, 46, 54 554.7505 30, §35, 45, 46 554.2505(1b) 30, §45, 46, 55 554.7506 30, §36, 45, 46 554.2505(2) 30, §45, 46, 56 554.7507 30, §37, 45, 46 554.2506(2) 30, §45, 46, 57 554.7508 30, §38, 45, 46 554.2509(2a, c) 30, §45, 46, 58 554.7509 30, §39, 45, 46 554.2605(2) 30, §45, 46, 59 554.7601 30, §40, 45, 46 554.2705(2c) 30, §45, 46, 60 554.7602 30, §42, 45, 46 554.2705(3c) 30, §45, 46, 61 554.7603 30, §43, 45, 46 554.3103(1d) 41, §25 554.8102(1j) 41, §29 554.3103(1j) 41, §26 554.8103 30, §45, 46, 64				
554.2401(3a, b) 30, §45, 46, 52 554.7503 30, §33, 45, 46 554.2503(4b) 30, §45, 46, 53 554.7504 30, §34, 45, 46 554.2503(5b) 30, §45, 46, 54 554.7505 30, §35, 45, 46 554.2505(1b) 30, §45, 46, 55 554.7506 30, §36, 45, 46 554.2505(2) 30, §45, 46, 56 554.7507 30, §37, 45, 46 554.2506(2) 30, §45, 46, 57 554.7508 30, §38, 45, 46 554.2509(2a, c) 30, §45, 46, 58 554.7509 30, §39, 45, 46 554.2605(2) 30, §45, 46, 59 554.7601 30, §40, 45, 46 554.2705(2c) 30, §45, 46, 60 554.7602 30, §42, 45, 46 554.2705(3c) 30, §45, 46, 61 554.7603 30, §43, 45, 46 554.3103(1d) 41, §25 554.8102(1j) 41, §29 554.3103(1j) 41, §26 554.8103 30, §45, 46, 64				
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554.2505(1b) 30, §45, 46, 55 554.7506 30, §36, 45, 46 554.2505(2) 30, §45, 46, 56 554.7507 30, §37, 45, 46 554.2506(2) 30, §45, 46, 57 554.7508 30, §38, 45, 46 554.2509(2a, c) 30, §45, 46, 58 554.7509 30, §39, 45, 46 554.2605(2) 30, §45, 46, 59 554.7601 30, §40, 45, 46 554.2705(2c) 30, §45, 46, 60 554.7602 30, §42, 45, 46 554.2705(3c) 30, §45, 46, 61 554.7603 30, §43, 45, 46 554.3103(1d) 41, §25 554.8102(1j) 41, §29 554.3103(1j) 41, §26 554.8103 30, §45, 46, 64				
554.2505(2) 30, §45, 46, 56 554.7507 30, §37, 45, 46 554.2506(2) 30, §45, 46, 57 554.7508 30, §38, 45, 46 554.2509(2a, c) 30, §45, 46, 58 554.7509 30, §39, 45, 46 554.2605(2) 30, §45, 46, 59 554.7601 30, §40, 45, 46 554.2705(2c) 30, §45, 46, 60 554.7602 30, §42, 45, 46 554.2705(3c) 30, §45, 46, 61 554.7603 30, §43, 45, 46 554.3103(1d) 41, §25 554.8102(1j) 41, §29 554.3103(1j) 41, §26 554.8103 30, §45, 46, 64				
554.2506(2) 30, §45, 46, 57 554.7508 30, §38, 45, 46 554.2509(2a, c) 30, §45, 46, 58 554.7509 30, §39, 45, 46 554.2605(2) 30, §45, 46, 59 554.7601 30, §40, 45, 46 554.2705(2c) 30, §45, 46, 60 554.7602 30, §42, 45, 46 554.2705(3c) 30, §45, 46, 61 554.7603 30, §43, 45, 46 554.3103(1d) 41, §25 554.8102(1j) 41, §29 554.3103(1j) 41, §26 554.8103 30, §45, 46, 64				
554.2509(2a, c) 30, §45, 46, 58 554.7509 30, §39, 45, 46 554.2605(2) 30, §45, 46, 59 554.7601 30, §40, 45, 46 554.2705(2c) 30, §45, 46, 60 554.7602 30, §42, 45, 46 554.2705(3c) 30, §45, 46, 61 554.7603 30, §43, 45, 46 554.3103(1d) 41, §25 554.8102(1j) 41, §29 554.3103(1j) 41, §26 554.8103 30, §45, 46, 64				
554.2605(2) 30, §45, 46, 59 554.7601 30, §40, 45, 46 554.2705(2c) 30, §45, 46, 60 554.7602 30, §42, 45, 46 554.2705(3c) 30, §45, 46, 61 554.7603 30, §43, 45, 46 554.3103(1d) 41, §25 554.8102(1j) 41, §29 554.3103(1j) 41, §26 554.8103 30, §45, 46, 64				
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554.2705(3c) 30, §45, 46, 61 554.7603 30, §43, 45, 46 554.3103(1d) 41, §25 554.8102(1j) 41, §29 554.3103(1j) 41, §26 554.8103 30, §45, 46, 64				
554.3103(1d) 41, §25 554.8102(1j) 41, §29 554.3103(1j) 41, §26 554.8103 30, §45, 46, 64				
554.3103(1j)	, ,			
		-		

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
554.9102(2) 554.9203[2c(4)] 554.9207(3) 554.9208(2d, e) 554.9301(3) 554.9310(2e, h) 554.9312(5)	. 30, \$45, 46, 66 . 30, \$45, 46, 67 . 30, \$45, 46, 68 . 30, \$45, 46, 69 . 30, \$45, 46, 70 . 30, \$45, 46, 71	572.13(1)	83, §9 83, §10 83, §11 83, §12 83, §13 83, §14
554.9313(1)	. 30, §45, 46, 73 . 30, §45, 46, 74 . 30, §45, 46, 75 . 30, §45, 46, 76	572.22(5) 572.27 572.28(1) 572.33(1) 579B.1(4)	83, \$16 83, \$17 83, \$18 22, \$100
554.10104	41, §31 41, §32 41, §33 41, §34	579B.1(12) 582	154, \$1 154, \$2 154, \$3 154, \$4
554.13103(1a, o)	41, §61 41, §35 . 30, §45, 46, 78	598	180, \$1 163, \$1, 3 163, \$2, 3
554.13519(1)	. 30, §45, 46, 79 41, §38 41, §39	598.21C	218, §185, 187 218, §208 71, §1
556	37, §6 60, §1 37, §2 37, §3	600B	24, §1 215, §64 33, §2 86, §4
556.13(1)	37, §5 101, §3 101, §4 22, §99	602.6201(3)	86, §6 86, §7 86, §8 174, §97
561.1 561.13 571.1A(3) 572.1 572.1(2, 3, 5)	68, §1, 2 126, §99 83, §1 83, §2	, ,	71, §2 71, §3 196, §8, 17 180, §2
572.2 572.8 572.9 572.10 572.11	83, §4 83, §5 83, §6	602.8107(5)	•

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
602.8109(5, 6) 602.8109(7) 602.9111(1) 602.9116(1) 602.11101(6) 607A 607A.8 613 614.1 614.8 614.17 614.18		635.9 635.10 635.12 635.13 635.14 654.15(3) 654.15A 654.17 655.5 655A.3(3) 664A.1(2)	
614.35	101, §7	664A.3	180, §6
617.3	71, §4 10, §179	664A.6	
622.31			
624.24	, -		
626A.3			110, §4, 6
626B.6	The state of the s		110, §5, 6
627.6(9)		674.11	
633			
633.31(2c)		692.6	· · · · · · · · · · · · · · · · · · ·
633.168			22, §105
			38, §7
	134, §10, 28	692.16	
633.201	86, §9	707.8A(7)	10, §181
633.231	134, §11	707B	6, §5
633.272	134, §12, 28	709.18	91, §2
633.304A	134, §13		213, §24
		714.25	
633.410(2)			. 126, §108; 215, §257
	134, §15, 28		28, §20
633.669(1b)			28, §21
633.670[1b(1)]			202, §13, 14
633.700			
633A.4703		` ,	202, §15
	134, §20, 28	, ,	
633C.3(1)			38, §10
635.1		, ,	126, §109
		730.5(8a)	10, §183
	134, §23, 28		
000.1	104, 820, 20	002.2	120, 8110

2007 CODE CHAPTERS AND SECTIONS AMENDED OR REPEALED — Continued

2007 REGULAR SESSION

Acts Chapter

NEW CODE CHAPTERS AND SECTIONS ASSIGNED BY THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION

New chapter and section numbers are subject to change when codified

or Section Chapter or Section Chapter 8.65 117, \$2, 7; 215, \$240 80D.4A 47, \$4 8.66 - 8.68 117, \$3 - 7 80F.1 160, \$1 11.46 207, \$2, 18 88B.2 125, \$3 12A.1 - 12A.7 39, \$1 - 7 89.7A 135, \$6 12F.1 - 12F.12 133, \$1 - 12 99B.7B 119, \$1 15.391 - 15.393 162, \$1 - 3, 13 99F.4D 188, \$9 15.411 45, \$1; 122, \$1 101B.1 - 101B.10 166, \$1 - 10; 15E.321 219, \$32 182, \$1 - 10, 15 16.2A 54, \$12 101B.11 - 101B.14 182, \$1 - 10, 15 16.3A 54, \$12 101B.11 - 101B.14 182, \$11 - 15 16.3A 54, \$12 103.32 - 103.40 197, \$11 - 40, 50 16.5C 54, \$20 103.32 - 103.40 197, \$14 - 50 26.14A 144, \$10 104C.1 - 104C.30 198, \$1 - 30, 35 29C.20A 145, \$1 135.14 159, \$14 35.12 202, \$1 135.15 159, \$14	Code Chapter	Acts	Code Chapter	Acts
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	or Section	Chapter	or Section	Chapter
$\begin{array}{cccccccccccccccccccccccccccccccccccc$	8.65	7, \$2, 7; 215, \$240 117, \$3 - 7 207, \$2, 18 39, \$1 - 7 133, \$1 - 12 162, \$1 - 3, 13	80D.4A 80F.1 88B.2 89.7A 99B.7B 99F.4D	
$\begin{array}{cccccccccccccccccccccccccccccccccccc$			101B.1 – 101B.10	
48A.26A	16.2A 16.3A 16.5C 26.14A 29C.20A 35.12 35A.15 46.14A 47.9 48A.7A 348A.26A		103.1 - 103.30	182, \$11 - 15 197, \$11 - 40, 50 197, \$41 - 50 198, \$1 - 30, 35 159, \$13 159, \$14 146, \$1, 2 218, \$102 159, \$21 218, \$103 31, \$1 - 7

NEW CODE CHAPTERS AND SECTIONS ASSIGNED BY THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION — Continued

Code Chapter	Acts	Code Chapter	Acts
or Section	Chapter	or Section	Chapter
01 2001011	cimpter	01 20001011	chapter
142C.10A	44, §13	321G.34	141, §25
142C.12A		321I.36	
142C.12B		322.7A	
142C.14A			131, §2 – 4, 6
148C.12		326.24	
150A.1A		327F.13	
151.1A		327K.1	
153.12	10. §132: 218. §204		218, §130, 132
155A.6A		359A.22A	
155A.42		376.4A	
169C.6	, -		218, §131, 132
		422.11T	
190A.1 – 190A.4		422.11U	
214A.2B		423.34A	
216.21			162, §10, 13
216A.104		432.12K	
216A.121		453A.35A	
225C.6B		453A.51	
232.108		455B.112A	
	218, §116	455B.152	
239B.11A		455B.851	
249K.1 – 249K.5	219. §35 – 39. 41. 43	455D.22 – 455D.25	151. §8 – 11
252E.1A	218, §164, 187	462A.34B	28, §10
252E.2A		469.1 – 469.9	\dots 168, §1 – 9, 18
252H.3A		469.10	209, §1, 4; 215, §63
252H.14A	218, §151, 156	469.31 – 469.35	168, §10 – 14, 18
256.26	214, §19	473.41	
256C.1		477A.1 – 477A.12	
256C.2	148, §2	481A.40	56, §1
256C.3	148, §3; 215, §100	481A.125A	
256C.4 – 256C.6			193, §4
261.6		499.73A	
261.88		505.27A	, .
261.112		506.13	
279.43		510B.1 - 510B.7	
279.65		513B.4B	
279.66		513B.19	, -
280.28		515.101A	
284.14A		515.114	
284A.1		515.122	152, §68
284A.3		515H.1 – 515H.3	
284A.4			137, §24 – 29
284A.6		523A.207	
284A.7		523A.502A	, -
	200, §5	523A.504	
312A.1 – 312A.4		523A.603	-,,,
321.210B		523A.604	
321E.8A	145, 820, 52, 55	523A.704	175, §26

NEW CODE CHAPTERS AND SECTIONS ASSIGNED BY THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION — Continued

Code Chapter	Acts	Code Chapter	Acts
or Section	Chapter	or Section	Chapter
E001 010 A	175 840	E00.04	154 81
523I.213A		582.0A	
523I.213B		598.20A	
523I.314A		598.20B	134, §5, 28
524.215A	170, §1	600B.26	24, §1
533.101 – 533.509	174, §1 - 76	600C.1	218, §206
537.2403		607A.47	
543D.18A		613.15A	
543D.20		626D.1 – 626D.8	
543D.21		633.123	
553.19		692.3	38, §5
554.1102A		707C.1 – 707C.4	6, §1 – 4
554.1106A		714.16C	
554.1108A	41, §10, 57	717F.1 195	, §1; 215, §118 – 120
554.1202A		717F.2 – 717F.6	$\dots 195, \S 2 - 6$
554.1203A	41, §14, 57	717F.7 19	5, §7; 215, §121, 122
554.1204A		717F.8	. 195, §8; 215, §123
554.1206A		717F.9 – 717F.13	
554.1302		718.0A	
554.7106 3	30, §6, 45, 46	718A.7	202, §14
554.7601A 30		904.119	
556.24A	37, §6		

SESSION LAWS AMENDED OR REPEALED IN ACTS OF THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION

ACTS OF THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION AMENDED OR REPEALED

Acts File Chapter
Senate File 39, §7 (ch 14)
Senate File 74, §19 (ch 10)
Senate File 74, \$20 (ch 10) 218, \$193 Senate File 74, \$21 (ch 10) 218, \$194
Senate File 74, §23 (ch 10)
Senate File 74, §25 (ch 10)
Senate File 74, §32 (ch 10)
Senate File 74, §50 (ch 10)
Senate File 74, §61 (ch 10)
Senate File 74, §63 (ch 10)
Senate File 74, §71 (ch 10)
Senate File 74, \$78 (ch 10)
Senate File 74, §81 (ch 10)
Senate File 74, §115 (ch 10)
Senate File 74, §125 (ch 10)
Senate File 74, §132 (ch 10)
Senate File 74, §143 (ch 10)
Senate File 74, \$171 (ch 10)
Senate File 128 (ch 17)
Senate File 155 (ch 117)
Senate File 272, \$27 (ch 22) 215, \$245 Senate File 272, \$112 (ch 22) 215, \$258
Senate File 277, §11 (ch 108)
Senate File 277, \$32 (ch 108)
Senate File 277, \$37 (ch 108) 215, \$103 Senate File 319, \$5 (ch 23) 215, \$254
Senate File 333 (ch 126)
Senate File 403 (ch 206)
Senate File 403, §3 (ch 200)
Senate File 403, §29 (ch 206)
Senate File 403, §34 (ch 206) 215, §133 Senate File 407 (ch 87) 215, §70
Senate File 407, §1 (ch 87)
Senate File 518, \$61 (ch 152)
Senate File 535, \$44(1) (ch 41)
Senate File 562, §3(3a, d) (ch 212)

SESSION LAWS AMENDED OR REPEALED IN ACTS OF THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION — Continued

ACTS OF THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION AMENDED OR REPEALED — Continued

Acts
File Chapter
G
Senate File 562, §3(4) (ch 212)
Senate File 562, \$14(1, 3) (ch 212)
Senate File 563 (ch 210)
Senate File 564, §1 (ch 195)
Senate File 564, §7 (ch 195) 215, §121, 122
Senate File 564, §8 (ch 195)
Senate File 575 (ch 213)
Senate File 575, §4(1b) (ch 213)
Senate File 575, §5(1f) (ch 213)
Senate File 588 (ch 214)
House File 158, §2 (ch 79)
House File 579, §3 (ch 33)
House File 641 (ch 196)
House File 653, §2 (ch 35)
House File 716 (ch 30)
House File 749 (ch 184)
House File 752, §1(3) (ch 216)
House File 752, §2(2) (ch 216)
House File 790, §4 (ch 57)
House File 826, \$1 (ch 99)
House File 848, §20 (ch 59)
House File 848, §25 (ch 59)
House File 848, §27 (ch 59)
House File 848, §31 (ch 59)
House File 874, §1(1c) (ch 217)
House File 874, §7(4a) (ch 217)
House File 874, §19(1) (ch 217)
House File 877 (ch 148)
House File 927 (ch 209)

ACTS OF PREVIOUS GENERAL ASSEMBLIES AMENDED OR REPEALED

Prior Year	2007 Acts
and Chapter	Chapter
	_
2006 Acts, ch 1070, §5	143, §33, 35
2006 Acts, ch 1106, §1(5c)	22, §112, 116
2006 Acts, ch 1106, §1(5c), as amended	
by 2007 Acts, Senate File 272, §112 (ch 22)	215, §258
2006 Acts, ch 1112, §2	126, §112, 116
2006 Acts, ch 1115, §17	218, §81, 92
2006 Acts, ch 1123, §1	218, §47

SESSION LAWS AMENDED OR REPEALED IN ACTS OF THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION — Continued

ACTS OF PREVIOUS GENERAL ASSEMBLIES AMENDED OR REPEALED — Continued

Prior Year and Chapter	2007 Acts Chapter
2006 Acts, ch 1123, §1(3, 4)	218, §46
2006 Acts, ch 1145, §4(1)	100, §1; 215, §87
2006 Acts, ch 1157, §17(2)	
2006 Acts, ch 1158, §71	
with 2006 Acts, ch 1184, §5	
2006 Acts, ch 1177, §1(2) 2006 Acts, ch 1177, §8(6)	206, §1, 39
2006 Acts, ch 1177, \$10(2)	206, §3, 39
2006 Acts, ch 1177, §16(4) 2006 Acts, ch 1177, §18 2006 Acts, ch 1179, §1(12h)	206, §4, 39
2006 Acts, ch 1179, §5	219, §22
2006 Acts, ch 1179, §16(1b) 2006 Acts, ch 1179, §16(12) 2006 Acts, ch 1179, §19	218, §50, 67; 219, §24
2006 Acts, ch 1179, §19 2006 Acts, ch 1179, §24(1) 2006 Acts, ch 1179, §27	219, §26
2006 Acts, ch 1179, §33	22, §114, 116 219, §40
2006 Acts, ch 1179, §57(1)	211, §44, 45
2006 Acts, ch 1180, \$6(14)	214, §42, 44
2006 Acts, ch 1182, §1	206, §13, 39
2006 Acts, ch 1183, \$5(1a) 2006 Acts, ch 1183, \$16(2) 2006 Acts, ch 1183, \$16(5a)	206, §15, 39
2006 Acts, ch 1183, §16(6)	
2006 Acts, ch 1184, §5	203, §1, 2; 218, §66, 67 218, §49, 67
2006 Acts, ch 1184, §5(2)	

SESSION LAWS AMENDED OR REPEALED IN ACTS OF THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION — Continued

ACTS OF PREVIOUS GENERAL ASSEMBLIES AMENDED OR REPEALED — Continued

Prior Year and Chapter	2007 Acts Chapter
2006 Acts, ch 1184, §9 21 2006 Acts, ch 1184, §10 21 2006 Acts, ch 1184, §13 21 2006 Acts, ch 1184, §15 21 2006 Acts, ch 1184, §17(16) 21 2006 Acts, ch 1184, §18 21 2006 Acts, ch 1184, §23 21 2006 Acts, ch 1184, §24 21 2006 Acts, ch 1184, §27 21 2006 Acts, ch 1184, §28 21 2006 Acts, ch 1184, §29 20 2006 Acts, ch 1184, §29 20 2006 Acts, ch 1184, §29 20 2006 Acts, ch 1184, §20 <	18, §64, 67 883, 84, 92 18, §65, 67
2005 Acts, ch 115, §37, and continued in accordance with 2006 Acts, ch 1167, §3, 4, and 2006 Acts, ch 1184, §5 2005 Acts, ch 161, §1, and amended by 2005 Acts, ch 115, §37, and continued in accordance with 2006 Acts, ch 1167, §3, 4, and 2006 Acts, ch 1184, §5 2005 Acts, ch 175, §16(4) 21 2005 Acts, ch 178, §19(3) 22 2005 Acts, ch 178, §22, as amended by 2006 Acts, ch 1179, §27	203, §1, 2 18, §94, 95 219, §20
2004 Acts, ch 1175, §304(1a) 2004 Acts, ch 1175, §309	
2003 Acts, ch 112, \$12, as amended by 2003 Acts, ch 179, \$166, 167	208, §1
with 2006 Acts, ch 1167, \$3, 4, and 2006 Acts, ch 1184, \$5 2003 Acts, ch 177, \$22(13) 2003 Acts, ch 177, \$23(3), as amended by 2004 Acts, ch 1175, \$309 2003 Acts, ch 179, \$166, 167	219, §18 219, §19
2001 Acts, ch 93, §2	
2000 Acts, ch 1221, §3	208, §2
1992 Acts, ch 1058, §3	4, §1, 2

SESSION LAWS REFERRED TO IN ACTS OF THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION

ACTS OF THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION REFERRED TO

Acts
File Chapter
•
Senate File 137, §1 (ch 72)
Senate File 369 (ch 190)
Senate File 472 (ch 164)
Senate File 480 (ch 67)
Senate File 489 (ch 121)
Senate File 548 (ch 31)
Senate File 557 (ch 174)
Senate File 601 (ch 215)
House File 158 (ch 79)
House File 716 (ch 30)
House File 829 (ch 122)
House File 906 (ch 146)
House File 910 (ch 147)
House File 911 (ch 219)
House File 918 (ch 168)

ACTS OF PREVIOUS GENERAL ASSEMBLIES REFERRED TO

Prior Year 2 and Chapter	007 Acts Chapter
2006 Acts, ch 1167, §3, 4	219, §16
2006 Acts, ch 1184, §73	•
2005 Acts, ch 88	218, §97
with 2006 Acts, ch 1167, §3, 4	215, §241
and continued in accordance with 2006 Acts, ch 1167, §3, 4	
2005 Acts, ch 178, §41	200, §3, 7
2005 Acts, ch 179, §1, as amended by 2006 Acts, ch 1184, §73	
2004 Acts, ch 1130, §1	218, §18
2003 Acts, ch 179, §21(5), as amended by 2005 Acts, ch 161, §1, and 2005 Acts, ch 115, §37, and continued in accordance with 2006 Acts, ch 1167, §3, 4	215, §241

SESSION LAWS REFERRED TO IN ACTS OF THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION — Continued

ACTS OF PREVIOUS GENERAL ASSEMBLIES REFERRED TO — Continued

Prior Year and Chapter	2007 Acts Chapter
2001 Acts, ch 191, §3[5c(3)] 2001 Acts, ch 192, §4(2c) 2001 Acts, ch 192, §4[3a(2)]	218, §31
1997 Acts, ch 208, §14(1, 2)	218, §7
1994 Acts, ch 1186, §25(1f)	218, §31
1992 Acts, Second Extraordinary Session, ch 1001, §409(6)	218, §11
1989 Acts, ch 278	214, §6
1972 Acts, ch 1088	22, §73

IOWA CODES REFERRED TO IN ACTS OF THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION

Code	Section	Acts Chapter
1991	446.9	22, §77
2001	15.281 – 15.288	212, §5
2005	249I.4	218, §2

IOWA ADMINISTRATIVE CODE REFERRED TO IN ACTS OF THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION

Rule	Acts Chapter
11 IAC 53.6(3)	215, §16
11 IAC 100.4(8)	§1; 221, §1
441 IAC 1.8(1)	218, §11
441 IAC 81.6(12)	219, §39
441 IAC 100.8	. 218, §8
655 IAC 2.6(152)	214, §26
875 IAC 26 Ì	16 83

IOWA ADMINISTRATIVE CODE RULE NULLIFIED IN ACTS OF THE EIGHTY-SECOND GENERAL ASSEMBLY, 2007 REGULAR SESSION

ACTS OF CONGRESS AND UNITED STATES CODE REFERRED TO

Acts Chapter
Americans With Disabilities Act
Biomass Research and Development Act of 2000, 7 U.S.C. § 7624, et seq 168, §12
Cable Act, 47 U.S.C. § 521 et seq
Child Nutrition Act of 1966, 42 U.S.C. § 1786
Civil Rights Act of 1964
Classification Act of 1949 59, §31
Clinical Laboratory Improvement Amendments
Deficit Reduction Act of 2005, Pub. L. No. 109-171
Deficit Reduction Act of 2005, Pub. L. No. 109-171,
and as codified in 42 U.S.C. § 601 et seq
Deficit Reduction Act of 2005, Pub. L. No. 109-171, § 6062
Deficit Reduction Act of 2005, Pub. L. No. 109-171, § 6064
Deficit Reduction Act of 2005, Pub. L. No. 109-171, § 7310
Electronic Signatures in Global and National Commerce Act,
15 U.S.C. § 7001, et seq
Electronic Signatures in Global and National Commerce Act, § 101(c),
15 U.S.C. § 7001(c) 30, §3; 41, §10
Electronic Signatures in Global and National Commerce Act, § 103(b),
15 U.S.C. § 7003(b)
Elementary and Secondary Education Act of 1965, Title I
Elementary and Secondary Education Act of 1965, Title I, 20 U.S.C. § 6301 et seq.,
as amended by No Child Left Behind Act of 2001, Pub. L. No. 107-110 214, §17
Emergency Planning and Community Right-to-know Act
Emergency Planning and Community Right-to-know Act,
§ 311, 42 U.S.C. § 11021
Emergency Planning and Community Right-to-know Act,
§ 312, 42 U.S.C. § 11022
Emergency Planning and Community Right-to-know Act,
§ 324, 42 U.S.C. § 11044
Employee Retirement Income Security Act of 1974 (ERISA),
as codified at 29 U.S.C. § 1001 et seq
Endangered Species Act
Energy Policy Act of 2005, Pub. L. No. 109-58, Title XV, Subtitle B, Underground
Storage Tank Compliance, as codified in 42 U.S.C. § 6991 et seq
Fair Labor Standards Act of 1938, as amended to January 1, 2007
Family and Medical Leave Act of 1993, § 102(a) and (b)(1),
as codified in 29 U.S.C. § 2612(a) and (b)(1)
Farm Security and Rural Investment Act of 2002, 7 U.S.C. § 3007
Federal Credit Union Act

ACTS OF CONGRESS AND UNITED STATES CODE REFERRED TO — Continued

Acts
Chapter
Federal Credit Union Act, 12 U.S.C. § 1751 et seq
Federal Election Campaign Act, 2 U.S.C. § 431 et seq
Hatch Act, 5 U.S.C. § 1501 et seq
Health Insurance Portability and Accountability Act of 1996,
Pub. L. No. 104-191
Help America Vote Act
Home Owners' Loan Act
Home Owners' Loan Act, 12 U.S.C. § 1461 et seq., as amended 88, §18, 25, 27, 28
Housing Act of 1937, § 8, as amended by the Housing and Community Development
Act of 1974, § 201, Pub. L. No. 93-383, codified at 42 U.S.C. § 1437 et seq 54, §22
Housing and Community Development Act of 1974, § 201, Pub. L. No. 93-383,
codified at 42 U.S.C. § 1437 et seq
Improper Payments Information Act of 2002, Pub. L. No. 107-300
Individuals With Disabilities Education Improvement Act of 2004,
Pub. L. No. 108-446, as amended to January 1, 2007
Internal Revenue Code
Internal Revenue Code in effect on January 1, 2007
Internal Revenue Code of 1954
Internal Revenue Code of 1986
Internal Revenue Code of 1986 as amended to and including January 1, 2007 12, §3, 5 Internal Revenue Code, § 32
Internal Revenue Code, § 32
Internal Revenue Code, § 45B
Internal Revenue Code, \$ 103 54, \$10 Internal Revenue Code, \$ 103A 54, \$10
Internal Revenue Code, § 103A (k) (3) (A) (i)
Internal Revenue Code, § 501(a)
Internal Revenue Code, § 501(c) 95, §1; 115, §3; 119, §3; 124, §5; 159, §18; 182, §2;
195, §7; 206, §10; 214, §27; 215, §112 Internal Revenue Code, § 501(c)(6)
Internal Revenue Code, § 501(c)(19)
Internal Revenue Code, § 509
Internal Revenue Code, § 521
Internal Revenue Code, § 581
Internal Revenue Code, § 3402(m)(1)
Internal Revenue Code, § 3402(m)(3)
Internal Revenue Code, § 7704(b)
Internal Revenue Code, subchapter S
Medicare Prescription Drug, Improvement, and Modernization Act of 2003,
Part D, Pub. L. No. 108-173
Migratory Bird Stamp Hunting Act
Migratory Bird Treaty Act
National Housing Act, Title IV, 12 U.S.C. ch. 13
No Child Left Behind Act of 2001, Pub. L. No. 107-110
North American Wetlands Conservation Act
Older Americans Act 218, §68
Personal Responsibility and Work Opportunity Reconciliation Act of 1996,
Pub. L. No. 104-193

ACTS OF CONGRESS AND UNITED STATES CODE REFERRED TO — Continued

Acts
Chapter
Propane Education and Research Act of 1996
Propane Education and Research Act of 1996, 15 U.S.C. § 6401 et seq
Public Health Service Act under 42 U.S.C., chapter 6A, subchapter III-A 204, §1
Pub. L. No. 94-171 78, §2
Pub. L. No. 106-310, § 3305, as codified in 42 U.S.C. § 300x-65
Pub. L. No. 107-252, § 222
Pub. L. No. 109-58, Title XV, § 1530(a), as codified at 42 U.S.C. 6991b(i)(1) 171, §6
Railroad Retirement Act of 1974
Ryan White Care Act, Title II
Social Security Act
Social Security Act, § 903
Social Security Act, Title IV-A
Social Security Act, Title IV-D
Social Security Act, Title IV-E
Social Security Act, Title V
Social Security Act, Title XVI, § 1618, as codified in 42 U.S.C. § 1382g
Social Security Act, Title XIX
Social Security Act, Title XXI
Stem Cell Therapeutic and Research Act of 2005, Pub. L. No. 109-129
Tax Reform Act of 1986
Truth in Lending Act
Uniform and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff et seq 59, §31
8 U.S.C. § 1641
11 U.S.C
12 U.S.C. § 1703
12 U.S.C. § 1813
15 U.S.C. § 1673(b)
15 U.S.C. § 6405
18 U.S.C. § 2511
20 U.S.C. § 1071-1087
28 U.S.C. § 1738B
29 U.S.C. § 206
38 U.S.C. pt. II, ch. 19, subc. III
42 U.S.C., chapter 6A, subchapter XVII
42 U.S.C., chapter 7, subchapter V
42 U.S.C., chapter 7, subchapter XX
42 U.S.C., chapter 46
42 U.S.C., chapter 46, subchapter XII-G
42 U.S.C., chapter 46, § 3796gg-1
42 U.S.C., chapter 69
42 U.S.C., chapter 94, subchapter II
42 U.S.C., chapter 105, subchapter II-B
42 U.S.C., chapter 106
42 U.S.C. § 300x-26
42 U.S.C. § 652(k)
42 U.S.C. § 1381a
42 U.S.C. § 1395X(v)(1)(N)
42 U.S.C. § 1396a(a) (10) (A) (ii) (XVII)
42 U.S.C. 6991i

ACTS OF CONGRESS AND UNITED STATES CODE REFERRED TO — Continued

	Acts
Ch	apter
	•
2 U.S.C. 6991i(b)	71, §6
2 U.S.C. 6991k	71, §6
¹ 2 U.S.C. 6991k(a)(3)	
17 U.S.C. § 332	
17 U.S.C. § 521 – 561	
17 U.S.C. § 522	01, §2
7 U.S.C. § 541(b)(1)	01, §5
	3, §27
9 U.S.C. § 13902(f), as amended by Pub. L. No. 109-59	3, §27
9 U.S.C. § 14504	3, §27
9 U.S.C. § 14504a, as amended by Pub. L. No. 109-59	3, §27
9 U.S.C. § 14504a(e) 143	3, §27
Vater Pollution Control Act, 33 U.S.C. ch. 26, as amended	2, §79
Vater Pollution Control Act, 33 U.S.C. § 1288	6, §74

CODE OF FEDERAL REGULATIONS REFERRED TO

Acts
Chapter
1
7 C.F.R., pt. 248
7 C.F.R., pt. 249
9 C.F.R. ch. I
9 C.F.R., pt. 1
9 C.F.R., pt. 2, subpt. A
12 C.F.R. § 704
21 C.F.R. § 207.20
27 C.F.R. § 6.88
29 C.F.R. 1926.552
40 C.F.R. pt. 61, subpt. M
40 C.F.R. pt. 124
42 C.F.R. § 435.725(c)
42 C.F.R. § 435.726(c)
47 C.F.R. § 76.309
49 C.F.R. § 533.5
49 C.F.R. pt. 567
1949 C.F.R. Title 21, Part 45, § 45.0 22, §46

IOWA COURT RULES REFERRED TO

Rule	Acts Chapter
Rule of Civil Procedure 1.305	218, §169
Rule of Civil Procedure 1.1901, form 3	126, §101
Iowa court rule 9.5	218, §164
Iowa court rule 9.7	218, §165

PROPOSED AMENDMENT TO THE CONSTITUTION OF THE STATE OF IOWA

Article	
II, §5	223, §1

CONSTITUTION OF THE STATE OF IOWA REFERRED TO

Article	Acts Chapter
I, §21 III, §6	
VIII	

CONSTITUTION OF THE UNITED STATES REFERRED TO

Article	Acts Chapter
I. §10	22, §10

VETOED BILLS

Senate File 139 Senate File 543 House File 783

ITEM VETOES

	Acts
File	Chapter
Senate File 277, portion of §49	108
Senate File 403, §26; §30 – 38	206
Senate File 551, §50	211
Senate File 562, §26	212
Senate File 575, §20	213
Senate File 588, §5; §15	214
Senate File 601, §28; §42; §43; §48; §49; §56; §57; §59; §80	215
House File 752, §3	216
House File 874, portion of §19; §25	217
House File 907, portion of §1	208
House File 909, portion of §3; portion of §4; portion of §97(3e); §100; §190	218
House File 911, portion of \\$1(\text{lg, 4c}); \\$4; \\$5 \tag{5} \tag{5}	219

ACTS CONTAINING STATE MANDATES

File	Cha	Acts pter
Senate File 110	Reserve peace officers — training and certification	47
Senate File 277	Educational standards — practitioners and staff	
	and student achievement	108
House File 1	State minimum hourly wage	. 1
House File 158	Blood lead testing of young children	79
House File 309	Uniform cost reporting for mental health or retardation,	
	developmental disability, and Medicaid services	113
House File 590	State building code — application and enforcement	97

	1

INDEX

2007 REGULAR SESSION INDEX

References are to chapters and sections of the Acts. For references to statutes by popular name, see POPULAR NAMES heading in this index.

211 SYSTEM

Appropriations, ch 215, §36; ch 218, §2

28E AGREEMENTS

See JOINT ENTITIES AND UNDERTAKINGS

911 SYSTEMS

See EMERGENCY COMMUNICATIONS SYSTEMS (911 AND E911 SERVICE)

ABANDONED PROPERTY

See UNCLAIMED PROPERTY

ABORTIONS

Appropriations, see APPROPRIATIONS

Medical assistance services, performance restrictions on and payment for, ch 218, §11 University of Iowa hospital and clinic services, restrictions on, ch 218, §73

ABSENTEES

Public employees serving with national disaster medical system of United States, leaves of absence for, ch 218, §133 – 135

Voting and voters, see ELECTIONS, subhead Absentee Voting and Absent Voters

ABUSE

Adult abuse, see ADULT ABUSE

Alcohol abuse, see SUBSTANCE ABUSE

Child abuse, see CHILD ABUSE

Corpse abuse, criminal offenses and penalties, ch 91

Dependent adult abuse, see ADULT ABUSE

Domestic abuse, see DOMESTIC ABUSE AND VIOLENCE

Drug abuse, see SUBSTANCE ABUSE

Sexual abuse, see SEXUAL ABUSE

Substance abuse, see SUBSTANCE ABUSE

Victims of abuse, see VICTIMS AND VICTIM RIGHTS

ACCELERATED CAREER EDUCATION PROGRAMS

Capital projects at community colleges, appropriations, ch 219, §1, 2

Reports by community colleges, repealed, ch 126, §115

ACCIDENTS

Boat and vessel accidents, see BOATS AND VESSELS, subhead Collisions, Accidents, and Casualties

Insurance, see INSURANCE, subhead Casualty Insurance and Casualty Insurance Companies

Workers' compensation, see WORKERS' COMPENSATION

ACCOUNTANCY AND ACCOUNTANTS

See also COMMERCE DEPARTMENT, subhead Professional Licensing and Regulation Bureau: PROFESSIONS

ACCOUNTANCY AND ACCOUNTANTS — Continued

Audits and reviews, see AUDITS AND AUDITORS

Film, television, and video project expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Licensing and regulation, ch 170, §7

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HUMAN IMMUNODEFICIENCY VIRUS (HIV)

General provisions, ch 70

Appropriations, see APPROPRIATIONS

Drug assistance program supplemental drug treatment grants, leverage funding, appropriations, ch 208, §1

Education relating to AIDS and HIV, ch 70, §5

Exposure and persons exposed to HIV

Care providers, exposure notification procedures, ch 70, §9

Partners of persons testing positive, notification program administration, ch 70, §6

Health insurance premium payment program, appropriations, ch 218, §11

Information confidentiality and release, ch 70, §10, 11

Testing and results of tests for HIV

Care providers exposed to HIV, exposure notification procedures, ch 70, §9

Consent to and report of results of tests, ch 70, §7, 8

Disclosure of results in sexual assault cases, ch 70, §10, 11

Partners of persons testing positive, notification program administration, ch 70, §6

Pregnant women, testing of, ch 70, §5

ACTIONS

See CIVIL PROCEDURE AND CIVIL ACTIONS; CRIMINAL PROCEDURE AND CRIMINAL ACTIONS

ACTS OF GENERAL ASSEMBLY (SESSION LAWS)

See IOWA ACTS (SESSION LAWS)

ACTUARIAL ANALYSES AND ACTUARIES

Property and casualty actuarial opinions Act, ch 137, §13 – 15

ACUPUNCTURE AND ACUPUNCTURISTS

See also PROFESSIONS

HIV exposure while providing health care, notification procedure, ch 70, §9 Licensing and regulation, ch 10, §26 – 67, 73, 107; ch 215, §260

ADC (AID TO DEPENDENT CHILDREN) PROGRAM

See FAMILY INVESTMENT PROGRAM

ADDICTS AND ADDICTIONS

Alcohol and drug addictions, see SUBSTANCE ABUSE

Gambling addictions, treatment of, see GAMBLING, subhead Treatment and Treatment Programs

ADJOINING PROPERTY AND OWNERS

Livestock straying and trespass control, duties and responsibilities of landowners and governmental authorities, ch 64

ADJUSTERS

Licensing and regulation of public adjusters, ch 137, §24 – 29

ADJUTANT GENERAL

See PUBLIC DEFENSE DEPARTMENT

ADMINISTRATIVE HEARINGS DIVISION

See INSPECTIONS AND APPEALS DEPARTMENT

ADMINISTRATIVE LAW AND PROCEDURE

Administrative rules coordinator, appropriations, ch 217, §9

Division for administrative hearings in state inspections and appeals department, see INSPECTIONS AND APPEALS DEPARTMENT, subhead Administrative Hearings Division

Interpreters appointed for parties and witnesses in administrative proceedings, Code correction, ch 126, §103

Investigations by citizens' aide, Code correction, ch 126, §1

ADMINISTRATIVE SERVICES DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

General provisions, ch 115

Administrative rules, ch 207, §1, 18

Appropriations, see APPROPRIATIONS

Braille and sight saving school, payments to school for prescription drug costs for students, ch 214, §12

Building and facility projects and maintenance, see STATE OFFICERS AND DEPARTMENTS, subhead Buildings and Facilities of State

Capital projects, see STATE OFFICERS AND DEPARTMENTS, subhead Capital Projects
Capitol and capitol complex operation and maintenance, see CAPITOL AND CAPITOL
COMPLEX

Construction projects, see STATE OFFICERS AND DEPARTMENTS, subhead Buildings and Facilities of State

Contracts, see PUBLIC CONTRACTS, subhead State Government

Deaf, school for, payments to school for prescription drug costs for students, ch 214, §12 Director, salary, ch 215, §13, 14

Employees, interchange with other public agencies, time period limitations for, ch 215, \$83, 129

Fiscal condition of state, reporting requirement stricken, ch 115, §2

Funds under control of department, appropriations, ch 217, §2

Health insurance for state employees, see INSURANCE, subhead State Agencies and Employees

Infrastructure projects and maintenance, see STATE OFFICERS AND DEPARTMENTS, subhead Buildings and Facilities of State

Integrated information for Iowa system, appropriations, ch 206, §21, 39; ch 217, §1; ch 219, §1, 2, 8

IowAccess, appropriations, ch 217, §3

Merit system for state employees, administration, see MERIT SYSTEM FOR STATE EMPLOYEES

Motor vehicles of state

Federal corporate fuel economy standards compliance, reporting requirements, ch 115, 88

Sale and disposition of sale receipts, ch 213, §11

Nonprofit organizations, service agreements with, ch 115, §3

Political campaign contributions from unknown or unidentifiable sources, escheat to state, duties as recipient transferred, ch 14, §8

Purchasing, see PURCHASING, subhead State Purchasing

Shuttle service between capitol complex and downtown Des Moines, appropriations and operation, ch 215, §29

State employee benefits, see STATE EMPLOYEES

Targeted small business procurement activities, annual utilization report, ch 207, §6, 9, 18

ADMINISTRATIVE SERVICES DEPARTMENT — Continued

Technology governance board membership, election of chair and length of terms, ch 115, §4, 5

Technology improvement projects, appropriations, ch 219, §14, 15

Terrace Hill maintenance, appropriations, ch 206, §20, 39

Transportation department utility services, appropriations, ch 215, §50, 51; ch 216, §1, 2

Utility costs, appropriations, ch 215, §50, 51; ch 216, §1, 2; ch 217, §1

West capitol terrace and capitol grounds improvements, acknowledgements of private contributors, ch 222

Workers' compensation for state employees, administration, see WORKERS' COMPENSATION, subhead State Employees

ADMINISTRATORS

Estate administrators

See also PERSONAL REPRESENTATIVES; PROBATE CODE, subhead Administrators of Estates

Safe deposit boxes of decedents, access by administrators, ch 174, §49 School administrators, see SCHOOLS AND SCHOOL DISTRICTS

ADOLESCENTS

See CHILDREN

ADOPTIONS

All Iowa opportunity foster care grant program, participation of persons adopted after age sixteen, ch 214, §2, 24, 25

Appropriations, see APPROPRIATIONS

Family recruitment and services to achieve adoption, appropriations, ch 218, §19, 58, 67 Multiple adoptions by same petitioner, filing limitations and fee and cost waiver, ch 71, §1, 3

Notice of adoption hearings, recipients of, ch 218, §207

Preadoptive care and caretakers

Child in need of assistance proceedings, right of caretakers to be heard in, ch 172, §13 Parental rights termination proceedings, consideration of testimony and statements in, ch 172, §14

Services provider reimbursements, appropriations, ch 208, §1 Subsidies

Payments and services, appropriations, ch 218, \$19, 58, 67 Rate, maximum, ch 218, \$31

ADULT ABUSE

Reports and information, collection, retention, and access, ch 159, §15, 16

School district teachers, superintendent's access to dependent adult abuse registry checks of, ch 108, §11; ch 215, §102

ADULT PERSONS

Abuse of dependent adults, see ADULT ABUSE

Care of adults and facilities for care of adults

Assisted living, see ASSISTED LIVING SERVICES AND PROGRAMS

Day services and day services facilities, see DAY SERVICES AND DAY SERVICES PROGRAMS FOR ADULTS

Health care facilities, see HEALTH CARE FACILITIES

Long-term care and long-term care facilities, see LONG-TERM LIVING AND CARE

Foster care recipients leaving foster care, preparation for adult living program, appropriations, ch 218, §18

ADVANCED REGISTERED NURSE PRACTITIONERS

Blood lead testing of children, reimbursement for blood analysis, ch 79, §3

ADVERTISING

Amusement device advertising restrictions, violations and penalties, ch 173, §2 Businesses in commercial or industrial developments, location of advertising signs, ch 143, §1

Election campaign signs on private property, restrictions, ch 14, §7; ch 215, §244

Employment advertising, discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1, 3

Film, television, and video advertising projects, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Housing sale and rental advertising, discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1, 7

Insurance advertising, trade practices regulation, ch 152, §53, 84

Plumbers and mechanical system professionals, regulation of advertising by, ch 198, §25, 35

Public accommodation and services advertising, discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1, 5

Tourism, public-private partnerships for advertising development, ch 212, §3; ch 215, §71

AFROSOLS

Greenhouse gases, see GREENHOUSE GASES

AFFIDAVITS

Tax deeds, affidavits and claims by title holders under, format and recording, ch 101, §1, 2 Township officer election candidates, affidavit of candidacy required, ch 25, §1, 3

AFFIRMATIONS

Insurance commissioner investigations, affirmation administration powers, ch 137, §6

AFRICA

Sudan, investments of state public funds in companies doing business in, prohibition, ch 39

AFRICAN-AMERICAN PERSONS

Division on status of African-Americans in state human rights department, see HUMAN RIGHTS DEPARTMENT, subhead Status of African-Americans Division

Historical museum and cultural center in Cedar Rapids, appropriations, ch 206, §7, 39 Minority persons, see MINORITY PERSONS

Targeted small business financial assistance board, representation on, ch 207, §8, 12, 18

AGE

Amusement device operation, age restriction violations, penalties, ch 173, §8

Blood lead testing of children, age requirement, ch 79, §1, 2, 4; ch 215, §88

Bullying and harassment of school students based on age, prohibition and prevention, ch 9 Child care assistance program, eligibility category, ch 172, §1

Dental screening requirement for school enrollment, age requirements, ch 146

Elderly persons, see ELDERLY PERSONS AND ELDER AFFAIRS

Gambling, age restriction violations, ch 119, §1; ch 188, §13

Generation Iowa commission, retention and attraction of young adults, ch 45

Medical assistance eligibility, ch 218, §41 – 43

Tobacco age restrictions and violations, law enforcement appropriations, ch 208, §1

Voter registration, age qualifications for, ch 59, §40, 43

AGED AND AGING PERSONS

See ELDERLY PERSONS AND ELDER AFFAIRS

AGENT ORANGE

Exposure of veterans, investigations of effects of, ch 22, §14; ch 202, §8 – 10

AGENTS

Attorneys in fact, see ATTORNEYS IN FACT

AGENTS — Continued

Insurance agents, see INSURANCE, subhead Producers

Real estate brokers and salespersons, see REAL ESTATE

AGRICULTURAL DEVELOPMENT AUTHORITY

Audit of authority, ch 215, §92

Executive director, appointment of, ch 215, §91

Removal from treasurer of state's office, ch 215, §78, 89

Selection and tenure committee stricken, ch 215, §90, 91

AGRICULTURAL EXPERIMENT STATION

Appropriations, ch 214, §9

AGRICULTURAL EXTENSION

Cooperative extension service in agriculture and home economics of Iowa state university, appropriations, ch 214, §9

AGRICULTURAL LAND

See also AGRICULTURE AND AGRICULTURAL PRODUCTS; FARMERS, FARMING, AND FARMS

Agricultural production practices enhancement, appropriations, ch 211, §26, 30

Assets used for agricultural production, tax credits for transfer of, Code correction, ch 22, \$45

Conservation, see SOIL AND WATER CONSERVATION

Drainage, see DRAINAGE AND DRAINAGE SYSTEMS

Erosion and erosion control, see EROSION AND EROSION CONTROL

Floods and flood control, see FLOODS AND FLOOD CONTROL

Lessees of land, reports by, time of filing, Code correction, ch 126, §3

Livestock straying and trespass control, duties and responsibilities of landowners and governmental authorities, ch 64

Nutrient loss reduction, appropriations, ch 211, §26, 30

Soil conservation, see SOIL AND WATER CONSERVATION

Tax credits for agricultural land, state funding for, appropriations and payment to counties, ch 215, §5, 11

Water conservation, see SOIL AND WATER CONSERVATION

Water quality protection and regulation, see WATER AND WATERCOURSES

AGRICULTURAL SOCIETIES AND ORGANIZATIONS

Vocational agriculture youth organization, appropriations, ch 214, §6

AGRICULTURE AND AGRICULTURAL PRODUCTS

See also AGRICULTURAL LAND; FARMERS, FARMING, AND FARMS

Agricultural cooperatives, participation in propane education and research, ch 182, §3, 15 Agricultural development authority, see AGRICULTURAL DEVELOPMENT

Agricultural products advisory council application for appropriations, ch 212, §23

Agricultural safety training national center, equipment purchases by northeast Iowa community college program, appropriations, ch 219, §1, 2

Agricultural worksite and home modification consultations, appropriations, ch 214, §9 Animals. see LIVESTOCK

Apiary regulation, appropriations, ch 211, §6, 26, 30

Appropriations, ch 211, §1 – 15

Assets used for agricultural production, tax credits for transfer of, Code correction, ch 22, \$45

Associations, see COOPERATIVE ASSOCIATIONS AND COOPERATIVES

Biotechnology, see BIOTECHNOLOGY, BIOSCIENCE, AND BIOLOGY

AGRICULTURE AND AGRICULTURAL PRODUCTS — Continued

Cooperative associations and cooperatives, see COOPERATIVE ASSOCIATIONS AND COOPERATIVES

Cooperative extension service in agriculture and home economics of Iowa state university, appropriations, ch 214, §9

Corn and corn products, see CORN AND CORN PRODUCTS

Crops, see CROPS

Dairying and dairy products, see DAIRYING AND DAIRY PRODUCTS

Department of agriculture in state government, see AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT

Drainage, see DRAINAGE AND DRAINAGE SYSTEMS

Egg handlers, license fees, ch 215, §218

Equipment loan services, appropriations, ch 214, §9

Experiment station, appropriations, ch 214, §9

Extension services, appropriations, ch 214, §9

Fairs and fairgrounds, see FAIRS AND FAIRGROUNDS

Farm deer, see FARM DEER

Farmers markets, see FARMERS MARKETS

Food, see FOOD

Fuels, see FUELS, subhead Renewable Fuels

Grain, see GRAIN

Grape development funding and appropriations, ch 211, §13, 41, 42

Health programs at university of Iowa, appropriations, ch 214, §9

Implements, equipment, and machinery used in agricultural production

Speed limits for highway operation, ch 143, §15

Weight limits for highway operation, exception for permitted implements, ch 143, \$17 - 20, 32, 35

Industrial lubrication technology, ag-based, strategic development initiative and commercial development, application for appropriations, ch 212, §23

Insects, see INSECTS

Leopold center for sustainable agriculture, see LEOPOLD CENTER FOR SUSTAINABLE AGRICULTURE

Livestock, see LIVESTOCK

Milk, see DAIRYING AND DAIRY PRODUCTS

Organic agricultural products, see ORGANIC AGRICULTURAL PRODUCTS

Organic produce gardening by inmates at correctional facility farms, ch 213, §4 – 6

Pests, see PESTS

Poultry, see BIRDS

Renewable fuels, see FUELS

Safety programs at university of Iowa, appropriations, ch 214, §9

Soybeans and soy products, see SOYBEANS AND SOY PRODUCTS

Value-added agriculture and agricultural products

Appropriations, ch 212, §3

Financial assistance fund, application for moneys by renewable fuels and coproducts office, ch 212, §21

Research and commercialization projects, financial assistance, ch 212, §3

Veterinary medicine regulation, see VETERINARY MEDICINE AND VETERINARY MEDICINE PRACTITIONERS

Vocational agriculture youth organization, appropriations, ch 214, §6

Warehouses for agricultural products, see WAREHOUSES AND WAREHOUSE OPERATORS

Wine development funding and appropriations, ch 211, §13, 41, 42

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

Administrative rules, ch 30, §81; ch 84, §5; ch 195, §2

Animal regulation, see ANIMALS, subhead Dangerous Wild Animals

Apiary regulation, appropriations, ch 211, §6, 26, 30

Appropriations, see APPROPRIATIONS

Avian influenza control, appropriations, ch 211, §5

Conservation reserve enhancement program, appropriations, ch 211, §26, 30

Dairy products control bureau, appropriations, ch 211, §4

Drainage well water quality assistance program and fund, appropriations, ch 211, §26, 30

Emerald ash borer public awareness and information project, appropriations, ch 211, §8

Executive council duties, see EXECUTIVE COUNCIL

Farm deer regulation, see FARM DEER

Farmers market programs, see FARMERS MARKETS

Farm-to-school program, ch 211, §26, 30; ch 215, §93 – 96

Grape and wine development fund, administration and appropriations, ch 211, §13, 42

Gypsy moth detection, surveillance, and eradication, appropriations, ch 211, §7

Organic agricultural products regulation and promotion, appropriations, ch 211, §12

Power fund board membership and duties of secretary of agriculture, ch 168, §6, 18

Racing and breeding of native dogs and horses, administration, ch 211, §3, 35

Renewable fuels and coproducts office and coordinator, application for value-added agricultural products and processes financial assistance moneys, ch 212, §21

Soil conservation division

Agricultural drainage well water quality assistance program and fund, appropriations, ch $211,\,\$26,\,30$

Appropriations, ch 211, §26, 30

Functions and administration of division, Code correction, ch 22, §43

Soil protection and conservation regulation, see EROSION AND EROSION CONTROL; SOIL AND WATER CONSERVATION

Veterinary medicine regulation, see VETERINARY MEDICINE AND VETERINARY MEDICINE PRACTITIONERS

Warehouses for agricultural products, regulation, see WAREHOUSES AND WAREHOUSE OPERATORS, subhead Agricultural Products, Warehouses for

Water protection and conservation regulation, see SOIL AND WATER CONSERVATION; WATER AND WATERCOURSES, subhead Quality Protection and Regulation

AIDS

See ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HUMAN IMMUNODEFICIENCY VIRUS (HIV)

AID TO DEPENDENT CHILDREN (ADC) PROGRAM

See FAMILY INVESTMENT PROGRAM

AIR

Ambient air pollution abatement, control, and prevention, appropriations, ch 211, §28, 30 Animal feeding operations and feedlots, regulatory law enforcement, see ANIMALS, subhead Feeding Operations and Feedlots

Greenhouse gases, see GREENHOUSE GASES

Heating and cooling systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING); HYDRONIC SYSTEMS

Medical gases, see GASES, subhead Medical Gases

Pollution abatement, control, and prevention, appropriations, ch 211, §28, 30

AIR CONDITIONING AND AIR CONDITIONING EQUIPMENT

See HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING); HYDRONIC SYSTEMS

AIRCRAFT AND AIR CARRIERS

See also AIRPORTS

Appropriations, ch 219, §1, 2, 16, 20, 40

Aviation fund, appropriations, ch 219, §16, 40

Aviation improvement program, appropriations, ch 219, §1, 2

Civil air patrol, appropriations, ch 213, §13

Film, television, and video project expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Fuel taxes, amnesty program for payment of delinquent liabilities, see TAX AMNESTY PROGRAM

Registration fee revenue, disposition to state funds, Iowa Acts correction, ch 22, §115

AIR FORCES

See MILITARY FORCES AND MILITARY AFFAIRS

AIRPLANES

See AIRCRAFT AND AIR CARRIERS

AIRPORTS

See also AIRCRAFT AND AIR CARRIERS

Appropriations, ch 219, §1, 2, 16, 20, 40

Commercial air service airports, appropriations and allocations, ch 219, §1, 2, 40 Infrastructure improvements, ch 219, §1, 2

Public airports, security procedures and emergency preparedness information, closed session meetings and confidentiality, ch 63

ALARM SYSTEMS, CONTRACTORS, AND INSTALLERS

General provisions, ch 197, $\S1 - 10, 50$

Advisory board for state fire marshal division, ch 197, §10, 50

Certification of contractors and installers, ch 197, §4, 5, 7, 24, 50

Insurance for liability, ch 197, §6, 50

ALASKAN NATIVE AMERICAN PERSONS

See NATIVE AMERICAN PERSONS

ALCOHOLIC BEVERAGES AND ALCOHOL

Abuse and addiction, see SUBSTANCE ABUSE

Beer

Keg registration and sales regulation, ch 46

Licenses and permits, see subhead Licenses and Permits below

Coil cleaning services permitted, Code correction, ch 22, §36

Contraband, see CONTRABAND

Division of alcoholic beverages in state commerce department, see COMMERCE DEPARTMENT, subhead Alcoholic Beverages Division

Driving motor vehicles under influence of alcoholic beverages, see MOTOR VEHICLES, subhead Intoxicated Drivers (Operating while Intoxicated)

Ethanol blended with gasoline, see FUELS, subhead Ethanol and Ethanol Blended Gasoline Gambling structures licensed to serve or sell alcoholic beverages, beer, or wine, gambling games permitted, ch 188, §3

Hy-Vee world cup triathlon awards ceremony on state capitol grounds, alcoholic beverage use and consumption, ch 221

Intoxication, see INTOXICATED PERSONS, INTOXICANTS, AND INTOXICATION Licenses and permits

Amusement devices located in licensed premises, registration and regulation of, ch 173 Beer keg registration, ch 46

Gambling structures licensed to serve or sell alcoholic beverages, beer, or wine, gambling games permitted, ch 188, §3

ALCOHOLIC BEVERAGES AND ALCOHOL — Continued

Licenses and permits — Continued

State powers, Code correction, ch 22, §35

Suspension for awarding cash prizes from electrical and mechanical amusement devices, ch 173, §6

Sales by state, use of revenue, Code correction, ch 126, §23

Taxes, see TAXATION

Testing of employees in private sector by employers, exception for employees due to collective agreement, ch 50

Wine

Development funding and appropriations, ch 211, §13, 41, 42

Gallonage taxes, see TAXATION, subhead Wine Gallonage Taxes

World food prize foundation awards ceremony in state capitol, wine use and consumption, ch 220, §1

ALCOHOLIC BEVERAGES DIVISION

See COMMERCE DEPARTMENT

ALCOHOLIC PERSONS AND ALCOHOLISM

See SUBSTANCE ABUSE

ALIENS

See IMMIGRANTS

ALLIGATORS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

ALL IOWA OPPORTUNITY ASSISTANCE PROGRAM

See COLLEGE STUDENT AID COMMISSION

ALL-TERRAIN VEHICLES

General provisions, ch 141, §26 - 55

Definitions, ch 141, §26, 27

Highway operation, driver registration, safety, and age requirements, ch 141, §1

Manufacturer, distributor, and dealer registration and fees, minimum requirements, ch 141, \$41, 45

Misdemeanors, registration and license revocation, ch 141, §28, 53

Nonresidents, operation permits and fees, ch 141, §30

Off-road vehicles

Off-road motorcycles, registration, titling, and operation, ch 141, §26, 40

Off-road utility vehicles, registration, titling, and operation, ch 141, §26, 37

Registration and permitting, ch 126, §56; ch 141, §28 – 32, 48

Safety instruction course and certificate, ch 141, §46, 47

Sound level, ch 141, §35

Storage, registration and fees, stricken, ch 141, §29

Titles and certificates of title, ch 141, §49 – 52

Violations and fines, ch 141, §53 – 55

ALZHEIMER'S DISEASE

Appropriations, see APPROPRIATIONS

Education for case workers and care providers, appropriations, ch 218, §68

Recognition training for law enforcement personnel, ch 213, §11

Task force established, ch 121; ch 218, §1

AMBULANCES AND AMBULANCE SERVICES

See also EMERGENCY MEDICAL CARE AND SERVICES

Builders of ambulances licensed as wholesalers, authority to be licensed as used motor vehicle dealers, ch 102, §2

AMBULANCES AND AMBULANCE SERVICES — Continued

Manufacturers of ambulances, special plates for transporting, demonstrating, showing, or exhibiting vehicles, ch 102, \$1

AMERICAN INDIANS AND INDIAN TRIBES

See also NATIVE AMERICAN PERSONS

Sac and Fox Indian settlement, hunting and fishing regulatory authority of state, ch 189 Tribal court civil judgments, see JUDGMENTS AND DECREES, subhead Indian Tribal Court Civil Judgments

AMES

Iowa state university of science and technology, see IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

Transportation department complex, see TRANSPORTATION DEPARTMENT

AMMUNITION

See WEAPONS

AMPHIBIANS

See WILDLIFE

AMUSEMENT DEVICES

Electrical and mechanical amusement devices registration and regulation, ch 173

ANABOLIC STEROIDS

See also CONTROLLED SUBSTANCES

Regulation, ch 8, §11, 12, 20

ANAMOSA

Correctional facility, see CORRECTIONAL FACILITIES AND INSTITUTIONS

ANATOMICAL GIFTS

General provisions, ch 44

Advance health care directives, effect of anatomical gifts on, ch 44, §16

Decedent's body or body parts, authorization to make, amend, or revoke gifts, ch 44, §4 Donor registry, ch 44, §24

Donor's body or body parts, authorization to make, amend, or revoke gifts, ch 44, §3

Postnatal tissue and fluid banks, task force to investigate and make recommendations regarding donations to, ch 147; ch 218, §97

Procurement organizations and donors, rights and duties of, ch 44, §10

Prohibited acts, penalties, ch 44, §12, 13

Public awareness advisory committee, membership, ch 44, §21 – 23

Public awareness and transplantation grants, moneys for, ch 44, §20

Purposes for gifts, ch 44, §6

ANESTHESIA

Medical assistance reimbursement rate exception, ch 208, §1

ANIMAIS

Abuse of animals, convictions for, prohibition against ownership of dangerous wild animals, ch 195, §4, 5

Agricultural animals, see LIVESTOCK

Amphibians, see WILDLIFE

Anabolic steroid administration to animals through implants, controlled substance regulation exclusion, ch 8, §12

Biomass materials, energy produced from, see ENERGY, subhead Biobased Energy and Energy Production

Birds, see BIRDS

ANIMALS — Continued

Cattle and calves, see subhead Feeding Operations and Feedlots below; BOVINE ANIMALS Chickens, see BIRDS, subhead Poultry

Dangerous wild animals

General provisions, ch 195; ch 215, §118 – 123

Appropriations, ch 195, §9

Continued ownership or possession, conditions, ch 195, §4, 5, 14

Definitions, ch 195, §1; ch 215, §118 - 120

Exemptions to prohibitions of ownership or possession, ch 195, §7; ch 215, §121, 122

Prohibited acts and penalties for violations, ch 195, §3, 4, 6, 10 – 14

Registration fees and fund, ch 195, §8, 9; ch 215, §123

Seizure, custody, and disposal, ch 195, §5, 10, 14

Deer, see DEER

Diseases, see DISEASES

Dogs, see DOGS

Domestic animals, protection from worrying by tagged dogs, ch 111

Elk. see ELK

Endangered species, suspension of hunting, fishing, or trapping licenses for illegal taking or possessing, damages and interest payment, ch 28, §16

Farm deer, see FARM DEER

Feeding operations and feedlots

Air quality monitoring, appropriations, ch 211, §28, 30

Appropriations for regulation, ch 211, §28, 30

Effluent from open feedlots, discharge of, Code correction, ch 126, §82

Electronic document processing system development, appropriations, ch 211, §28, 30

Enforcement of regulatory laws for feeding operations, ch 82

Firearms discharge near feedlots, prohibition exception for owners, tenants, or family members, ch 28, \$14

Manure and manure disposal regulation, Code correction, ch 126, §81

Water quality risk reduction from open feedlot effluent, research project appropriations, ch 211, \$23

Film, television, and video project expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Fish, see FISH

Fishing, see FISHING

Fowl, see BIRDS

Fur-bearing animals, see FUR-BEARING ANIMALS

Game, see GAME

Hogs, see subhead Feeding Operations and Feedlots above; PORCINE ANIMALS AND PORK

Horses, see EQUINE ANIMALS, subhead Horses

Hunting, see HUNTING

Illegal taking or possessing of animals, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, \$16

Livestock, see subhead Feeding Operations and Feedlots above; LIVESTOCK

Meat, see MEAT

Mussels taken or possessed illegally, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, §16

Neglect of animals, convictions for, prohibition against ownership of dangerous wild animals, ch 195, §4, 5

Pets, see PETS

Pigs, see subhead Feeding Operations and Feedlots above; PORCINE ANIMALS AND PORK

Poultry, see BIRDS

ANIMALS — Continued

Pounds, dangerous wild animal regulation exception, ch 195, §7

Racing, see RACING, subheads Dogs; Horses

Reptiles taken or possessed illegally, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, \$16

Sheep, see subhead Feeding Operations and Feedlots above; LIVESTOCK

Shelters, dangerous wild animal regulation exception, ch 195, §7

Straying and trespass by livestock, duties and responsibilities of landowners and governmental authorities, ch 64

Swine, see subhead Feeding Operations and Feedlots above; PORCINE ANIMALS AND PORK

Threatened species, suspension of hunting, fishing, or trapping licenses for illegal taking or possessing, damages and interest payment, ch 28, §16

Trapping and traps, see TRAPPING AND TRAPS

Turkeys, see BIRDS

Veterinary care, see VETERINARY MEDICINE AND VETERINARY MEDICINE PRACTITIONERS

Wardens, control of dangerous wild animals, duties, ch 195, §2, 5, 7, 10 Wildlife, see WILDLIFE

ANKENY

State multipurpose laboratory, appropriations nonreversion, ch 219, §17

ANNUITIES

Beneficiaries

Disclaimer of interest in annuity proceeds resulting in failure to file timely inheritance tax return, ch 134, §1, 28

Dissolutions of marriage, annulments, or separate maintenance decrees, voiding of beneficiary designations, ch 134, §5, 28

Cemetery and funeral merchandise and funeral services purchase agreements funded by annuities, see CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES, subhead Purchase Agreements

ANNULMENTS OF MARRIAGE

See DISSOLUTIONS OF MARRIAGE

ANTIQUES

Motor vehicles, see MOTOR VEHICLES

Pinball machines, prohibition against possession stricken, ch 38, §9, 10

ANTITRUST LAW

Enforcement and funding of enforcement and education, ch 213, §23

APARTMENTS

Condominiums, declaration to submit property to, Code correction, ch 22, §85

APES

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

APIARIES AND APIARISTS

Regulation, appropriations, ch 211, §6, 26, 30

APOTHECARIES

See PHARMACY AND PHARMACY PRACTITIONERS

APPANOOSE COUNTY

Council of governments, new service area, ch 76

APPEALS

Civil service commission findings and decisions, appeals by counties, ch 58 Court cases and appellate courts, see COURTS AND JUDICIAL ADMINISTRATION,

subheads Court of Appeals; Supreme Court

School district reorganization decisions by area education agency boards or joint boards, appeal procedures, ch 214, §34

APPRAISALS AND APPRAISERS

Real estate, see REAL ESTATE

APPRENTICES AND APPRENTICESHIPS

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1 – 4 Electricians, licensing and regulation, ch 197, §11 – 50

High technology apprenticeship program, application for appropriations, ch 212, §23 Plumbers and mechanical system professionals, licensing and regulation, ch 198 School-to-career programs, appropriations, ch 212, §3; ch 215, §71

APPROPRIATIONS

211 system, ch 215, §36; ch 218, §2

911 systems, see subhead E911 Systems below

Abortion services

Medical assistance program services, ch 218, §11

University of Iowa hospitals and clinics services, restrictions on use of appropriations, ch 218, §73

Abraham Lincoln bicentennial commission, ch 217, §11

Abuse victims, see subhead Victims and Victim Services below

Accelerated career education program capital projects at community colleges, ch 219, §1, 2 Acquired immune deficiency syndrome and human immunodeficiency virus

Drug assistance program supplemental drug treatment federal grants, leverage funding, ch 208. §1

Federal and nonstate moneys, ch 204, §4, 15 – 17

Health insurance premium payment program, ch 218, §11

Addictive disorders, ch 218, §2, 3, 11, 48, 67, 97

Administration division of economic development department, ch 212, §3

Administrative hearings division, ch 217, §12, 14

Administrative rules coordinator, ch 217, §9

Administrative services department, ch 215, \$29, 50, 51; ch 216, \$1, 2; ch 217, \$1 – 3; ch 219, \$1 – 3, 14, 15, 23, 25

Federal and nonstate moneys, ch 204, §15 – 18

FY 2008-2009 and 2009-2010, ch 219, §22

Nonreversions, ch 219, §17, 20

Reductions, ch 206, §21, 39; ch 219, §22

Supplementals, ch 206, §1, 19, 20, 39

Transfers, ch 217, §3

Adolescents

See also subheads Children; Youths below

Health status promotion, ch 218, §2

Pregnancy, see subhead Pregnancy and Pregnant Women below

Adoptions

Services provider reimbursements, ch 208, §1

Subsidy payments and services, ch 218, §19, 58, 67

Adult day services

General provisions, ch 218, §1

Program certification, inspection, and regulation, ch 218, §69

African-American historical museum and cultural center in Cedar Rapids, ch 206, §7, 39

Ag-based industrial lubrication technology, ch 212, §23

Aging programs and services, see subhead Elderly Persons below

Agrichemical remediation fund, ch 211, §23

Agricultural and environment performance program of soybean association, ch 211, §26, 30 Agricultural animal diseases, veterinary emergency preparedness and response services, ch 211, §11

Agricultural drainage well water quality assistance program and fund, ch 211, §26, 30

Agricultural exhibition center at state fair, construction, ch 219, §1, 2

Agricultural experiment station of Iowa state university, ch 214, §9

Agricultural health and safety programs at university of Iowa, ch 214, §9

Agricultural land tax credits, state funding for, ch 215, §5, 11

Agricultural products advisory council, ch 212, §23

Agricultural research grants by Leopold center, ch 214, §9

Agricultural safety training, equipment purchases, ch 219, §1, 2

Agricultural worksite and home modification consultations, ch 214, §9

Agriculture, ch 211, §1 - 15

Agriculture and land stewardship department, ch 195, \$9; ch 211, \$1 - 15, 26; ch 215, \$41 Federal and nonstate moneys, ch 204, \$15 - 17, 19

Nonreversions, ch 211, §14, 15, 30

AIDS, see subhead Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus above

Air pollution abatement, control, and prevention, ch 211, §28, 30

Airports, ch 219, §1, 2, 16, 20, 40

Air quality monitoring associated with animal feeding operations, ch 211, §28, 30

Alcohol abuse prevention and treatment, see subhead Substance Abuse Prevention and Treatment below

Alcoholic beverages division, ch 208, §1; ch 217, §7

All Iowa opportunity assistance program, ch 214, §2; ch 215, §33

Alzheimer's disease

Education for care workers and care providers, ch 218, §68

Task force, ch 218, §1

Ambassador to education, ch 108, §36

Ambient air pollution abatement, control, and prevention, ch 211, §28, 30

Americans With Disabilities Act improvements, transportation department, ch 216, §2

American veterans disabled for life memorial, funding contribution, ch 219, $\S1, 2$

Ames complex elevator upgrades, transportation department, ch 216, §2

Anamosa correctional facility, see subhead Corrections Department and Correctional Facilities below

Animal feeding operations regulation, ch 211, §28, 30

Ankeny state multipurpose laboratory, ch 219, §17

Antitrust law enforcement and education, ch 213, §23

Antiviral stockpile management, ch 218, §2

Apiary regulation, ch 211, §6, 26, 30

Area agencies on aging, ch 218, §1

Area education agencies, ch 122, §8, 10, 11; ch 215, §62

Reductions, ch 215, §9, 10

Armories, ch 219, §1, 2

Arts division, ch 212, §1

Assisted living services and programs certification, inspection, and regulation, ch 218, §69

At-risk children programs, ch 215, §62; ch 218, §16

Attorney general, ch 213, §1, 2, 22 – 24; ch 215, §35, 64, 65

Federal and nonstate moneys, ch 204, §5, 15 – 17, 38

Supplementals, ch 215, §35, 40

APPROPRIATIONS — Continued Audiological services for children, ch 218, §97 Auditor of state, ch 217, §5 Federal and nonstate moneys, ch 204, §15 – 17, 20 Auditor of state audit expenses reimbursement by transportation department, ch 216, §1, 2 Auditor of state audit of wireless E911 emergency communications fund, ch 213, §17 Auditor of state audits of district court clerks' offices, expense reimbursement, ch 210, §1 Auditor of state fees for annual review of targeted small business procurement activities goals for state agencies, ch 207, §2, 15, 16, 18 Avian influenza control, ch 211, §5 Aviation, ch 219, §1, 2, 16, 20, 40 Aviation fund, ch 219, §16, 40 Banking division, ch 217, §7 Battle flag collection condition stabilization, ch 219, §1, 2 Before and after school grant program, ch 214, §6; ch 215, §34 Beginning administrator mentoring and induction program, ch 214, §6, 39 Biocatalysis center of university of Iowa, ch 214, §9 Biofuels production and processing facility, ch 219, §21 Biomass production project at university of northern Iowa, ch 206, §6, 39 Biomedical discovery institute at university of Iowa, ch 219, §1, 2, 7 Bioprocessing feedstocks processing facility funding, ch 219, §21 Bioscience, infrastructure-related development and expansion expenses, ch 219, §1, 2 Birth defects registry, ch 214, §9 Birth to age three services for children with disabilities, ch 214, §6 Blind, department for, ch 214, §1 Federal and nonstate moneys, ch 204, §15 – 17, 21 Block grants, see subhead Federal Funds and Grants below Blood lead testing of children, ch 218, §2 Boating programs and facilities, ch 211, §44, 45 Braille and sight saving school, ch 214, §9; ch 219, §9, 10 See also subhead Regents Board and Regents Institutions below Brain injury services, see subhead Mental Health, Mental Retardation, Developmental Disability, and Brain Injury Services below Breast cancer, see subhead Cancer below Breeding of native dogs and horses, ch 211, §3 Brownfield redevelopment program and fund, ch 211, §27, 30 Business community investment advisory council report and recommendations implementation, ch 214, §42, 44 Business development division, ch 212, §3 Business services by secretary of state, ch 217, §19 Camp Dodge facilities, ch 219, §1, 2, 6 Cancer Childhood cancer diagnostic and treatment network programs, ch 214, §9 Control and screening programs, ch 218, §97 Medical assistance for treatment, ch 208, §1 Statewide cancer registry of university of Iowa, ch 214, §9 Capital projects, ch 219, $\S1 - 3$, 6 - 26Capitol and capitol complex See also subhead State Buildings and Facilities below Electrical distribution system, ch 206, §20, 39; ch 219, §1, 2

Hoover building HVAC system improvements, ch 219, §1, 2 Infrastructure construction, remodeling, and renovation projects, ch 219, §1, 2, 20, 22

Energy plant addition and improvements, ch 219, §1, 2

Facility lease payments, ch 219, §1, 2

Capitol and capitol complex — Continued

Judicial building, security of, ch 215, §3

Land purchases and improvements, ch 219, §1, 2, 23

New state office building site acquisition, planning, and energy efficiency requirements, ch 219, §22, 23

Parking lot improvements, ch 219, §23

Records center rent payments, ch 212, §1

Security, ch 215, §3

Shuttle service for downtown Des Moines, ch 215, §29

Wallace building replacement and demolition, ch 219, §22

Worker's monument construction, ch 219, §1, 2

Workforce development building asbestos abatement and renovation feasibility study, ch 219, §1, 2

Cash reserve fund, ch 215, §7

Caucus project, ch 206, §8, 39

Cedar Rapids mental health correctional facility, ch 219, §1, 2

Center for acute disease epidemiology (CADE), bureau chief position, ch 218, §2

Central administration division of human rights department, ch 217, §11

Cervical cancer, see subhead Cancer above

Chemical hazards, ch 218, §2

Chemistry building at Iowa state university, ch 205

Cherokee civil commitment unit capital improvements, ch 219, §1 – 3

Cherokee mental health institute, see subhead Mental Health Institutes below

Child abuse

Prevention, federal grant moneys, ch 218, §7

Sexual abuse prevention initiative, ch 218, §18

Victim services for individuals and families, ch 218, §18

Child advocacy board, ch 217, §12

Child care and development

At-risk children programs, ch 215, §62

Child care assistance and programs, ch 218, §7, 16, 51, 56, 67

Community-based early childhood programs, federal grant moneys, ch 218, §7

Coordinating council for child development, ch 22, §58; ch 215, §62

Early head start pilot projects, ch 214, §6

Educational opportunities for registered child care home providers, federal grant moneys, ch 218, §7

Federal and nonstate moneys, ch 204, §14 – 17

Foster care, group foster care, and foster care review, ch 214, §2; ch 217, §12; ch 218, §18, 20, 67

Preschool tuition and supportive services assistance for low-income parents, ch 181; ch 214, §6, 41, 44

Professional development for system of early care, health, and education, ch 218, \$16

Protective child care assistance, ch 218, §18

Quality rating system for child care providers, development, ch 218, §16

Resource and referral services, ch 218, §16

Children

See also subheads Adolescents above; Families; Youths below; other subheads beginning with "Child" or "Children" under this index heading

Abuse, see subhead Child Abuse above

Access and visitation, federal grant moneys for increasing compliance with court-ordered visitation, ch 218, §10

Adoptions, see subhead Adoptions above

At-risk children programs, ch 215, §62; ch 218, §16

Children — Continued

Audiological services for children, ch 218, §97

Birth defects registry, ch 214, §9

Birth to age three services for children with disabilities, ch 214, §6

Blood lead testing of children, ch 218, §2

Care and development of children, see subhead Child Care and Development above

Child and family services, ch 218, §7, 18, 67

Child health care services of university of Iowa, ch 214, §9

Childhood cancer diagnostic and treatment network programs, ch 214, §9

Children's hospital of Iowa mother's milk bank, ch 218, §2

Children's mental health home and community-based services waiver, waiting list reduction, ch 218, §11, 61, 67, 98

Community partnership for child protection sites, ch 218, §20

Day care, see subhead Child Care and Development above

Dental home for children, ch 218, §74

Dental screening of children program, ch 146; ch 218, §97

Disabled children's program, federal and nonstate moneys, ch 204, §3, 15 – 17

Early childhood coordinator and Iowa website, ch 214, §6

Education, see subheads Education; Schools and School-Related Programs below

Family-to-family health information center, ch 218, §126

Foster care, group foster care, and foster care review, ch 214, §2; ch 217, §12; ch 218, §18, 20, 67

Health insurance program, ch 218, §15, 98, 126

Health specialty clinics, ch 204, §3, 15 – 17; ch 218, §97

Health status promotion, ch 218, §2, 97

Healthy and well kids in Iowa (hawk-i) program, ch 218, §15, 98, 126

Hearing aids for children, ch 218, §97

High-risk infant follow-up program, ch 214, §9

Indigent juveniles, court-appointed attorney fees, ch 213, §10; ch 215, §38

Justice initiative, ch 210, §1

Lead poisoning prevention program, ch 208, §1

Lead testing of children, ch 218, §2

Legal representation of children in marriage dissolutions pilot project, ch 213, §1

Maternal and child health, federal and nonstate moneys, ch 204, §3, 15 - 17

Mental development of children from birth through five years of age, local evidence-based strategies, ch 218, §2, 97

Mental health services, see subhead Mental Health, Mental Retardation, Developmental Disability, and Brain Injury Services below

Obesity prevention, ch 218, §97

Orphans of military veterans, educational assistance, ch 218, §4

Perinatal care program, federal and nonstate moneys, ch 204, §3, 15 – 17

Professional development for system of early care, health, and education, ch 214, §6

Protection center grant program, ch 218, §18

Runaway treatment plans, county grants and renewal of county grants, ch 218, §20

School-based supervision of children adjudicated delinquent, ch 218, §18

Schools, see subheads Education; Schools and School-Related Programs below

Sexual abuse prevention initiative, ch 218, §18

Shelter care funding, limitations, ch 218, §18

Sibling visitation law, implementation of, ch 218, §18

Social services, federal and nonstate moneys, ch 204, §11, 15 – 17

Special needs children, expansion of home health care services and habilitative day care, ch 208, §1

State services, ch 208, §1

Children — Continued

Substance abuse prevention programming, ch 208, §1

Support, see subhead Support of Persons below

Veterans, children of, educational assistance, ch 218, §4

Vision, see subhead Vision below

Visitation, federal grant moneys for increasing compliance with court orders, ch 218, §10

War orphans educational assistance, ch 218, §4

Welfare services, see subhead Child Welfare Services below

Children's justice initiative, ch 210, §1

Child support recovery unit, ch 219, §14, 15

Child welfare services

Decategorization service funding, ch 218, §18, 94 – 96

Training of nonlicensed relatives caring for children, ch 218, §20

Welfare diversion and mediation pilot projects, ch 218, §18

Chore services for elderly persons, ch 218, §1

Chronic care consortium, ch 208, §1

Chronic conditions or special health care needs, ch 218, §2, 97

Chronic wasting disease control program, ch 211, §2

Cigarette tax stamp production costs, ch 186, §33

City development board, ch 212, §23

Civil air patrol, ch 213, §13

Civil rights commission, ch 213, §15

Federal and nonstate moneys, ch 204, §15 – 17, 22

Civil war anniversary commemoration, ch 212, §1

Clarinda correctional facility, see subhead Corrections Department and Correctional Facilities below

Clarinda garage construction, transportation department, ch 216, §2

Clarinda mental health institute, see subhead Mental Health Institutes below

Clarinda youth corporation, reimbursement to state for services to, ch 213, §3, 6

Clear lake restoration project, ch 219, §1, 2, 26

Clinical care unit at Fort Madison correctional facility, ch 208, §1

Close-clearance warning devices along railroad tracks, acquisition and installation, ch 219, \$1.2

Collaborative safety net provider network, ch 218, §97

Collective bargaining agreements for state employees, funding, ch 215, §15, 17, 20

College student aid commission, ch 214, §2 - 4, 27

Federal and nonstate moneys, ch 204, §15 – 17, 23

Supplementals, ch 215, §33

Colon cancer, see subhead Cancer above

Commerce department, ch 215, §52; ch 217, §7, 8

Federal and nonstate moneys, ch 204, §15 – 17, 24

Nonreversions, ch 217, §24, 26

Commercialization services in technology industries, ch 122, §4, 7, 8, 10

Communicable diseases, see subhead Diseases below

Communications network, state (Iowa communications network), ch 219, §14, 15

Community action agencies division, ch 204, §8, 10, 15 – 17

Community action agencies, federal and nonstate moneys, ch 204, §8, 15 - 17

Community assistance, ch 212, §3

Community-based correctional facilities, see subhead Corrections Department and Correctional Facilities below

Community-based mental health and developmental disabilities services fund, ch 218, §26

Community-based services of human services department, federal and nonstate moneys,

ch 204, §11, 15 – 17

Community colleges, ch 206, \$27, 29, 39; ch 209, \$1, 2, 4; ch 214, \$6; ch 215, \$30, 31, 53, 63, 261; ch 219, \$1, 2

Community cultural grants, ch 212, §1

Community development block grant, ch 204, §9, 15 – 17; ch 212, §3; ch 215, §71

Community development division, ch 212, §3; ch 215, §71

Community development loan fund, ch 212, §7

Community empowerment and empowerment areas

General provisions, ch 181; ch 214, §6, 41, 42, 44

Child vision screening, ch 218, §2

Community-level parental obligation pilot projects, ch 218, §8

Community mental health services, see subhead Mental Health, Mental Retardation, Developmental Disability, and Brain Injury Services below

Community partnership for child protection sites, ch 218, §20

Community partnerships, tobacco use prevention and control initiative, ch 208, §1

Community services, federal and nonstate moneys, ch 204, §8, 15 – 17

Compass program, ch 218, §26

Compensation adjustments for state officers and employees, ch 215, §12 – 27

Competition law enforcement, ch 213, §23

Comprehensive underground storage tank fund board, unassigned revenue fund, ch 211, \$21

Confinement feeding operations regulation, ch 211, §28, 30

Congenital and inherited disorders, center for, ch 208, §1

Conner v. Branstad consent decree, training in accordance with, ch 218, §22

Connie Belin & Jacqueline N. Blank international center for gifted education and talent development, ch 214, §6

Conservation of soil and water practices, financial assistance and incentives, ch 211, \$26, 30

Conservation peace officer retiree insurance premium payments, ch 211, §17

Conservation reserve enhancement program, ch 211, §26, 30

Consumer advocate, ch 213, §2

Consumer fraud education and enforcement, ch 213, §24

Cooling system improvements for transportation department, ch 216, §2

Cooperative extension service in agriculture and home economics of Iowa state university, ch 214, §9

Correctional facilities and institutions, see subhead Corrections Department and Correctional Facilities below

Correctional release center, see subhead Corrections Department and Correctional Facilities below

Correctional services departments, ch 208, §1; ch 213, §5, 6; ch 215, §75; ch 218, §32

Corrections department and correctional facilities, ch 208, \$1; ch 213, \$3 – 6; ch 215, \$64, 65; ch 218, \$11, 32; ch 219, \$1, 2, 11 – 15, 25

Federal and nonstate moneys, ch 204, §6, 15 – 17, 25

Nonreversions, ch 219, §19

Reallocation of funds, notice requirement, ch 213, §6

Reductions, ch 215, §74, 75

Restrictions, ch 219, §11 - 13

Supplementals, ch 206, §13, 14, 39; ch 215, §39

Transfers and transfer restrictions, ch 213, §4, 6; ch 218, §11

Corrections offender network (ICON) data system, ch 213, §4, 6; ch 219, §14, 15

Councils of governments, ch 212, §5

County grant program for veterans, ch 218, §4, 65, 67

Court-appointed attorney fees, ch 213, §10; ch 215, §38

Court appointed special advocate program, ch 217, §12

Courts, see subhead Judicial Branch below

Covenant project, ch 217, §11

Crawford county trail projects, ch 219, §1, 2

Credit union division, ch 217, §7

Crimes and criminal offenders

See also subhead Law Enforcement and Law Enforcement Officers below

Child abuse, see subhead Child Abuse above

Correctional services, ch 213, §3 – 6; ch 215, §75

Criminal justice information system, ch 213, §14; ch 219, §14, 15

Dual diagnosis offenders, services for, ch 208, §1

Indigent legal defense, ch 213, §1, 10; ch 215, §38

Least restrictive sanctions, correctional services departments diversion of low-risk offenders to, ch 213, §5, 6

Sex offenses, see subhead Sex Offense Prevention, Offender Treatment, and Victims below

Victims, see subhead Victims and Victim Services below

Violence against women, combating, federal and nonstate moneys, ch 204, §5, 15 – 17

Criminal and juvenile justice planning division, ch 217, §11

Criminal investigation division, ch 206, §15, 39; ch 213, §14

Criminalistics laboratory fund, ch 213, §14

Criminal justice information system, ch 213, §14; ch 219, §14, 15

Critical access hospitals, medical assistance reimbursements, ch 208, §1

Crystal lake restoration project, ch 219, §1, 2, 26

Cultural affairs department, ch 212, §1; ch 219, §1, 2

Federal and nonstate moneys, ch 204, §15 – 17, 26

Nonreversions, ch 206, §7, 39; ch 215, §45, 46, 69

Supplementals, ch 206, §7, 8, 39

Cultural competency project, ch 217, §11

Dairy products control bureau, ch 211, §4

Dangerous wild animal registration fund, ch 195, §9

D.A.R.E. program, ch 217, §10

Day programming for correctional services departments, ch 208, §1

Day services for adults, see subhead Adult Day Services above

Deaf persons, interpreters for, arrangements between school for deaf and Iowa western community college, ch 215, §30

Deaf, school for, ch 214, §9; ch 215, §30; ch 219, §9, 10

See also subhead Regents Board and Regents Institutions below

Deaf services division, ch 217, §11

Decategorization of child welfare and juvenile justice funding initiative, ch 218, §18, 94 – 96

Decision making, institute of, ch 212, §14; ch 215, §73

Defendants sentenced to custody, temporary confinement before transfers, county reimbursement, ch 213, §3, 6

Defibrillator grant program for rural areas, ch 208, §1, 7, 8

Delinquent juveniles, school-based supervision for court-ordered services, ch 218, §18

Dementia education for care workers and care providers, ch 218, §68

Demonstration to maintain independence and employment (DMIE), ch 218, §11

Dental services

Dental home for children, ch 218, §74

Dental screening of children program, ch 218, §97

Donated services program, ch 218, §2

Medical assistance reimbursements, ch 208, §1

Des Moines university — osteopathic medical center, primary health care initiative and forgivable loans, ch 214, §2

Developmental disability services, see subhead Mental Health, Mental Retardation,

Developmental Disability, and Brain Injury Services below

Digital television installation costs for public television facilities, ch 219, §18

Direct care worker task force recommendations, implementation of, ch 218, §97 Disabilities and disability services

American veterans disabled for life memorial, funding contribution, ch 219, $\S1, 2$

Assistive technology, loans to purchase, ch 206, §10, 39

Birth to age three services for children with disabilities, ch 214, §6

Center for disabilities and development of university of Iowa, ch 214, §9

Dental services, donated services program, ch 218, §2

Developmental disability services, see subhead Mental Health, Mental Retardation,

Developmental Disability, and Brain Injury Services below

Direct care worker study recommendations and initiatives, ch 218, §97

Disabled children's program, federal and nonstate moneys, ch 204, §3, 15 – 17

Entrepreneurs with disabilities program, ch 212, §11

Family support subsidy program, ch 218, §21

Family-to-family health information center, ch 218, §126

Iowa compass program, ch 218, §26

Mental disability services, see subhead Mental Health, Mental Retardation,

Developmental Disability, and Brain Injury Services below

Persons with disabilities division of state human rights department, ch 217, §11

Prevention of disabilities policy council, ch 218, §29

Ramp construction for residences, ch 218, §1

Tax credits for disabled persons, state funding for, ch 215, §5, 11

Vocational rehabilitation programs enabling more independent functioning, ch 214, §6

Diseases

See also subhead Health, Health Care, and Wellness below

Acquired immune deficiency syndrome (AIDS), see subhead Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus above

Agricultural animal diseases, veterinary emergency preparedness and response services, ch 211, \$11

Alzheimer's disease, see subhead Alzheimer's Disease above

Antiviral stockpile management, appropriations, ch 218, §2

Avian influenza control, ch 211, §5

Cancer, see subhead Cancer above

Center for acute disease epidemiology (CADE), bureau chief position, ch 218, §2

Chronic conditions or special health care needs, ch 218, §2

Chronic disease services, federal and nonstate moneys, ch 204, §4, 15 – 17

Chronic wasting disease control program, ch 211, §2

Communicable and infectious disease reduction, ch 218, §2

Congenital and inherited disorders, center for, ch 208, §1

Epilepsy, services and support for persons and families living with, ch 208, §1

Hemophilia, see subhead Hemophilia below

Hepatitis prevention and treatment for correctional facility offenders, ch 213, §4, 6

Livestock diseases, see subhead Livestock Diseases below

Phenylketonuria (PKU) patient assistance, ch 208, §1; ch 218, §2

Prevention services enhancement, ch 208, §1

Diversion subaccount of family investment program account, ch 218, §8

Dog racing regulation, ch 211, §3; ch 217, §13

Domestic abuse victims, care provider services grants, ch 213, §1

Domestic violence-related grants, ch 217, §11

Donated dental services program, ch 218, §2

APPROPRIATIONS — Continued Driver's license production costs payments and county issuance costs for automation and telecommunications, ch 216, §1 Drug abuse prevention and treatment, see subhead Substance Abuse Prevention and Treatment below Drug control policy office, ch 204, §15 – 17, 33; ch 217, §10 Drug control policy office (ODCP) prosecuting attorney program, ch 213, §1 Drug court programs, ch 208, §1; ch 218, §18, 32, 57, 67 Drug development program at Oakdale research park, ch 212, §13 Drug policy coordinator, federal and nonstate moneys, ch 204, §6, 7, 15 – 17 Dual diagnosis treatment, substance abuse and gambling addictions, ch 218, §3 E911 systems Administrator and program manager, ch 213, §17 Wireless upgrades and equipment purchases for public safety answering points, ch 213, §16, 17 Eagle Grove national guard readiness center, ch 219, §1, 2 Early and periodic screening, diagnosis, and treatment program options, ch 218, §11 Early care, health, and education services, ch 214, §6 Eastern Iowa community college district water resource training center infrastructure improvements, ch 219, §1, 2 EB Lyons nature and interpretive center at mines of Spain state recreation area, infrastructure improvements, ch 219, §1, 2 Economic development, ch 212, §2 – 20; ch 215, §46, 71 – 73 Economic development department, ch 122, §4, 7, 10; ch 207, §13 – 16, 18; ch 208, §4; ch 209, §1, 2, 4; ch 211, §27; ch 212, §3, 5 – 7; ch 215, §53, 63; ch 217, §8; ch 218, §1; ch 219, §1, 2 Federal and nonstate moneys, ch 204, §9, 15 – 17, 27 Nonreversions, ch 211, §30 Reductions, ch 122, §2, 10; ch 215, §71 Transfers, ch 212, §3, 6, 9, 10; ch 218, §1 Education See also subhead Schools and School-Related Programs below At-risk children programs, ch 215, §62 Career ladder pilots for teacher compensation, ch 108, §41, 42, 45, 64, 65 Community colleges, ch 206, §27, 29, 39; ch 209, §1, 2, 4; ch 215, §30, 31, 53, 63, 261; ch 219, §1, 2 Correctional system centralized program, ch 206, §14, 39 Data warehouse, ch 219, §14, 15 Inmates at state penal institutions, educational programs for, ch 213, §4, 6; ch 215, §74 Math and science education improvement project, ch 122, §8, 10, 11 Pay-for-performance commission in education department, ch 108, §41, 42, 45, 64, 65 Rape prevention education, federal and nonstate moneys, ch 204, §4, 15 – 17 School district professional development, ch 108, §37, 65; ch 215, §103 Skills Iowa technology grant program, ch 206, §9, 39 Teachers, see subhead Teachers below Veterans, children of, educational assistance for, ch 218, §4 Educational excellence program, ch 215, §4 Education data warehouse, ch 214, §6 Education department, ch 108, \$36 - 45, 59, 64, 65; ch 122, \$8, 10, 11; ch 130, \$6; ch 208, \$5; ch 214, §6; ch 215, §30, 31, 62, 103; ch 219, §1, 2, 14, 15 Federal and nonstate moneys, ch 204, §15 – 17, 28 FY 2008-2009 - FY 2010-2011, ch 148, §6, 8

Increases for FY 2007-2008 and 2008-2009, ch 108, §59, 65

APPROPRIATIONS — Continued Education department — Continued Limitations, ch 215, §4 Nonreversions, ch 108, §41, 42, 45, 64; ch 219, §18 Reallocations, ch 214, §42, 44 Reductions for FY 2007-2008 and 2008-2009, ch 214, §41, 44 Supplementals, ch 206, §9 – 11, 39; ch 215, §34 Edward Byrne memorial formula grant program, federal and nonstate moneys, ch 204, §7, 15 - 17Elder affairs department, ch 215, §32; ch 218, §1, 68 Federal and nonstate moneys, ch 204, §15 – 17, 29 Transfers, ch 218, §1, 68 Elderly persons General provisions, ch 218, §1 Case management for frail elderly, ch 218, §1, 68 Consumer and criminal fraud against older Iowans, education and enforcement, ch 213, Dental services for indigent elderly, donated services program, ch 218, §2 Employment, ch 218, §1 Livable community initiative, ch 215, §32 Long-term care resident's advocate program, additional positions, ch 218, §1 Medical assistance elderly waiver, reimbursement of case management services under, ch 218, §1, 68 Professional aging specialist, ch 215, §32 Retired and senior volunteer program, ch 218, §1 Senior farmers market nutrition program, ch 211, §10 Senior living trust fund, ch 218, §68 – 71, 76 Tax credits for elderly persons, state funding for, ch 215, §5, 11 Wellness, ch 218, §2 Eldora state training school, ch 218, §17 Elections administration by secretary of state, ch 215, §76; ch 217, §19 Electrical distribution loop system load break at university of northern Iowa, ch 205 Electronic access to government records, ch 217, §3 Electronic monitoring devices for offenders, ch 213, §5, 6 Emerald ash borer public awareness and information project, ch 211, §8 Emergency communications systems, see subhead E911 Systems above Emergency family assistance, ch 218, §18 Emergency medical services Delivery system, ch 208, §1 Federal and nonstate moneys, ch 204, §4, 15 – 17 Emergency medical services fund, ch 218, §2 Emergency response training facility for state and regional center infrastructure grants, ch 219, §1, 2 Employment appeal board, ch 217, §12 Employment policy group, ch 214, §9 Employment security contingency fund, ch 212, §18 Empowerment board, Iowa, ch 218, §2 Empowerment fund, ch 181; ch 208, §3; ch 214, §6, 41, 42, 44; ch 218, §16 Endowment for Iowa's health account, ch 208, §6; ch 219, §26 Endowment for Iowa's health restricted capitals fund, ch 219, §11 – 13, 23 – 25 Enduring families program, ch 215, §70 Energy See also subhead Utilities below Capitol complex energy plant addition and improvements, ch 219, §1, 2

Energy — Continued

Energy assistance for low-income persons and households, ch 204, \$10, 15 - 17; ch 218,

Independence programs and office of energy independence, ch 206, §5, 39; ch 209; ch 215, §53, 63

Research, development, and commercialization programs, ch 209, §1, 2, 4; ch 215, §53, 63 State energy-efficient building project, ch 217, §24, 26

Enrich Iowa program, ch 214, §6; ch 219, §1, 2

Enterprise resource planning, ch 217, §15; ch 219, §1, 2

Entrepreneurs with disabilities program, ch 212, §11

Environmental crimes investigation and prosecution, ch 213, §22

Environmental epidemiology, scientific and medical expertise development, ch 208, §1

Environmental hazards, ch 218, §2

Environment first fund, ch 211, §26 – 30; ch 215, §8

Epilepsy, services and support for persons and families living with, ch 208, §1

Equestrian trail projects, ch 219, §1, 2

Erosion control, ch 211, §26, 30

Ethics and campaign disclosure board, ch 217, §6

Federal and nonstate moneys, ch 204, §15 – 17, 30

Excursion boat gambling law enforcement, ch 217, §13

Exhaust system improvements for transportation department, ch 216, §2

Export assistance, ch 212, §3

Faculty recruitment, George Washington Carver endowed chair at Iowa state university, ch 214, §10

Fair and fair authority, state, ch 219, §1, 2

Federal and nonstate moneys, ch 204, §15 – 17, 50

Fairfield trail projects, ch 219, §1, 2

Fairs, county, ch 219, §1, 2

Families

See also subhead Children above

Adoptions, see subhead Adoptions above

Development and self-sufficiency grant program, ch 218, §7 – 9

Enduring families program, ch 215, §70

Family investment program, ch 218, §7 – 9, 18

Family support subsidy program, ch 218, §21

Health information center (family-to-family center), ch 218, §126

Health status promotion, ch 218, §2, 97

Minority youth and family projects under child welfare redesign, ch 218, \$20

Parental obligation pilot projects, ch 218, §8

Preservation or reunification project, emergency family assistance, ch 218, §18

Social services, federal and nonstate moneys, ch 204, §11, 15 – 17

State services, ch 208, §1

Support center component under family support subsidy program, ch 218, §21

Treatment and community education services program, expansion, ch 218, \$18

Family farm tax credits, state funding for, ch 215, §5, 11

Family investment program, ch 218, §7 – 9, 18

Family investment program (FIP) account, ch 218, §7 – 9

Family planning network agencies, ch 218, §97

Family practice program of university of Iowa college of medicine, ch 214, §9

Family support subsidy program, ch 218, §21

Farm assistance program, ch 213, §1; ch 215, §35

Farm deer chronic wasting disease control program, ch 211, §2

Farmers with disabilities program, ch 214, §9

Farm management demonstration program, ch 211, §26, 30

Farm mediation services, ch 213, §1; ch 215, §35

Federal child access and visitation grant moneys, ch 218, §10

Federal conservation program assistance, ch 211, §26, 30

Federal funds and grants

General provisions, ch 204

Compensation of state employees and officers, federal funds for, ch 215, §21

Federal prison and out-of-state placement reimbursements, ch 213, §3, 6

Federal total maximum daily load program implementation, ch 211, §22

Field facility deferred maintenance projects of transportation department, ch 216, §2

Field operations of human services department, ch 218, §28, 61, 67

Film office, ch 212, §3

Finance authority, ch 212, §11; ch 215, §70; ch 218, §5, 71; ch 219, §1, 2

Federal and nonstate moneys, ch 204, §15 – 17, 31

Supplementals, ch 203; ch 218, §66, 67

Transfers, ch 203; ch 218, §5, 66, 67

Fingerprint identification system, lease payments for, ch 219, §14, 15

Fire and police retirement system benefits, ch 215, §4

Fire fighters, training and equipment needs of volunteers, ch 213, §14

Fire marshal division, ch 206, §16, 39; ch 213, §14

Fire service and emergency response council, ch 213, §14

Fish and game protection fund, ch 211, §17, 20

Flag collection condition stabilization, ch 219, §1, 2

Flood control, ch 211, §26, 30

Floodplain permit backlog reduction, ch 211, §22

Fluoridation program and start-up fluoridation grants, federal and nonstate moneys, ch 204, \$4, 15-17

Food establishment and processing plant licensing and regulation, ch 215, §214, 221

Food stamp assistance award funds, ch 218, §62, 67

Food stamp employment and training program, ch 218, §8

Fort Dodge correctional facility, see subhead Corrections Department and Correctional Facilities above

Fort Madison correctional facility, see subhead Corrections Department and Correctional Facilities above

Foster care, group foster care, and foster care review, ch 214, §2; ch 217, §12; ch 218, §18, 20, 67

Frank Lloyd Wright hotel, preservation grant, ch 219, §1, 2

Fuel tax administration and enforcement, ch 217, §18

Gambling addiction prevention and treatment, ch 218, §2, 3, 48, 67

Gambling regulation, ch 217, §13

Game bird habitat development programs, ch 194, §3, 4

Garage roofing projects of transportation department, ch 216, §2

General assembly, ch 215, §3

George Washington Carver endowed chair at Iowa state university, ch 214, §10

Gifted and talented education, ch 214, §6

Glenwood state resource center, ch 218, §24, 59, 67

Gold star museum at Camp Dodge, infrastructure improvements, ch 219, §1, 2, 6 Governor, ch 217, §9

Federal and nonstate moneys, ch 204, §6, 7, 15 – 17, 32, 33

Supplementals, ch 206, §2, 3, 5, 20, 39; ch 209, §3, 4

Governor-elect expense fund, ch 206, §3, 39

Governors records, archiving of, ch 212, §1

Grant program, college student aid, ch 214, §2

Grape development funding, ch 211, §13

Great places, ch 212, §1; ch 215, §45, 46, 69

Groundwater protection, see subhead Water and Watercourses below

Grow Iowa values fund, ch 122, §2, 4, 10

Guidance counselors for schools, recruitment, employment, and retention, ch 108, \$40, 65

Gypsy moth detection, surveillance, and eradication, ch 211, §7

Hancock county trail projects, ch 219, §1, 2

Handicaps and handicapped persons, see subhead Disabilities and Disability Services above

Hawk-i program, ch 218, §15, 98, 126

Hazardous waste disposal by transportation department, ch 216, §2

Health care transformation account, ch 218, §74, 75

Health care trust fund, ch 17, §6, 12; ch 218, §76, 97 – 99

Health department, state, see subhead Public Health Department below

Health facilities division, ch 217, §12

Health, health care, and wellness

See also subheads Diseases above; Hospitals and Hospital Services below

General provisions, ch 218, §2, 3, 97

211 system, ch 215, §36; ch 218, §2

Affordable health care plans for small businesses and families, commission on, ch 218, §99

Blood lead testing of children, ch 218, §2

Child health care services of university of Iowa, ch 214, §9

Child health specialty clinics, ch 218, §97

Chronic conditions, ch 218, §2, 97

Collaborative safety net provider network, ch 218, §97

Community health centers, incubation grant program for, ch 218, §97

Data research advisory council, ch 218, §99

Defibrillator grant program for rural areas, ch 208, §1, 7, 8

Dental services, see subhead Dental Services above

Department of public health, see subhead Public Health Department below

Determination of medical home, ch 218, §97

Direct care worker study recommendations and initiatives, ch 218, §97

Early care, health, and education programs, ch 214, §6, 41, 44

Emergency medical services, see subhead Emergency Medical Services above

Family practice program of university of Iowa college of medicine, ch 214, §9

Hawk-i program, ch 218, §15, 98, 126

Health care trust fund, ch 17, §6, 12; ch 218, §76, 97 – 99

Health incentive programs, federal and nonstate moneys, ch 204, §4, 15 – 17

Health promotion enhancement, ch 208, §1

Healthy Iowans 2010 plan, ch 208, §1

Healthy people 2010/healthy Iowans 2010 program, federal and nonstate moneys, ch 204, \$4, 15-17

Home health care services, medical assistance reimbursements, ch 208, §1

HOPES-HFI program, ch 218, §2, 7

Human services department health-related programs, ch 208, §1

Indigent patients, medical and surgical care for, ch 218, §73

Insurance premium payment program, ch 218, §12

Iowa healthcare collaborative, continuation of grant to, ch 218, §11, 98

Local delivery system, ch 218, §2

Local public health infrastructure, ch 218, §97

Maternal and child health, federal and nonstate moneys, ch 204, §3, 15 – 17

Health, health care, and wellness — Continued

Medical assistance, ch 206, \$12, 39; ch 218, \$11, 18, 33, 54, 63, 67, 68, 70, 72 - 76, 98

Medical education, ch 218, §73

Medical examinations, ch 218, §74

Medical information hotline, ch 218, §74

Mental health and disabilities, see subhead Mental Health, Mental Retardation,

Developmental Disability, and Brain Injury Services below

Nursing facilities renovation and construction, ch 219, §1, 2

Personal health improvement plans, development, ch 218, §74

Postnatal tissue and fluid banking for research and medical treatment use, task force for, ch 218, §97

Preventive health services, federal and nonstate moneys, ch 204, §4, 15 – 17

Primary health care initiative of Des Moines university — osteopathic medical center, ch 214, §2

Primary health care initiative of university of Iowa college of medicine, ch 214, §9

Promotion of optimum health status for children, adolescents, and families, ch 218, \$2, 97

Promotion partnership activities, ch 218, §74

Rural health clinics, ch 218, §97

Treatment programs for correctional facility inmates with medical issues, evidence-based practices research study, ch 219, §1, 2

Vision health, see subhead Vision below

Workforce in health care, review of, ch 218, §99

Healthy and well kids in Iowa (hawk-i) program, ch 218, §15, 98, 126

Healthy Iowans tobacco trust, ch 208; ch 218, §76

Healthy opportunities for parents to experience success (HOPES) – health families Iowa (HFI) program, ch 218, §2, 7

Hearing aids for children, ch 218, §97

Heating system improvements for transportation department, ch 216, §2

Hemophilia

Advisory committee, ch 218, §97

Patients, rural comprehensive care for, ch 214, §9

Hepatitis prevention and treatment in correctional facilities, ch 213, §4, 6

Highly structured juvenile program beds, state match funding for, ch 218, §18

High-risk infant follow-up program, ch 214, §9

Highway patrol division, ch 206, §17, 22, 39; ch 213, §14

Highways

General provisions, ch 216, §1, 2

Scale maintenance projects of transportation department, ch 216, §1

Historical division, ch 212, §1

Historical site preservation grants, ch 219, §1, 2

Historic sites, ch 212, §1

HIV, see subhead Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus above

Homeland security and emergency management division, ch 213, §13, 16, 17

Home ownership assistance program for military forces members, ch 203; ch 215, §70; ch 218, §5, 66, 67

Homes, see subhead Housing below

Homestead property tax credits, state funding for, ch 215, §5, 11

Home studies services provider reimbursements, ch 208, §1

Hoover state office building HVAC system improvements, ch 219, §1, 2

Horse racing regulation, ch 211, §3; ch 217, §13

Hospitals and hospital services

See also subhead Health, Health Care, and Wellness above

Children's hospital of Iowa mother's milk bank, ch 218, §2

```
APPROPRIATIONS — Continued
Hospitals and hospital services — Continued
  Medical assistance reimbursements, ch 208, §1
  Psychiatric hospital, state, ch 214, §9
  Publicly owned acute care teaching hospital, ch 218, §73
  University of Iowa hospitals and clinics, ch 204, \$3, 15 - 17; ch 214, \$6; ch 218, \$2, 63, 67,
Hospital trust fund, ch 218, §2
Hotel and motel licensing and regulation, ch 215, §214, 221
Housing
  Housing and shelter-related programs, ch 212, §3; ch 215, §71
  Housing improvement fund, ch 217, §8
  Housing trust fund, ch 219, §1, 2
  Military forces members, home ownership assistance program for, ch 203; ch 215, §70;
       ch 218, §5, 66, 67
  Paroled offenders recovering from substance abuse, transitional housing pilot project,
       ch 213, §4, 6
  Repair services for elderly persons, ch 218, §1
Human immunodeficiency virus, see subhead Acquired Immune Deficiency Syndrome and
    Human Immunodeficiency Virus above
Human rights department, ch 217, §11; ch 218, §8, 29; ch 219, §14, 15
  Federal and nonstate moneys, ch 204, §8, 10, 15 – 17, 34
  Transfers, ch 218, §29
Human services, ch 218, §7 - 31, 33, 67
Human services department and human services institutions, ch 208, §1; ch 215, §1; ch 218,
    \S1, 2, 7 - 31, 33, 67, 68, 70, 72 - 74, 83, 84, 98; ch 219, \S1 - 3, 14, 15
  Federal and nonstate moneys, ch 204, $2, 11, 14 – 17, 35; ch 218, $7, 8, 10, 18, 19, 25
  Increases for FY 2006-2007, ch 218, §51, 54, 67
  Nonreversions, ch 218, §51, 53, 55 – 62, 67, 94, 95
  Supplementals, ch 206, §24, 25, 39
  Transfers, ch 214, §6; ch 218, §1, 7 – 9, 11, 16, 18 – 20, 29, 68, 70, 74, 75, 126
Hungry canyons account, ch 211, §26, 30
Hygienic laboratory, ch 214, §9
Immigrants, new Iowans centers, ch 212, §16
Independence mental health institute, see subhead Mental Health Institutes below
Independent living services provider reimbursements, ch 208, §1
Indigent legal defense, ch 213, §1, 10; ch 215, §38, 64, 65
Indigent persons, see subhead Low-Income Persons below
Indirect cost recoveries by transportation department, payments to general fund, ch 216,
    §1, 2
Infectious diseases, see subhead Diseases above
Infrastructure projects, ch 219, \S1 - 3, 6 - 26
Inherited disorders, center for, ch 208, §1
In-home health services, reimbursements, ch 208, §1
Inspections and appeals department, ch 207, $17, 18; ch 213, $10; ch 215, $64, 65, 214, 221;
     ch 217, §12 – 14; ch 218, §69
  Federal and nonstate moneys, ch 204, §15 – 17, 36
  Supplementals, ch 215, §38
Insurance division, ch 212, §6; ch 215, §52; ch 217, §7
Insurance economic development, ch 212, §6
Integrated information for Iowa system, ch 206, $21, 39; ch 217, $1; ch 219, $1, 2, 8
Integrated substance abuse managed care system, ch 218, §11
Intensive supervision by correctional services departments, ch 213, §5, 6
Intermediate criminal sanctions use by correctional services departments, ch 213, §5, 6
```

APPROPRIATIONS — Continued International fuel tax administration system by transportation department, ch 216, §1 International insurance economic development, ch 212, §6 International office, ch 212, §23 International registration plan by transportation department, ch 216, §1 International trade, ch 212, §3 Interpreters for deaf persons, arrangements between school for deaf and Iowa western community college, ch 215, §30 Inventory and equipment replacement for transportation department, ch 216, §2 Investigations division, ch 217, §12 IowaCare account, ch 206, §12, 39; ch 218, §63, 67, 73, 75 IowAccess and IowAccess fund, ch 217, §3 Iowa City national guard readiness center, ch 219, §1, 2 Iowa communications network (ICN), ch 219, §14, 15 Iowa compass program, ch 218, §26 Iowa corrections offender network (ICON) data system, ch 213, §4, 6; ch 219, §14, 15 Iowa grant program, college student aid, ch 214, §2 Iowa great places, ch 212, §1; ch 215, §45, 46, 69 Iowa healthcare collaborative, continuation of grant to, ch 218, §11, 98 Iowans in transition program, ch 217, §11 Iowa state commission grant program, ch 212, §3 Iowa state university, ch 205; ch 211, §23 – 25; ch 212, §12; ch 214, §9, 10; ch 219, §1, 2, 7, 9, 10 See also subhead Regents Board and Regents Institutions below Iowa valley community college emergency response training center infrastructure improvements, ch 219, §1, 2, 33 IPERS, ch 217, §23 Item vetoes, see ITEM VETOES Jails and holding facilities Jailer training and technical assistance, ch 213, §11 Substance abuse treatment programs, ch 204, §6, 15 – 17 Jewell-Ellsworth trail projects, ch 219, §1, 2 Job development by correctional services departments, ch 213, §5, 6 Job opportunities and basic skills (JOBS) program, ch 218, §7 – 9 Jobs for America's graduates, ch 214, §6 JOBS program, ch 218, §7 – 9 Job training fund, ch 212, §10 Johnson county drug court program, ch 208, §1 Joint public defense/law enforcement academy shoothouse, construction, ch 219, §1, 2 Judicial branch, ch 210, §1, 2; ch 215, §15, 64, 65; ch 218, §18 Changes or transfers, notification requirements and restrictions, ch 210, §1 Federal and nonstate moneys, ch 204, §15 – 17, 37 Nonreversions, ch 218, §57, 67 Supplementals, ch 215, §37 Judicial district correctional services departments, see subhead Correctional Services Departments above Judicial district pilot project for employment and support services for delinquent child support obligors, ch 218, §7 Judicial qualifications commission, ch 210, §1 Judicial retirement fund contribution, ch 210, §2 Junior angus show, ch 215, §41 Justice department, see subhead Attorney General above Justice system, ch 213; ch 215, §35, 38 – 40 Juvenile court services, support for children, ch 218, §18 Juvenile delinquent graduated sanction services, ch 218, §18

APPROPRIATIONS — Continued Juvenile detention home fund, ch 218, §20 Juvenile detention homes, county or multicounty, ch 218, §20 Juvenile home, state, ch 206, §19, 39; ch 218, §17 Juveniles, see subheads Adolescents; Children above; Youths below Keepers of the land program volunteer coordination, ch 211, §28, 30 Laboratory facility (Ankeny), ch 219, §17 Labor services division, ch 212, §16; ch 217, §12 Lakes, see subhead Water and Watercourses below Lakeside laboratory of university of Iowa, ch 214, §9 Larned A. Waterman Iowa nonprofit resource center, appropriations, ch 214, §9 Latino affairs division, ch 217, §11 Law enforcement academy, ch 213, §11; ch 219, §1, 2 Federal and nonstate moneys, ch 204, §15 – 17, 39 Law enforcement and law enforcement officers See also subhead Crimes and Criminal Offenders above Academy, see subhead Law Enforcement Academy above Edward Byrne memorial formula grant program, federal and nonstate moneys, ch 204, $\S7, 15 - 17$ Joint public defense/law enforcement academy shoothouse, construction, ch 219, \\$1, 2 Police officers retirement system benefits, ch 215, §4 Law examiners board, ch 210, §1 Lead poisoning prevention program, ch 208, §1 Lead testing of children, ch 218, §2 Learning technology initiatives, ch 219, §14, 15 Legal representation of children in marriage dissolutions pilot project, ch 213, §1 Legal representation of indigent persons, ch 213, §1, 10; ch 215, §38 Legal services for persons in poverty grants, ch 213, §1; ch 215, §40, 64, 65 Legislature and legislative agencies, ch 215, §3 Leopold center for sustainable agriculture of Iowa state university, ch 214, §9 Libraries Enrich Iowa program, ch 214, §6; ch 219, §1, 2 Infrastructure, ch 219, §1, 2 Service area system, ch 214, §6; ch 219, §1, 2 State library, ch 214, §6 Lieutenant governor, ch 217, §9 Federal and nonstate moneys, ch 204, §15 – 17, 32 Supplementals, ch 206, §2, 3, 5, 39; ch 209, §3, 4 Linn county drug court program, ch 208, §1 Livestock diseases Research fund, ch 214, §9 Veterinary emergency preparedness and response services, ch 211, §11 Local government innovation fund, ch 217, §15 Local option tax collection and distribution costs, ch 217, §17 Loess hills alliance account and development and conservation fund, ch 211, \$26, 30 Long-term care resident's advocate program, additional positions, ch 218, §1 Long-term living and care Direct care worker study recommendations and initiatives, ch 218, §97 Workforce in long-term care, review of, ch 218, §99 Low-income persons Child care and development, see subhead Child Care and Development above Community services, federal and nonstate moneys, ch 204, §8, 15 – 17 Court-appointed attorney fees for indigent adults and juveniles, ch 213, §10; ch 215, §38 Dental services for indigent elderly, donated services program, ch 218, §2

Low-income persons — Continued

Early head start pilot projects, ch 214, §6

Energy assistance and residential weatherization, ch 204, §10, 15 – 17; ch 218, §29

Family investment program, ch 218, §7 – 9, 18

Indigent legal defense, ch 213, §1, 10; ch 215, §38, 64, 65

Legal services for persons in poverty grants, ch 213, §1; ch 215, §40, 64, 65

Maternal and child health programs, federal and nonstate moneys, ch 204, §3, 15 – 17

Medical and surgical care for indigent patients, ch 218, §73

Medical assistance, ch 206, \$12, 39; ch 208, \$1; ch 218, \$11, 18, 33, 54, 63, 67, 68, 70, 72 – 76, 98, 126

Prenatal support, ch 214, §6

Preschool tuition and supportive services assistance for low-income parents, ch 181; ch 214, §6, 41, 44

Rent expense reimbursements, ch 218, §71

Tax preparation assistance by Iowa-based nonprofit organization grant, ch 218, §9

Low-risk criminal offenders, least restrictive sanctions programs, ch 213, §5, 6

Luster Heights correctional facility, see subhead Corrections Department and Correctional Facilities above

Mainstreet program, ch 212, §3; ch 215, §71

Management department, ch 217, §15, 16

Federal and nonstate moneys, ch 204, §15 – 17, 40

Nonreversions, ch 215, §44, 68

Manufacturing, advanced, infrastructure-related development and expansion expenses, ch 219, §1, 2

Maps production, ch 216, §2

Marine fuel tax fund, ch 211, §44, 45

Marketing and compliance activities and manager for targeted small businesses and procurement, ch 207, §15, 16, 18

Marriage dissolutions, pilot project for legal representation of children, ch 213, §1

Marshall county drug court program, ch 218, §18, 57, 67

Maternal health, federal and nonstate moneys, ch 204, §3, 15 – 17

Math education, improvement project, ch 122, §8, 10, 11

Medical and classification center at Oakdale, see subhead Corrections Department and Correctional Facilities above

Medical assistance, ch 206, \$12, 39; ch 208, \$1; ch 218, \$11, 18, 33, 54, 63, 67, 68, 70, 72 – 76, 98, 126

Medical care, see subhead Health, Health Care, and Wellness above

Medical contracts by human services department, ch 218, §13

Medical examiner, state, ch 218, §2

Mental health and developmental disabilities community services fund, ch 218, \$26

Mental health and disability services division, ch 218, §29

Mental health centers, ch 204, §2, 15 - 17

Mental health institutes, ch 218, §2, 23, 27, 73; ch 219, §1 – 3

Mental health issues for correctional facility inmates, evidence-based practices research study, ch 219, §1, 2

Mental health, mental retardation, developmental disability, and brain injury services

Allowed growth in services, ch 206, §25, 39; ch 215, §1; ch 218, §83, 84, 98

Assessment process development, ch 218, §26

Children's mental health home and community-based services waiver, waiting list reduction, ch 218, §11, 61, 67

Community-based services, ch 218, §26

Community mental health block grant, ch 218, §25

Community mental health services, federal and nonstate moneys, ch 204, §2, 15 – 17

Mental health, mental retardation, developmental disability, and brain injury

services — Continued

Community services, ch 218, §7

Community services (local purchase), federal and nonstate moneys, ch 204, \$11, 15-17

Decategorization of services to children, ch 218, §94 – 96

Emergency services, federal and nonstate moneys, ch 204, §2, 15 – 17

Evidence-based practices, federal and nonstate moneys, ch 204, §2, 15 – 17

Family support subsidy program, ch 218, §21

Improvements to mental health services system, ch 218, §29

Local services, purchases by state, ch 218, §26

Prisoners with mental illness, demonstration to maintain independence and employment (DMIE), ch 218, §11

Professional providers of mental health services, shortages of, stipends and placements of interns, ch 218, §97, 102

Property tax relief fund, ch 206, \$24, 25, 39; ch 208, \$2; ch 218, \$83, 84

Reimbursement rate increase for purchases of service providers to counties, ch 208, §2

Resource centers, state, ch 218, §24, 59, 67

State case services, ch 218, §25, 60, 67

Training in accordance with Conner v. Branstad consent decree, ch 218, §22

Vocational rehabilitation programs enabling more independent functioning, ch 214, §6

Workforce expansion and improvement initiatives for mental health treatment and services, ch 218, §2

Mental health transformation project, ch 218, §74

Mental health treatment for criminal offenders, ch 213, §4, 6

Mental illness services, see subhead Mental Health, Mental Retardation, Developmental Disability, and Brain Injury Services above

Mental retardation services, see subhead Mental Health, Mental Retardation,

Developmental Disability, and Brain Injury Services above

Metal casting institute of university of northern Iowa, ch 212, §14; ch 215, §73

Microenterprise study, ch 212, §3

Midwestern higher education compact membership fees, ch 214, §9

Military division, ch 213, §13

Military forces and military affairs

See also subheads National Guard; Veterans and Veterans Affairs below

Enduring families program, ch 215, §70

Home ownership assistance program, ch 203; ch 215, §70; ch 218, §5, 66, 67

Tax credits for military service persons, state funding for, ch 215, §5, 11

Mines of Spain state recreation area, EB Lyons nature and interpretive center infrastructure improvements, ch 219, §1, 2

Minority persons

African-American historical museum and cultural center, ch 206, §7, 39

Inmates at correctional facilities, Muslim imam services for, ch 213, §3, 6

Latino affairs division, ch 217, §11

Status of African-Americans division, ch 217, §11

Status of Iowans of Asian and Pacific Islander heritage division, ch 217, §11

Youth and family projects under child welfare redesign, ch 218, §20

Mississippi river parkway commission participation, ch 216, §1

Mitchellville correctional facility, see subhead Corrections Department and Correctional Facilities above

Mobile and regional child health specialty clinics, federal and nonstate moneys, ch 204, \$3, 15-17

Motor fuel inspection, ch 211, §14, 15

Motor vehicle fuel tax fund, ch 217, §18

Motor vehicle law administration by transportation department, ch 216, §1, 2

Motor vehicle use tax program, ch 217, §18

Motor vehicle use tax receipts, ch 217, §14

Mount Pleasant correctional facility, see subhead Corrections Department and Correctional Facilities above

Mount Pleasant mental health institute, see subhead Mental Health Institutes above

Multijurisdictional drug enforcement programs, ch 217, §10

Music building at university of Iowa, renovation of, ch 205

Muslim imam services at correctional facilities, ch 213, §3, 6

Myentrenet internet application, ch 212, §14; ch 215, §73; ch 219, §14, 15

Narcotics enforcement division, ch 213, §14

National board for professional teaching standards certification awards, ch 108, §36, 65

National conference of insurance legislators, fees for, ch 217, §7

National education center for agricultural safety training, equipment purchases, ch 219, §1,

National governors association membership, ch 217, §9

National guard

See also subhead Military Forces and Military Affairs above

Armories, readiness centers, and facilities, ch 219, §1, 2

Educational assistance program, ch 214, §2

Information technology upgrades, ch 219, §14, 15

National pollutant discharge elimination system permit fund, ch 211, §19

Natural resource-based business opportunities, resource conservation and development, ch 211, §28, 30

Natural resources and natural resource conservation and development, ch 211, \$16 – 22, 26 – 30; ch 219, \$1, 2

Natural resources department, ch 211, §16 – 22, 28, 44, 45; ch 219, §1, 2

Federal and nonstate moneys, ch 204, §15 – 17, 41

Nonreversions, ch 211, §30; ch 219, §26

New Iowans centers, ch 212, §16

Newton correctional facility, see subhead Corrections Department and Correctional Facilities above

Newton national guard readiness center, ch 219, §1, 2

North American industrial classification system for targeted industry areas, ch 209, §1, 2, 4; ch 215, §53, 63

North America's superhighway corridor coalition membership, ch 216, §1

North central correctional facility at Rockwell City, see subhead Corrections Department and Correctional Facilities above

Northeast Iowa community college national education center for agricultural safety training, equipment purchases, ch 219, §1, 2

Northwest Iowa community college emergency response training center infrastructure improvements, ch 219, §1, 2, 33

Novel protein processing facility funding, ch 219, §21

Nurses and nurse educators, forgivable loans for education, ch 214, §4

Nurses for schools, recruitment, employment, and retention, ch 108, §40, 65

Nursing facility medical assistance reimbursements, ch 218, §33, 67

Nursing facility renovation and construction, ch 219, §1, 2

Nutrition programs

Preventive health services, federal and nonstate moneys, ch 204, §4, 15 – 17

Senior farmers market nutrition program, ch 211, §10

Oakdale campus, ch 214, §9

Oakdale correctional facility, see subhead Corrections Department and Correctional Facilities above

APPROPRIATIONS — Continued Oakdale research park, ch 212, §13 Obesity in children, prevention, ch 218, §97 Occupational safety and health inspectors, ch 212, §16 ODCP prosecuting attorney program, ch 213, §1 Odometer fraud enforcement, ch 213, §1 Older persons, see subhead Elderly Persons above Olmstead v. L.C., pilot projects for special needs individuals, ch 218, §11 Online advanced placement academy, ch 214, §6 Open feedlot water quality research project, ch 211, §23 Operating while intoxicated (OWI) violators confinement, county reimbursements, ch 206, §13, 39; ch 213, §3, 6 Organic agricultural products regulation and promotion, ch 211, §12 Orphans of military veterans, educational assistance, ch 218, §4 Osteopathic physician recruitment forgivable loan program, ch 214, §2 Ottumwa national guard armory, ch 219, §1, 2 Parents, see subhead Families above Pari-mutuel racetrack regulation, ch 217, §13 **Parks** Infrastructure, ch 219, §1, 2 Maintenance, ch 211, §28, 30 Parole and parolees Confinement of parole violators, county reimbursements, ch 206, §13, 39; ch 213, §3, 6 Transitional housing pilot project for offenders recovering from substance abuse, ch 213, §4, 6 Treatment and supervision of parole violators by correctional services departments, ch 213, §5, 6; ch 215, §75 Parole board, ch 213, §12 Federal and nonstate moneys, ch 204, §15 – 17, 42 Partner state program, ch 212, §3 Patrol division, ch 206, §17, 22, 39; ch 213, §14; ch 219, §1, 2 Pay adjustments for state officers and employees, ch 215, §12 – 27 Pay-for-performance commission in education department, ch 108, §41, 42, 45, 64, 65 Payment error rate measurement (PERM) program, state match cost, ch 218, §11 Peace officers, see subhead Law Enforcement and Law Enforcement Officers above Penitentiaries, see subhead Corrections Department and Correctional Facilities above Pentacrest at university of Iowa, renewal and HVAC modernization, ch 205 Perinatal care program, federal and nonstate moneys, ch 204, §3, 15 – 17 Pharmaceutical settlement account, ch 218, §72 Phenylketonuria (PKU) patient assistance, ch 208, §1; ch 218, §2 Physical disabilities and persons with physical disabilities, see subhead Disabilities and Disability Services above Physical research, institute for, ch 212, §12 PKU (phenylketonuria) patient assistance, ch 208, §1; ch 218, §2 Poison control center, ch 208, §1 Police officers, see subhead Law Enforcement and Law Enforcement Officers above Polk county drug court program, ch 218, §18, 57, 67 Pollution control Air pollution abatement, control, and prevention, ch 211, §28, 30 Lake restoration, ch 219, §1, 2, 26 National pollutant discharge elimination system permit fund, ch 211, §19 Total maximum daily load program implementation, ch 211, §22 Water quality protection and regulation, see subhead Water and Watercourses below Poor persons, see subhead Low-Income Persons above

Postnatal tissue and fluid banking for research and medical treatment use, task force for, ch 218, §97

Power fund, ch 209, §1, 2, 4; ch 215, §53, 63

Pregnancy and pregnant women

Prevention of adolescent pregnancy at juvenile institutions, ch 218, §17

Prevention program grants, ch 218, §7

Substance abuse prevention and treatment, federal and nonstate moneys, ch 204, §1, 15 – 17

Preschool foundation aid payments to school districts, ch 148, §6, 8

Preschool program for four-year-old children, statewide, ch 214, §6

Preschool tuition and supportive services assistance for low-income parents, ch 181; ch 214, §6, 41, 44

Prescription drug improvement and modernization under Medicare, ch 218, §11

Prevention of disabilities policy council, ch 218, §29

Primary health care initiative of Des Moines university — osteopathic medical center, ch 214, §2

Primary health care initiative of university of Iowa college of medicine, ch 214, §9

Primary road fund, ch 215, §18; ch 216, §2

Prisons and prisoners

Correctional facilities, see subhead Corrections Department and Correctional Facilities above

Prisoners with mental illness, demonstration to maintain independence and employment (DMIE), ch 218, §11

Private institutions of higher education in Iowa, tuition grants to students, ch 214, §27

Probation violators treatment and supervision by correctional services departments, ch 213, §5, 6; ch 215, §75

Professional licensing and regulation bureau, ch 217, §7, 8

Promise and mentoring partnership program, ch 208, §4

PROMISE JOBS program, ch 212, §23; ch 218, §7 – 9

Property rehabilitation tax credit administration, ch 212, §1

Property tax credits, state funding for, ch 215, §5, 11

Property tax relief fund, ch 206, \$24, 25, 39; ch 208, \$2; ch 218, \$18, 62, 67, 83, 84, 98

Prosecuting attorneys training programs, ch 213, §1

Protective child care assistance, ch 218, §18

Psychiatric hospital, state, ch 214, §9

Public broadcasting division, ch 206, §11, 39; ch 214, §6; ch 219, §1, 2, 18

Public defender, state, ch 213, §10; ch 215, §38, 64, 65

Public defense department, ch 213, \$13, 16, 17; ch 215, \$70; ch 219, \$1, 2, 14, 15

Federal and nonstate moneys, ch 204, §15 – 17, 43

FY 2008-2009 and 2009-2010, ch 219, §6

Public employees' retirement system (IPERS), ch 217, §23

Public employment relations board, ch 212, §20

Federal and nonstate moneys, ch 204, §15 – 17, 44

Public health and safety standards and regulation, ch 218, §2

Public health college building at university of Iowa, ch 205

Public health department, ch 159, \$28; ch 208, \$1; ch 215, \$1, 36; ch 218, \$2, 3, 11, 18, 97

Federal and nonstate moneys, ch 204, §1, 3, 4, 15 – 17, 45

Increases for FY 2006-2007, ch 218, §48, 67

Limitations, ch 215, §4

Nonreversions, ch 208, §7, 8; ch 218, §48, 67

Transfers, ch 218, §2, 11, 18

Public health services to enhance health promotion and disease prevention services, ch 208. §1

APPROPRIATIONS — Continued Public safety answering points for wireless E911 phase 2 upgrades and equipment purchases, ch 213, §16 Public safety department, ch 213, §14; ch 215, §23; ch 219, §1, 2, 14, 15 Federal and nonstate moneys, ch 204, §15 – 17, 46 Reallocations, restrictions, ch 213, §14 Reductions, ch 206, §22, 39 Supplementals, ch 206, §15 – 18, 20, 39 Transfers, ch 216, §1 Public safety law enforcement sick leave benefits fund, ch 213, §14 Public safety peace officers' retirement, accident, and disability system contributions, ch 206, §15 – 17, 39; ch 213, §14 Quad-cities graduate studies center, ch 214, §9 Racetrack regulation, ch 217, §13 Racing and gaming commission, ch 217, §13 Racing regulation, ch 211, §3; ch 217, §13 Railroad revolving loan and grant fund, ch 219, §1, 2 Ramp construction for residences, ch 218, §1 Rape prevention, offender treatment, and victims, see subhead Sex Offense Prevention, Offender Treatment, and Victims below Reading instruction pilot project grant program, repeal and reallocations of moneys, ch 214, §42 - 44 Ready-to-learn coordinator for support of community empowerment, ch 214, §6 Real estate commission, ch 206, §27, 29, 39; ch 215, §261 Real estate education programs, ch 206, §27 – 29, 39; ch 215, §261 Rebuild Iowa infrastructure fund, ch 206, \$19, 39; ch 215, \$8, 70; ch 218, \$5; ch 219, \$1 - 3, 6 - 8, 21, 22Records center rent payments, ch 212, §1 Recreational boating programs and facilities, ch 211, §44, 45 Recycling and reuse center of university of northern Iowa, ch 214, §9 Regents board and regents institutions, ch 206, \$27 - 29, 39; ch 214, \$9, 10; ch 215, \$15, 261; ch 218, §73; ch 219, §1, 2, 9, 10, 14, 15, 21 See also subheads Braille and Sight Saving School; Deaf, School for; Iowa State University above; University of Iowa; University of Northern Iowa below Federal and nonstate moneys, ch 204, §15 – 17, 47 FY 2008-2009 and 2009-2010, ch 219, §7 Restrictions, ch 219, §9, 10 Supplementals, ch 206, §6, 12, 28, 39; ch 218, §63, 67 Regional sports authority districts, ch 219, §1, 2 Regional telecommunications councils, ch 214, §6 Registered nurse and nurse educator loan forgiveness program, ch 214, §4 Renewable fuel infrastructure fund, ch 211, §14, 15 Renewable fuels building at Iowa state university, planning, design, and construction, contingency, ch 219, §1, 2, 7, 21 Rent subsidies and reimbursements, ch 218, §71 Research at state universities, ch 212, §12 – 14; ch 215, §73 Residency programs for family practice, ch 214, §9 Resident advocate committee coordination, ch 218, §1 Residential care facilities reimbursements, ch 208, §1 Resource centers, state, ch 218, §24 Resources enhancement and protection fund, ch 211, §29, 30 Respite care Elderly persons, ch 218, §1 Services expansion through home and community-based waivers, ch 208, §1

Retired and senior volunteer program, ch 218, §1

Revenue department, ch 177, §5, 8; ch 217, §17, 18

Federal and nonstate moneys, ch 204, §15 – 17, 48

Supplementals, ch 206, §4, 39

Risk pool, ch 218, §18, 62, 67

Road and weather conditions information system, ch 216, §1

Road use tax fund, ch 206, §23, 39; ch 215, §18; ch 216, §1; ch 217, §16, 22

Rockwell City correctional facility, see subhead Corrections Department and Correctional Facilities above

Runaway children treatment plan renewal, ch 218, §20

Rural community 2000 fund, ch 212, §5

Rural comprehensive care for hemophilia patients, ch 214, §9

Rural mainstreet program, ch 212, §3; ch 215, §71

Sabin hall at university of northern Iowa, renovation, ch 205

Salary adjustments for state officers and employees, ch 215, §12 – 27

Salary model administrator, ch 217, §15

Schools and school-related programs

See also subhead Education above

General provisions, ch 214

Accreditation of districts, ch 214, §6

Before and after school grant program, ch 208, §5; ch 214, §6; ch 215, §34

Dental screening of children program, ch 218, §97

District sharing and operations efficiencies, ch 130, §6

Educational excellence program, ch 215, §4

Food service, ch 214, §6

Guidance counselors for schools, recruitment, employment, and retention, ch 108, \$40, 65

Instructional support state aid, ch 215, §4

Nurses for schools, recruitment, employment, and retention, ch 108, §40, 65

Preschool foundation aid payments to school districts, ch 148, §6, 8

Preschool program for four-year-old children, statewide, ch 214, §6

Reorganization feasibility studies by education department, ch 214, §6

School infrastructure local option tax administration costs, ch 217, §17

School ready children grants account, ch 181; ch 208, §3; ch 214, §6, 41, 44

Supervision of children adjudicated delinquent, ch 218, §18

Supplemental strategies and educational services grant program, ch 214, §6, 37

Teacher librarians, recruitment, employment, and retention, ch 108, §40, 65

Teachers, see subhead Teachers below

Transportation for nonpublic schools, payments by state, ch 215, §4

Vocational education, see subhead Vocational Education below

School-to-career programs, ch 212, §3; ch 215, §71

Science and technology research park, ch 212, §12

Science education, improvement project, ch 122, §8, 10, 11

Secretary of state, ch 215, §76; ch 217, §19; ch 219, §1, 2, 7

Federal and nonstate moneys, ch 204, §15 – 17, 49

Senior citizens, see subhead Elderly Persons above

Senior farmers market nutrition program, ch 211, §10

Senior living program, ch 218, §68

Senior living trust fund, ch 215, §5, 11; ch 218, §68 – 71, 76

Sensitivity training program, ch 217, §11

Service contract providers, purchase of, reimbursement increase, ch 208, §2

Service providers under human services department, reimbursements, ch 208,

Sex offense prevention, offender treatment, and victims

Care providers of services to victims, grants, ch 213, §1

Cherokee civil commitment unit capital improvements, ch 219, §1 – 3

Child sexual abuse prevention initiative, ch 218, §18

Child victims and offenders, services to, decategorization, ch 218, §94 – 96

Domestic violence and sexual assault-related grants, ch 217, §11

Rape prevention education, federal and nonstate moneys, ch 204, §4, 15 – 17

Services to victims, federal and nonstate moneys, ch 204, §4, 15 – 17

Sexually violent predator commitment and treatment costs, ch 218, §27

Sexual predator evaluations in commitment proceedings, ch 215, §64, 65

Sexual violence prevention programming, ch 218, §2

Treatment of sex offenders by correctional services departments, ch 213, §5, 6

Treatment programs for correctional facility inmates, evidence-based practices research study, ch 219, \$1, 2

Sexually transmitted diseases, see subhead Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus above

Shelter care

Limits, ch 218, §18

Services provider reimbursements, ch 208, §1

Shorthand reporters examiners board, ch 210, §1

Sibling visitation law, implementation of, ch 218, §18

Siouxland interstate metropolitan planning council for the tristate graduate center, ch 214, §9

Skills Iowa technology grant program, ch 206, §9, 39

Small business

Small business development centers, ch 212, §12

Targeted small business programs, see subhead Targeted Small Businesses below

Snowmobile fees, special snowmobile fund, ch 211, §20

Snowmobile law enforcement, ch 211, §20

Snowmobile trail projects, ch 219, §1, 2

Social services federal block grant, ch 204, §11, 15 – 17; ch 218, §7, 9, 26

Soil and water conservation district commissioners, administrative expenses reimbursement, ch 211, §9

Soil conservation practices, financial assistance and incentives, ch 211, §26, 30

Southern Iowa development and conservation fund, ch 211, §26, 30

Southwest Iowa graduate studies center, ch 214, §9

Soybean association agricultural and environment performance program, ch 211, §26, 30

Spanish language teacher training in reading recovery pilot projects, ch 214, §42, 44

Special employment security contingency fund, ch 212, §18

Special needs individuals, pilot projects for medical assistance under Olmstead v. L.C. decree, ch 218, §11

Sports authority regional districts, ch 219, §1, 2

State buildings and facilities

See also subhead Capitol and Capitol Complex above

General provisions, ch 219, §1, 2

Agricultural exhibition center at state fair, construction, ch 219, §1, 2

Braille and sight saving school, ch 219, §9, 10

Building project to house utilities board and consumer advocate division, ch 217, §24, 26

Camp Dodge facilities, ch 219, §1, 2, 6

Cedar Rapids mental health correctional facility, ch 219, §1, 2

Cherokee civil commitment unit capital improvements, ch 219, §1, 2

Correctional facilities, see subhead Corrections Department and Correctional Facilities above

State buildings and facilities — Continued

Deaf, school for, ch 219, §9, 10

Emergency response training facility for state, ch 219, §1, 2

Emergency response training regional centers, infrastructure grants program, ch 219, §1, 2.

Fair and fairgrounds, see subhead Fair and Fair Authority, State, above

Joint public defense/law enforcement academy shoothouse, construction, ch 219, §1, 2

Laboratory facility (Ankeny), ch 219, §17

National guard armories, readiness centers, and facilities, ch 219, §1, 2

Parks, see subhead Parks above

Patrol post construction, ch 219, §1, 2

Regents institutions, see subhead Regents Board and Regents Institutions above

Terrace Hill, ch 206, §2, 20, 39; ch 217, §9

Veterans home, state, ch 218, §4, 50, 67; ch 219, §1, 2, 24, 25

State employees

Collective bargaining agreements for state employees, funding for, ch 215, \$15, 17, 20

Compensation adjustments, ch 215, §12 – 27

State-federal relations office, federal and nonstate moneys, ch 204, §15 – 17, 51

State-federal relations staff and support, ch 217, §9

State patrol division, ch 206, §17, 22, 39; ch 213, §14; ch 219, §1, 2

Status of African-Americans division, ch 217, §11

Status of Iowans of Asian and Pacific Islander heritage division, ch 217, §11

Status of women division, ch 217, §11

Stop violence against women, federal and nonstate moneys, ch 204, §5, 15 – 17

Storm lake restoration project, ch 219, §1, 2, 26

Stormwater discharge permit fees, ch 211, §22

Strategic investment fund, ch 207, §14, 18; ch 212, §3

Student achievement and teacher quality program, ch 108, §36 – 45, 59, 65; ch 215, §103

Student financial aid programs, see subhead College Student Aid Commission above Study circle project, ch 217, §11

Substance abuse prevention and treatment

General provisions, ch 208, §1; ch 218, §2, 48, 67, 97

Alcoholic beverage sales by state, revenue use for prevention and treatment programs, Code correction, ch 126, §23

Children, substance abuse prevention programming, ch 208, §1

Consortium for substance abuse research and evaluation of university of Iowa, ch 214, §9

Correctional facility inmate treatment programs, evidence-based practices research study, ch 219, §1, 2

Correctional facility programs, federal and nonstate moneys, ch 204, §6, 15 – 17

Counselor and program at Luster Heights correctional facility, ch 213, §3, 6

Criminal offenders, treatment for, ch 213, §4, 6

Culturally competent treatment pilot projects, ch 218, §97

Decategorization of services to children, ch 218, §94 – 96

Drug abuse resistance education (D.A.R.E.) program, ch 217, §10

Drug control policy office, ch 204, §15 – 17, 33; ch 217, §10

Drug control policy office (ODCP) prosecuting attorney program, ch 213, §1

Drug court programs, ch 208, §1; ch 218, §18, 32, 57, 67

Drug policy coordinator, federal and nonstate moneys, ch 204, §6, 7, 15 – 17

Federal and nonstate moneys, ch 204, §1, 15 – 17

Federal substance abuse and mental health services administration (SAMHSA) system of care grant, state match funding, ch 218, \$20

Health care trust fund, ch 17, §6, 12; ch 218, §76, 97

APPROPRIATIONS — Continued

Substance abuse prevention and treatment — Continued

Integrated substance abuse managed care system, ch 218, §11

Paroled criminal offenders recovering from substance abuse, transitional housing pilot project, ch 213, §4, 6

Substitute decision makers and decision-making services, state and local offices, ch 218, §1

Supplemental strategies and educational services grant program, ch 214, §6, 37

Supplementary assistance program, ch 208, §1; ch 218, §14, 55, 67

Support of persons

Child support public awareness campaign, ch 218, §10

Child support recovery, ch 218, §10, 53, 67

Delinquent child support obligors, employment and support services pilot project, ch 218, §7

Neutral visitation sites and mediation services, federal and nonstate moneys, ch 218, §10

Payment processing equipment for child support recovery unit, ch 219, §14, 15

Payment receipt and disbursement by district court, ch 210, §1

Surgical care, see subhead Health, Health Care, and Wellness above

TANF (Temporary Assistance for Needy Families) block grant, ch 218, §7, 9, 18, 51, 67

Targeted industry areas of advanced manufacturing, bioscience, and information

technology, infrastructure development and expansion expenses, ch 219, §1, 2

Targeted small businesses

Advocate service providers, ch 207, §13, 18

Certification, ch 207, §17, 18

Financial assistance program and account, ch 207, §14 – 16, 18

Tax-exempt bond proceeds restricted capital funds account of tobacco settlement trust fund, ch 206, \$20, 39; ch 219, \$17 – 20

Tax preparation assistance for low-income persons by Iowa-based nonprofit organization grant, ch 218, §9

Teacher librarians, recruitment, employment, and retention, ch 108, \$40, 65 Teachers

Career ladder pilots, ch 108, §41, 42, 45, 64, 65

Evaluator training program, ch 108, §37, 65

Market factor incentives, ch 108, §36, 39, 65

National board for professional teaching standards certification awards, ch 108, §36, 65

Professional development program requirements, ch 108, §37, 65; ch 215, §103

Salaries, ch 108, §37, 65

Spanish language teacher training in reading recovery pilot projects, ch 214, §42, 44

Student achievement and teacher quality program, ch 108, §36 - 45, 65; ch 215, §103

Teacher development academies, ch 108, §38, 65

Teacher quality committees, model evidence development, ch 108, §37, 65

Teacher shortage loan forgiveness program, ch 214, §2, 30

Technology industry development, ch 122, §4, 7, 8, 10, 11; ch 219, §1, 2

Technology reinvestment fund, ch 219, §14, 15

Telecommunications and technology commission, ch 219, §14, 15

Federal and nonstate moneys, ch 204, §15 – 17, 52

Telephone reassurance, information, and assistance for elderly persons, ch 218, §1

Telephone road and weather conditions information system, ch 216, §1

Temporary assistance for needy families (TANF) block grant, ch 218, §7, 9, 18, 51, 67

Terrace Hill, ch 206, §2, 20, 39; ch 217, §9

Textbooks for nonpublic school pupils, ch 214, §6

Tobacco product tax stamp production costs, ch 186, §33

Tobacco settlement moneys

General provisions, ch 208

Endowment for Iowa's health account, ch 208, §6; ch 219, §26

APPROPRIATIONS — Continued

Tobacco settlement moneys — Continued

Endowment for Iowa's health restricted capitals fund, ch 219, §11 – 13, 23 – 25

Healthy Iowans tobacco trust, ch 208; ch 218, §76

Tax-exempt bond proceeds restricted capital funds account, ch 206, \$20 – 22, 39; ch 219, \$17 – 20

Tobacco use prevention, cessation, and control

General provisions, ch 208, §1; ch 218, §2, 48, 67

Health care trust fund, ch 17, §5, 6, 12; ch 218, §76, 97

Toledo state juvenile home, ch 218, §17

Total maximum daily load program implementation by natural resources department, ch 211, §22

Tourism division, ch 212, §23

Tourism operations, ch 212, §3; ch 215, §71

Trails, ch 219, §1, 2, 18

Training school, state, ch 218, §17

Transitional housing pilot project for paroled criminal offenders recovering from substance abuse, ch 213, §4, 6

Transportation department, ch 216; ch 219, §1, 2, 16, 40

Federal and nonstate moneys, ch 204, §15 – 17, 54

Nonreversions, ch 219, §18, 20

Transfers, ch 216, §1; ch 217, §3

Trauma medical services delivery system, ch 208, §1

Treasurer of state, ch 217, §21, 22; ch 219, §1, 2

Federal and nonstate moneys, ch 204, §15 – 17, 53

Supplementals, ch 206, §23, 39

Transfers, ch 217, §3

Tristate graduate center, ch 214, §9; ch 219, §14, 15

Tuition grants, ch 214, §2, 4, 27

Undercover purchases by narcotics enforcement division, ch 213, §14

Underground storage tank section of natural resources department, ch 211, §21

Unemployment compensation

Administration, Social Security Act moneys, ch 212, §25

Transportation department, ch 216, §1, 2

Unemployment compensation reserve fund, ch 212, §19

University of Iowa, ch 204, §3, 15 – 17; ch 205; ch 212, §13; ch 214, §6, 9; ch 218, §2; ch 219, §1, 2, 7

See also subhead Regents Board and Regents Institutions above

University of Iowa hospitals and clinics, ch 204, §3, 15 – 17; ch 206, §12, 39; ch 214, §6; ch 218, §2, 63, 67, 73

University of northern Iowa, ch 205; ch 206, §6, 28, 39; ch 212, §14; ch 214, §9; ch 215, §73; ch 219, §1, 2, 14, 15

See also subhead Regents Board and Regents Institutions above

Use tax receipts, ch 217, §14

Utilities

See also subhead Energy above

State agency utility costs, ch 206, \$1, 39; ch 215, \$50, 51; ch 216, \$1, 2; ch 217, \$1

Utilities division, ch 217, §7, 24, 26

Vaccines for immunizations, purchases by public health department, ch 218, §2

Value-added agricultural products and processes financial assistance program and fund, ch 212. §3

Vehicle dispatch fueling station relocation, ch 219, §1, 2

1051 **INDEX** APPROPRIATIONS — Continued Vehicle registrations and titles, issuance costs for automation and telecommunications, ch 216, §1 Vertical infrastructure fund, ch 219, §9, 10 Veterans affairs department, ch 176, §3; ch 218, §4, 5; ch 219, §1, 2, 24, 25 Federal and nonstate moneys, ch 204, §15 – 17, 55 Nonreversions, ch 218, §49, 50, 65, 67 Transfers, ch 203; ch 215, §70; ch 218, §5, 50, 66, 67 Veterans and veterans affairs See also subhead Military Forces and Military Affairs above American veterans disabled for life memorial, funding contribution, ch 219, §1, 2 Children of veterans, educational assistance for, ch 218, §4 County grant program for veterans, ch 218, §4, 65, 67 Injured veterans grant program, ch 203; ch 218, §66, 67 State cemetery, ch 218, §49, 64, 67 Vietnam veterans bonus, ch 176, §3 Veterans home, state, ch 218, §4, 50, 67; ch 219, §1, 2, 24, 25 Veterans trust fund, ch 218, §4, 5, 64, 67 Veterinary diagnostic laboratory at Iowa state university, ch 211, §24, 25; ch 219, §9, 10 Veterinary emergency preparedness and response services, ch 211, §11 Vetoes, see ITEM VETOES Victim compensation fund, ch 213, §1 Victims and victim services Assistance grants and grant program, ch 213, §1 Care providers, grants, ch 213, §1 Child abuse victim services, ch 218, §18 Decategorization of services to child sexual abuse victims, ch 218, §94 – 96 Sex crime victim services, federal and nonstate moneys, ch 204, §4, 15 – 17 Sexual assault or abuse victims, care provider services grants, ch 213, §1

Vietnam Conflict veterans bonus, ch 176, §3

Viral hepatitis prevention and treatment in correctional facilities, ch 213, §4, 6 Vision

Health initiatives for children, ch 218, §97

Screening for children, ch 218, §2

Vital records administration, ch 159, §28

Vocational education

Administration, ch 214, §6

Agriculture youth organization, ch 214, §6

Secondary school expense reimbursement, ch 214, §6

Sexual violence victims assistance programs, ch 218, §2

Vocational rehabilitation services division, ch 206, §10, 39; ch 214, §6

Vocational-technical tuition grants, ch 214, §27

Volunteers and volunteerism

Human services department, services development and coordination by, ch 204, §11, 15 – 17; ch 218, §30

Volunteer services commission, ch 208, §4; ch 218, §1

War orphans educational assistance fund, ch 218, §4

Wastewater treatment financial assistance program, ch 219, §1, 2

Water and watercourses

Agricultural drainage well water quality assistance program and fund, ch 211, \$26, 30

Conservation practices, financial assistance and incentives, ch 211, §26, 30

Fluoridation program and fluoridation start-up grants, federal grant moneys, ch 204, §4, 15 - 17

Groundwater protection, ch 211, §18

APPROPRIATIONS — Continued

Water and watercourses — Continued

Lake dredging and renovation, ch 211, §44, 45

Lake projects, watershed improvement and restoration initiatives, ch 219, \$1, 2, 26

Low head dam public hazard improvement program, ch 219, §1, 2

National pollutant discharge elimination system permit fund, ch 211, §19

Open feedlot water quality research project, ch 211, §23

River recreation area infrastructure improvements, ch 219, §1, 2

Stormwater discharge permit fees, ch 211, §22

Total maximum daily load program implementation, ch 211, §22

Wastewater treatment financial assistance program, ch 219, §1, 2

Water quality and habitat improvement revegetation efforts, ch 211, §26, 30

Water quality from surface and subsurface sources, regulation of, ch 211, §28, 30

Water quality monitoring stations, ch 211, §28, 30

Water quality program volunteer efforts, ch 211, §28, 30

Water quality protection fund, ch 211, §28, 30

Water rescue training center at eastern Iowa community college, ch 219, §1, 2

Watershed improvement projects, ch 219, §1, 2

Watershed management, geographic information system data, ch 211, §28, 30

Wetlands restoration and construction, ch 211, §26, 30

Waterloo national guard aviation armory, ch 219, §1, 2

Weatherization programs for low-income households, federal and nonstate moneys, ch 204, §10, 15 – 17

Welfare reform reporting, tracking, and case management technology needs, ch 218, \$7

Wellness, see subhead Health, Health Care, and Wellness above

West capitol terrace restoration costs, ch 219, §1, 2

Wetlands restoration and construction, ch 211, §26, 30

Wine development funding, ch 211, §13

Wireless E911 emergency communications fund, ch 213, §16, 17

Women

Abortion services, see subhead Abortion Services above

Breast cancer, medical assistance for treatment, ch 208, §1

Cervical cancer, medical assistance for treatment, ch 208, §1

Children's hospital of Iowa mother's milk bank, ch 218, §2

Crimes against women, stopping, federal and nonstate moneys, ch 204, §5, 15 – 17

Domestic violence and sexual assault-related grants, ch 217, §11

Iowans in transition program, ch 217, §11

Maternal and child health programs, federal and nonstate moneys, ch 204, \$3, 15-17

Perinatal care program, federal and nonstate moneys, ch 204, §3, 15 – 17

Pregnancy and pregnant women, see subhead Pregnancy and Pregnant Women above

Prenatal support for low-income families, ch 214, §6

Rape prevention education, federal and nonstate moneys, ch 204, §4, 15 – 17

Sex offense victims, grants for care providers, ch 213, §1

Sex offense victims, services to, federal and nonstate moneys, ch 204, §4, 15 – 17

Status of women division, ch 217, §11

Stop violence against women, federal and nonstate moneys, ch 204, §5, 15 – 17

Substance abuse prevention and treatment for pregnant women and women with dependent children, federal and nonstate moneys, ch 204, §1, 15 – 17

Women's correctional institution, see subhead Corrections Department and Correctional Facilities

Woodbury county drug court program, ch 218, §18, 57, 67

Woodward state resource center, ch 218, §24, 59, 67

Workers' compensation

Appeal processing automated system, ch 219, §14, 15

APPROPRIATIONS — Continued

Workers' compensation — Continued

State patrol division costs, ch 206, §17, 39; ch 213, §14

Transportation department employee claims, ch 216, §1, 2

Workers' compensation division, ch 212, §16, 18

Worker's monument construction on capitol complex, ch 219, §1, 2

Workforce development, ch 212, §2 – 25

Workforce development building asbestos abatement and renovation feasibility study, ch 219, §1, 2

Workforce development department, ch 212, §16, 18, 19, 25; ch 217, §12; ch 219, §14, 15

Federal and nonstate moneys, ch 204, §15 – 17, 56

Workforce development fund, ch 212, §8 – 10

Workforce development state and regional boards, ch 212, §16

Workforce recruitment, ch 212, §3

Workforce training and economic development funds for community colleges, ch 209, \$1, 2, 4; ch 215, \$53, 63; ch 219, \$1, 2

Work release violators confinement, county reimbursements, ch 206, §13, 39; ch 213, §3, 6 Work-study program, ch 214, §3

World food prize, ch 212, §3; ch 215, §72

Wright, Frank Lloyd, hotel, preservation grant, ch 219, §1, 2

Youths

See also subheads Adolescents; Children above

Clarinda youth corporation, reimbursement to state for services to, ch 213, $\S 3$, 6

Minority youth and family projects under child welfare redesign, ch 218, §20

AQUARIUMS

Dangerous wild animal regulation exception and acceptance of confiscated animals, ch 195, \$5, 7

ARCHITECTURE AND ARCHITECTS

See also COMMERCE DEPARTMENT, subhead Professional Licensing and Regulation Bureau; PROFESSIONS

Iowa great places, see GREAT PLACES

Landscaping and landscape architects, see LANDSCAPING AND LANDSCAPE ARCHITECTS AND ARCHITECTURE

Licensing and regulation, ch 126, §20, 62, 97; ch 170, §7

National guard facilities design, design-build contracts authorized by armory board, ch 74, \$2

Service-oriented architecture for administrative services department projects, establishment appropriations, ch 219, \$14, 15

State office building, new construction, energy efficiency and environmental design minimum requirements, ch 219, §22

ARCHIVES, STATE

Governors records, archiving of, appropriations, ch 212, §1

AREA AGENCIES ON AGING

Appropriations, ch 218, §1

Boards of directors, member selection, ch 81

Employment practices of area agencies on aging, suggestions from elder residents, ch 218, 838

Long-term living resources system team membership and duties, ch 92

Matching funds for elderly services, ch 218, §1

Senior living trust fund moneys, use for administrative purposes prohibited, ch 218, §68

AREA EDUCATION AGENCIES

See also EDUCATION, EDUCATORS, AND EDUCATIONAL INSTITUTIONS

Administrator quality program, ch 108, §2, 3, 10, 50 – 58, 60 – 63

Aid by state under school foundation program, reductions and reduction limitations, ch 215, §9, 10

Appropriations, see APPROPRIATIONS

At-risk children program assistance, appropriations, ch 215, §62

Budgets, aid by state, reductions, ch 215, §9, 10

Child care and preschool providers, professional development for, appropriations, ch 214, \$6

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1, 11, 12

Education data warehouse, implementation, appropriations, ch 214, §6; ch 219, §14, 15

Math and science education improvement activities, ch 122, §8, 10, 11

Medical assistance reimbursement rates exception, ch 218, §31

Motor vehicle fuel purchased and used, Code correction, ch 126, §50

Preschool program for four-year-old children, statewide, collaboration with, ch 148, §3

Professional development Appropriations, ch 215, §103

Plans, rules, ch 108, §1

School district reorganization administration, see SCHOOLS AND SCHOOL DISTRICTS, subhead Reorganization of School Districts

School district sharing and operations efficiencies, planning appropriations, ch 130, §4, 6

School ready children grant program, appropriations, ch 181; ch 208, §3

Student achievement and teacher quality program, see TEACHING AND TEACHERS

Student teaching and educational experiences in area education agencies, contracts between preparation programs and agencies, ch 215, \$101

Supplementary weighting for shared operational expenses with school districts, ch 130, \$4 Teachers

See also TEACHING AND TEACHERS

Salary appropriations, allocation formula for, ch 108, §44

AREA SCHOOLS

See COMMUNITY COLLEGES AND MERGED AREAS

ARMIES AND ARMED FORCES

See MILITARY FORCES AND MILITARY AFFAIRS

ARMORIES

National guard, see NATIONAL GUARD

ARMS

See WEAPONS

ARRESTS

Criminal offenders previously released on pretrial release or personal recognizances, eligibility for release, repealed, ch 215, §134

Domestic abuse arrests, see DOMESTIC ABUSE AND VIOLENCE, subhead Arrested Persons

Final disposition reports, ch 38, §7, 8

Wanted persons, redissemination of arrest data by criminal and juvenile justice agencies, ch 38, \$5

ARSON

Real estate broker and salesperson licensees and licensure applicants convicted of arson, ch 187

ARTS AND ARTWORKS

See also CULTURE AND CULTURAL RESOURCES

Before and after school grant program, approved instructional programs, ch 208, \$5; ch 214, \$6, 19; ch 215, \$34

Correctional services departments youth leadership model program to help at-risk youth, ch 213, §5, 6

Cultural trust, use of grant account moneys, ch 73

Division of arts in state cultural affairs department, see CULTURAL AFFAIRS DEPARTMENT, subhead Arts Division

Film, television, and video project expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Graphic arts training and consulting group, application for appropriations, ch 212, \$23 Iowa great places, see GREAT PLACES

ARTS DIVISION

See CULTURAL AFFAIRS DEPARTMENT

ASBESTOS

Removal and encapsulation, ch 125

Workforce development building asbestos abatement and renovation feasibility study, appropriations, ch 219, §1, 2

ASIAN PERSONS

Division on status of Iowans of Asian and Pacific Islander heritage in state human rights department, see HUMAN RIGHTS DEPARTMENT, subhead Status of Iowans of Asian and Pacific Islander Heritage Division

Minority persons, see MINORITY PERSONS

Targeted small business financial assistance board, representation, ch 207, §8, 12, 18

ASSAULT

Domestic abuse assault, see DOMESTIC ABUSE AND VIOLENCE

Flag of United States, desecration of, criminal offenses and exceptions, ch 202, \$15 Harassment, see HARASSMENT

Sexual assault, see SEXUAL ABUSE

Stalking, no-contact orders for victims, ch 180, §4 – 11

Victims, see VICTIMS AND VICTIM RIGHTS

ASSEMBLIES

Memorial building commissions, membership and quorum, ch 21

ASSESSMENTS AND ASSESSORS

Appraisal manual, preparation and issuance by state, ch 217, §17

Property assessment appeal board, compensation of members, ch 215, §27

ASSIGNMENTS

Mortgages assigned to lenders, priority of with regard to mechanics' liens, ch 83, \$12-14

ASSISTED LIVING SERVICES AND PROGRAMS

Certification, inspection, and regulation, ch 215, §160 - 183, 206; ch 218, §69

Nursing facility construction, renovation, or replacement, regulation exceptions for provision of services, ch 219, §39, 41, 43

Patients, deaths of, pronouncements by nurses, ch 159, §29, 30

ASSOCIATION OF COUNTIES

Abraham Lincoln bicentennial commission member appointment, ch 215, §98

ASSOCIATION OF COUNTIES — Continued

Local government innovation commission member appointments, ch 117, §2, 7 Mental health, mental retardation, developmental disability, and brain injury services provided by counties, information technology needs addressed, proposal for, ch 218, §90, 92

ATHLETICS, ATHLETES, AND TRAINERS

Correctional services departments youth leadership model program to help at-risk youth, ch 213, §5, 6

Hy-Vee world cup triathlon, see HY-VEE WORLD CUP TRIATHLON

Sports authority regional districts, establishment and appropriations, ch 219, §1, 2, 32 Training and trainers of athletes

See also PROFESSIONS

Licensing and regulation, ch 10, §26 – 67, 73, 131; ch 215, §260

ATMs

Credit unions, satellite terminals and transactions, ch 174, §32

ATTORNEY GENERAL

See also ATTORNEYS AT LAW, subhead Prosecuting Attorneys

Animal feeding operation regulatory law enforcement, see ANIMALS, subhead Feeding Operations and Feedlots

Antitrust law enforcement and antitrust fund administration, ch 213, §23

Appropriations, see APPROPRIATIONS

Automated victim notification system administration, see VICTIMS AND VICTIM RIGHTS

Child support public awareness campaign cooperation, ch 218, §10

Cigarette fire safety standards regulation, compliance enforcement, ch 166, §4 - 6, 8

Competition law enforcement and antitrust fund administration, ch 213, §23

Consumer advocate division and consumer advocate

Appropriations, ch 213, §2

Building project with utilities board, ch 22, §6; ch 217, §24, 26

Charges and revenues, coverage of appropriations and costs, ch 217, §7

Climate change advisory council membership and duties, ch 120, §5

Salary of consumer advocate, ch 215, §13, 14

Consumer fraud Act enforcement, see CONSUMERS, subhead Frauds against Consumers

Crime victim notification and compensation, see VICTIMS AND VICTIM RIGHTS

Environmental crimes investigation and prosecution fund administration, ch 213, §22

Farm mediation services and farm assistance program, appropriations, ch 213, §1; ch 215, §35

Funding sources and reimbursements report, ch 213, §1

Legal services for persons in poverty grants, appropriations, ch 213, §1; ch 215, §40, 64, 65

Plumber and mechanical system professional licensing violations, enforcement by attorney general, ch 198, §30, 35

Real estate appraiser violations, actions to recover civil penalties, ch 72, §7

Representation of children in marriage dissolutions pilot project, appropriations and report, ch 213, §1

Representation of state officers and departments, time records, ch 213, §1

Solid waste disposal violations, enforcement by attorney general, ch 151, §11

Victim notification and compensation, see VICTIMS AND VICTIM RIGHTS

Workers' compensation second injury fund administration by attorney general, reimbursement for, ch 215, §84, 85

ATTORNEYS AT LAW

Attorney general, see ATTORNEY GENERAL

Civil rights complaints, legal assistance to civil rights commission, ch 213, §15

ATTORNEYS AT LAW — Continued

County attorneys, see COUNTIES, subhead Attorneys

Court-appointed attorneys

Compensation and reimbursement for indigent defense duties, ch 213, §25

Fees, appropriations and reimbursement rates, ch 213, \$10, 25; ch 215, \$38

Indigent defense services, see LOW-INCOME PERSONS, subhead Legal Assistance,

Representation, and Services for Indigent Persons

Delinquent court costs and penalties, collection by private attorneys, ch 196, §7 – 9

Estate administration expenses and fees allowed, ch 134, §10, 24, 27, 28

Examiners board, appropriations, ch 210, §1

Fees

Child custody, visitation, or paternity proceedings, payment of fees, ch 24

Conservatorship establishment proceedings, payment of fees, ch 134, §15, 28

Court-appointed attorneys, indigent defense services, appropriations and reimbursement rates, ch 213, \$10, 25; ch 215, \$38

Estate administration, expenses and fees allowed for attorneys for personal representatives, ch 134, §10, 24, 27, 28

Guardianship establishment proceedings, payment of fees, ch 134, §15, 28

Hospital lien satisfaction by attorneys for patients, ch 154, §4

Indigent defense services, see LOW-INCOME PERSONS, subhead Legal Assistance,

Representation, and Services for Indigent Persons

Judicial magistrate appointing commission members, prohibition against appointment or nomination of law partners, ch 86, §8

Liability for unclaimed property payments to persons proving superior rights, ch 37, §5 Prosecuting attorneys

See also ATTORNEY GENERAL; COUNTIES, subhead Attorneys

Seized property in criminal proceedings, notice to claimants, duties stricken, ch 107 Training programs, appropriations, ch 213, §1

Public defenders, state and local, see PUBLIC DEFENDERS, STATE AND LOCAL Supreme court rulings and decisions, notification via electronic mail, ch 33, §2

ATTORNEYS IN FACT

Health and medical care decision-making authority, see HEALTH, HEALTH CARE, AND WELLNESS, subhead Decisions and Decision-Making Authority

Homestead conveyances or encumbrances, format of, attorney in fact for spouses, ch 68 Liability for unclaimed property payments to persons proving superior rights, ch 37, §5 Substitute decision makers and decision-making services, state and local offices, appropriations, ch 218, §1

ATTRACTIONS

See also TOURISM

Community attraction and tourism fund projects, ch 215, §58

ΔΤ۷ς

See ALL-TERRAIN VEHICLES

AUCTIONS AND AUCTIONEERS

Motor vehicle auction companies, exemption from used motor vehicle dealer continuing education requirements, ch 51, §3

AUDIO COMMUNICATIONS

See TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES

AUDIOLOGY AND AUDIOLOGISTS

See also PROFESSIONS

Children, audiological services and hearing aids for, appropriations, ch 218, \$97 Licensing and regulation, ch 10, \$26 – 67, 73, 83, 84; ch 215, \$260

AUDITORIUMS

Memorial building and monument commissions, membership and quorum, ch 21

AUDITOR OF STATE

Appropriations, see APPROPRIATIONS

Audits and reviews, ch 22, \$4; ch 207, \$2, 15, 16, 18; ch 210, \$1; ch 212, \$17, 22; ch 213, \$17; ch 215, \$92; ch 216, \$1, 2

Employees, retention authority of state auditor, ch 217, §5

Executive council duties, see EXECUTIVE COUNCIL

Federal block grant funds audits, appropriations and procedures for, ch 204, §1, 2, 5, 7 - 11

AUDITORS, COUNTY

See COUNTIES

AUDITS AND AUDITORS

Agricultural development authority, audits of, ch 215, §92

Cemetery and funeral merchandise and funeral services sales and sellers, audit requirements, ch 175, §12, 13

Cigarette and tobacco product permit holders, audits of, ch 186, §41, 52

County auditors, see COUNTIES, subhead Auditors

IowaCare audits, performance evaluations, and studies, appropriations, ch 218, §74

Propane education and research council, audits of, ch 182, §3, 15

State auditor, see AUDITOR OF STATE

AUTOMOBILES

See MOTOR VEHICLES

AUTOPSIES

Investigations of death and recovery of donated organs, procedures, ch 44, §5

AVIAN ANIMALS

See BIRDS

AVIATION

See AIRCRAFT AND AIR CARRIERS; AIRPORTS

BABIES

See CHILDREN

BAII

Domestic abuse arrests for victims' safety, bail restrictions for defendants, ch 180, §6 Eligibility of arrested persons previously released on pretrial release or personal recognizances, repealed, ch 215, §134

BAILMENTS, BAILEES, AND BAILORS

Documents of title, see UNIFORM COMMERCIAL CODE, subhead Documents of Title

BALLOTS

See ELECTIONS

BANKING DIVISION

See COMMERCE DEPARTMENT

BANKRUPTCY

Personal injury payments, exemption from execution, ch 114

Workers' compensation self-insured employers, release of security deposited with state, ch 137, §1

BANKS AND BANKING

See also FINANCIAL INSTITUTIONS

General provisions, ch 88, §2 – 17

Acquisitions of in-state banks by out-of-state banks, ch 88, §17

Consumer credit and loans, see CONSUMER CREDIT CODE

Conversions of banks to and from savings and loan associations, ch 88, \\$8 - 16

Credit practices, discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1, 13

Credit unions, investments in banks by, ch 174, §36

Deposits in banks

Deposits and collections law, see UNIFORM COMMERCIAL CODE, subhead Bank Deposits and Collections

Tangible property unclaimed by owner, report filing and delivery to treasurer of state, ch 37. §4

Division of banking in state commerce department, see COMMERCE DEPARTMENT, subhead Banking Division

Investments in state-issued debt obligations, ch 133, §4

Investment tax credits, see INCOME TAXES, subhead Investment Tax Credits

Loans, see LOANS AND LENDERS

Mergers of in-state banks with out-of-state banks, ch 88, §17

Mortgage bankers, licensing and regulation, see MORTGAGES, subhead Bankers and Brokers

Motor vehicle dealer continuing education requirements, exemption for banks, ch 51, §3 Out-of-state banks and holding companies

Acquisitions of industrial loan companies, prohibition repealed, ch 170, §8 Service charges, sales taxation of, ch 186, §20

Property deposited in banks for safekeeping, unclaimed by owner, report filing and delivery to treasurer of state, ch 37, §4

Receiverships of banks, debt payment priority, Code correction, ch 22, §104

Safe deposit boxes, unclaimed property in, report filing and delivery to treasurer of state, ch 37, §4

Targeted small business financial assistance board, industry representation, ch 207, §8, 12, 18

Taxation, see FRANCHISE TAXES

Violations by directors, officers, or employees, penalties for, Code correction, ch 22, §93

BANNERS

World food prize awards ceremony commemoration banners, temporary placement on capitol grounds, ch 220, §2

BARBED WIRE

Fences at school attendance centers, barbed wire prohibition, Code correction, ch 126, §51

BARBERING AND BARBERS

See also PROFESSIONS

Licensing and regulation, ch 10, §26 – 67, 73, 159; ch 215, §260

BARGAINING

State employee collective bargaining agreements, funding for, ch 215, §15, 17, 20

BARNS

Rehabilitation tax credits for barns, see TAXATION, subhead Historic Preservation and Cultural and Entertainment District Tax Credits

BATTERIES

Household batteries, heavy metal content and recycling requirements, violations and penalties for violations, ch 151, $\S1$, 9-11

BEARS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

BEAUTY SALONS

See COSMETOLOGY AND COSMETOLOGISTS

BEEF CATTLE

See BOVINE ANIMALS

REFR

See ALCOHOLIC BEVERAGES AND ALCOHOL

BEES AND BEEKEEPING

Apiary regulation, appropriations, ch 211, §6, 26, 30

BEFORE AND AFTER SCHOOL GRANT PROGRAM

General provisions, ch 208, §5; ch 214, §6, 19; ch 215, §34

BEHAVIORAL SCIENCE

See MARITAL AND FAMILY THERAPY AND THERAPISTS; MENTAL HEALTH AND DISABILITIES, subhead Mental Health Counseling and Counselors

BELIN & BLANK INTERNATIONAL CENTER FOR GIFTED EDUCATION AND TALENT DEVELOPMENT

Appropriations and use restrictions, ch 214, §6

BENEFICIARIES

Annuities, beneficiaries of, see ANNUITIES

Dissolutions of marriage, annulments, or separate maintenance decrees, beneficiary revocations for insurance or other contracts, ch 134, §4, 5, 28

Estates of decedents, beneficiaries of, see PROBATE CODE, subhead Beneficiaries of Estates

Inheritance taxes, failure to file timely return resulting from beneficiary's disclaimer of interest, ch 134, §1, 28

Insurance, beneficiaries of, see INSURANCE

Retirement plans, beneficiaries of, see RETIREMENT AND RETIREMENT PLANS

Securities, beneficiaries of, see SECURITIES

Trusts, beneficiaries of, see TRUSTS AND TRUSTEES

BENEFITED DISTRICTS

Fire districts providing services under intergovernmental emergency services agreements, budget process, ch 96

Joint entities and undertakings, see JOINT ENTITIES AND UNDERTAKINGS

Lake district dam maintenance and operation, appropriations, ch 219, §1, 2

Rural water district security procedures and emergency preparedness information, closed session meetings and confidentiality, ch 63

BEQUESTS

Gifts, see GIFTS

BETTING

See GAMBLING

BEVERAGES

Alcoholic, see ALCOHOLIC BEVERAGES AND ALCOHOL

BIDDING AND BIDDERS

Asbestos removal and encapsulation, bids for governmental projects, acceptance requirements, ch 125, §2

BIDDING AND BIDDERS — Continued

Finance authority contracts, competitive bidding exemption, ch 54, §19, 45

Public construction and improvement projects, see PUBLIC CONTRACTS, subhead Construction Project Bidding and Contract Procedures

Regents board purchasing, electronic bid notices, ch 207, §11, 18

State contracting and purchasing

Office furniture purchases, bidding requirement threshold, ch 213, §9

Preferences for Iowa-based businesses, bidder requirements, ch 115, §6, 18

Targeted small businesses, purchasing and procurement by state agencies from small businesses, ch 207, §1, 2, 6, 9 – 11, 15, 16, 18

State officials and employees selling goods and services to state agencies, restrictions and public bidding requirements, ch 5, \$1

BILLBOARDS

See ADVERTISING

BILLS OF LADING

See UNIFORM COMMERCIAL CODE, subhead Documents of Title

BIOBASED ENERGY AND ENERGY PRODUCTION

See ENERGY

BIOCATALYSIS, CENTER FOR

Appropriations, ch 214, §9

BIODIESEL FUEL

See FUELS

BIOFUELS

See FUELS, subheads Biodiesel Fuel and Biodiesel Blended Fuel; Ethanol and Ethanol Blended Gasoline

BIOMASS PROJECTS

See ENERGY

BIOTECHNOLOGY, BIOSCIENCE, AND BIOLOGY

See also TECHNOLOGY

Biofuels, see FUELS, subheads Biodiesel Fuel and Biodiesel Blended Fuel; Ethanol and Ethanol Blended Gasoline

Biomedical discovery institute at university of Iowa, appropriations, ch 219, §1, 2

Bioprocessing feedstocks processing facility funding, appropriations, ch 219, §21

Commercialization and development, ch 122, §3 – 7, 10

Energy research, development, and commercialization programs, see POWER FUND AND POWER FUND BOARD

Financial assistance to bioscience development organization, stricken, ch 122, §3

Promotion and development of targeted manufacturing, science, and technology

businesses, state assistance programs, ch 122, \$1, 4, 10; ch 219, \$1, 2 Research and commercialization projects, financial assistance, ch 212, \$3

BIRDS

Chickens, see subhead Poultry below

Diseases, see DISEASES

Domestic fowl, protection from worrying by tagged dogs, ch 111

Falcons, dangerous wild animal regulation exception for persons with falconry licenses, ch 195, §7; ch 215, §121

Flu control, appropriations, ch 211, §5

Game birds, see GAME

BIRDS — Continued

Hunting, see HUNTING

Illegal taking or possessing of birds, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, §16

Poultry

Avian influenza control, appropriations, ch 211, §5

Egg handlers, license fees, ch 215, §218

Feeding operations and feedlots, see ANIMALS, subhead Feeding Operations and Feedlots

Livestock, see LIVESTOCK

Protection from worrying by tagged dogs, ch 111

Turkeys

Bones from legally taken wild turkeys, purchases and sales, ch 28, §13

Game, see GAME

Poultry, see subhead Poultry above

Wild birds, see WILDLIFE

BIRTH CONTROL

See PREGNANCY, subhead Prevention and Planning of Pregnancy

BIRTHS

See also PREGNANCY

Birth defects, see CHILDREN

Congenital and inherited disorders, center for, appropriations, ch 208, §1

Neonatal metabolic screening specimens, review of retention, use, and disposition of specimens by task force, ch 147

Parental leave from employment or training under family investment agreements, ch 124, \$5

Perinatal care program, ch 159, §17; ch 204, §3, 15 - 17

Postnatal tissue and fluid banking for research and medical treatment use, task force for, ch 147; ch 218, §97

BISEXUALITY

See SEXUAL ORIENTATION

BLACK-AMERICAN PERSONS

See AFRICAN-AMERICAN PERSONS

BLIND. DEPARTMENT FOR

Appropriations, see APPROPRIATIONS

Director, salary, ch 215, §13, 14

Vehicles and fuel used by vehicles of department, Code correction, ch 22, §52

BLINDNESS AND BLIND PERSONS

See also DISABILITIES AND DISABLED PERSONS

Braille and sight saving school

See also REGENTS, BOARD OF, AND REGENTS INSTITUTIONS

Appropriations, see APPROPRIATIONS

Changes relating to school, requirements and reporting of, ch 214, §9

Infrastructure improvements, appropriations, ch 219, §9, 10

Prescription drugs for students, payment for, ch 214, §9, 12

Tuition, transportation, prescription, and clothing costs of students, payment to school districts, appropriations, ch 214, §9

Department for blind in state government, see BLIND, DEPARTMENT FOR

BLOCK GRANTS

Federal funds, see FEDERAL FUNDS

BLOOD AND BLOOD TESTING

Alcohol testing for private sector employees, exception for employees pursuant to collective bargaining agreement, ch 50

Drug testing for private sector employees, exception for employees pursuant to collective bargaining agreement, ch 50

Hemophilia, see HEMOPHILIA

HIV testing and results of tests, see ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HUMAN IMMUNODEFICIENCY VIRUS (HIV), subhead Testing and Results of Tests for HIV

Horse racing, drug testing and procurement of blood test samples, ch 48, §1, 7

Intoxication testing, see INTOXICATED PERSONS, INTOXICANTS, AND INTOXICATION, subhead Testing for Intoxicants

Lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Postnatal tissue and fluid banking for research and medical treatment use, task force for, ch 147; ch 218, §97

BLUE SKY LAW

See SECURITIES

BOAR

Wild boar, see ANIMALS, subhead Dangerous Wild Animals

BOARDS (GOVERNMENTAL BODIES)

See index heading for specific board

BOATS AND VESSELS

Collisions, accidents, and casualties

See also subhead Occurrences Involving Vessels below

Deaths or personal injuries resulting or intended, crime victim compensation to victims, $ch\ 27, \$7$

Operator reports, filing deadlines, ch 28, §5

Cut-off switches and cut-off switch lanyards on personal watercraft, maintenance, operation, and prohibitions, ch 28, \$2, 6, 7, 22

Damage, see subhead Collisions, Accidents, and Casualties above

Drugs present in operator, see subhead Intoxicated Operators below

Drunken operators, see subhead Intoxicated Operators below

Eluding of law enforcement vessels, criminal offenses and penalties, ch 28, §10

Emergency vessels, see EMERGENCY VESSELS

Gambling boats, see GAMBLING, subhead Excursion Gambling Boats

Intoxicated operators

Eluding of law enforcement vessels, criminal offenses and penalties, ch 28, §10

License suspensions or revocations for violations, crime victim compensation to victims, ch 27, §7

Law enforcement boats and vessels, criminal offenses and penalties for boat operators eluding, ch 28, §10

Licenses, see subhead Registration of Boats and Vessels below

Marine fuel tax fund, ch 211, §44, 45

Occurrences involving vessels

See also subhead Collisions, Accidents, and Casualties above

Terminology changes, occurrences resulting in death, injury, or property damage, ch 28, \$3, 5, 8, 9

Operators and operation of boats and vessels

Eluding of law enforcement vessels, criminal offenses and penalties, ch 28, §10

Intoxicated operators, see subhead Intoxicated Operators above

Personal watercraft, cut-off switches and cut-off switch lanyards, maintenance, operation, and prohibitions, ch 28, \$2, 6, 7, 22

BOATS AND VESSELS — Continued

Recreational boating programs and facilities, appropriations, ch 211, §44, 45

Registration of boats and vessels

Electronic registration system development, ch 28, §3

Intoxicated operator violations resulting in license suspensions or revocations, crime victim compensation to victims, ch 27, §7

Renewals, fees for, ch 28, §4, 11

Security interests, discharge of, ch 28, §12

Transfers of ownership, fees and penalties for renewals of expired registrations, ch 28, \$11

Security interests in boats and vessels, discharge of, ch 28, §12

Titles, discharge of security interests, ch 28, §12

Wrecks, see subhead Collisions, Accidents, and Casualties above

BODIES

Dead persons, see DEATHS AND DEAD PERSONS

Donors and donations of bodies and parts of bodies, see ANATOMICAL GIFTS

BOILERS

Anamosa correctional facility boiler improvements, appropriations, ch 219, §1, 2 Heating and cooling systems, *see HYDRONIC SYSTEMS*

Inspection and regulation

General provisions, ch 135

Certificates of inspection, ch 135, §1, 6

Cessation of use, ch 135, §8

Exemption from inspection and regulation, ch 135, §4

Frequency of inspection, ch 135, §2, 3

Injunctions against use, ch 135, §7

Insurance and inspections by insurers, ch 135, §5

Permitted use, ch 135, §6

Pressure limits, ch 135, §1, 6

BONDS

See also SECURITIES

City bonds, revenue financing law applicability to projects, Code correction, ch 22, \$73 County general obligation bonds, uses and election requirement threshold, ch 109 Credit unions, corporate central, investments by, ch 174, \$30

Finance authority programs, ch 54, §2 – 30, 45

Iowa state university, see subhead Regents Board and Regents Institutions below Regents board and regents institutions

Building and facility construction and improvement financing at regents universities, ch 205

Execution and attestation, Code correction, ch 126, §49

State departments, agencies, and authorities, debt obligations issued by, see DEBTS, DEBTORS, AND CREDITORS, subhead State-Issued Obligations, Uniform Finance Procedures

Surety bonds, see SURETIES AND SURETY BONDS

University of Iowa, see subhead Regents Board and Regents Institutions above University of northern Iowa, see subhead Regents Board and Regents Institutions above Utilities board and consumer advocate building project bonds, Code correction, ch 22, §6 Vision Iowa program, bonds and notes issued for program, Code correction, ch 22, §5

BONES AND BONE MARROW

Donors and donations of body parts, see ANATOMICAL GIFTS

Turkey bones from legally taken wild turkeys, purchases and sales of, ch 28, \$13

BOOKS AND PAPERS

Libraries, see LIBRARIES
Reading and literacy, see READING
School textbooks, see SCHOOLS AND SCHOOL DISTRICTS, subhead
Textbooks

BORROWING AND BORROWERS

Money, see LOANS AND LENDERS Property leases, see LEASES

BOTTOMRY

Insurance company loans, repealed, ch 152, §84

BOUNDARIES

Legislative and congressional redistricting, see REDISTRICTING OF ELECTION DISTRICTS

Livestock straying and trespass control, duties and responsibilities of landowners and governmental authorities, ch 64

BOVINE ANIMALS

Cattle and calves

Anabolic steroid administration through implants, controlled substance regulation exclusion, ch 8, \$12

Feeding operations and feedlots, see ANIMALS, subhead Feeding Operations and Feedlots

Livestock animals, see LIVESTOCK

Livestock, see LIVESTOCK

BOYS

See CHILDREN

BRAILLE AND SIGHT SAVING SCHOOL

See BLINDNESS AND BLIND PERSONS

BRAIN INJURIES

Appropriations, see APPROPRIATIONS, subhead Mental Health, Mental Retardation, Developmental Disability, and Brain Injury Services

Commission on brain injury services, state, see HUMAN SERVICES DEPARTMENT, subhead Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission

Services to persons with brain injuries

General provisions, ch 126, §35

Allowed growth in services, ch 215, §1; ch 218, §77 – 86

Appropriations, see APPROPRIATIONS, subhead Mental Health, Mental Retardation, Developmental Disability, and Brain Injury Services

Assessment process development, appropriations, ch 218, §26

Commission, state, see HUMAN SERVICES DEPARTMENT, subhead Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission

Decategorization project for funding of services, ch 218, §86, 121, 123

Funds, state allocations, ch 218, §26

Information technology for data reporting by counties, proposal for addressing needs, ch 218, §90, 92

Intensive family preservation services stricken from programs provided, ch 172, §8 Money allocations to counties, ch 218, §77 – 79, 82 – 84

Property tax relief and relief fund, see PROPERTY TAXES, subhead Relief and Relief Fund

BRAIN INJURIES — Continued

Services to persons with brain injuries — Continued

Reimbursements and providers that are reimbursed, uniform cost report development for, ch 113

Waiting list for services, implementation by counties, ch 218, §80, 81

BREAST CANCER

Treatment, medical assistance eligibility and appropriations, ch 208, §1

BREATH

Testing of private sector employees for drugs or alcohol by employers, exception for employees due to collective bargaining agreement, ch 50

BRIDGES

Bond issues for construction or repair of county bridges, ch 109, §2

Cable or video franchise authority to construct and operate communications network within public rights-of-way, ch 201, §2, 10, 15

Project funding from TIME-21 fund for secondary road bridges, ch 200, §3

BROKERS

Mortgage brokers, see MORTGAGES, subhead Bankers and Brokers Real estate brokers, see REAL ESTATE

BROTHERS

See SIBLINGS

BROWNFIELD REDEVELOPMENT PROGRAM

Appropriations, ch 211, §27, 30

BRUCELLOSIS

Swine brucellosis control, Code correction, ch 22, §44

BUDGETS

Area education agency budgets, aid by state, reductions, ch 215, §9, 10

City budgets, see CITIES

County budgets, see COUNTIES

Emergency services budgets for services provided under intergovernmental emergency services agreements, ch 96

School district budgets, see SCHOOLS AND SCHOOL DISTRICTS

State budget, see STATE OFFICERS AND DEPARTMENTS, subhead Budget and Budgeting Process

Township budgets, public notice of trustee meetings relating to, ch 139

BUENA VISTA COUNTY

Storm lake restoration project, report, matching funds, and appropriations, ch 219, §1, 2, 26

BUILDING AND LOAN ASSOCIATIONS

Regulatory provisions eliminated, ch 88, \$23, 35, 41 – 43, 48

BUILDING CODES

Elevator code, conflicts with building codes, ch 16, §3

Energy conservation and efficiency, see ENERGY, subhead Conservation and Efficiency Programs

Factory-built structures, regulation of, Code correction, ch 22, §33

State building code, application and enforcement of, ch 22, §32, 33; ch 97; ch 126, §21, 22

BUILDING CONTRACTORS

See CONSTRUCTION WORK, CONTRACTORS, AND EQUIPMENT

BUILDINGS

See also REAL PROPERTY

Air conditioning systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING)

Alarm systems, see ALARM SYSTEMS, CONTRACTORS, AND INSTALLERS

Arson, real estate broker and salesperson licensees and licensure applicants convicted of, ch 187

Asbestos removal and encapsulation, see ASBESTOS

Capitol and capitol complex, see CAPITOL AND CAPITOL COMPLEX

Codes for buildings, see BUILDING CODES

Community college buildings constructed by students, sales by community colleges, required authorization by general assembly and approval by governor, ch 131, §5, 7; ch 215, §133

Construction of buildings, see CONSTRUCTION WORK, CONTRACTORS, AND EOUIPMENT

Conveyances for passengers and freight, see CONVEYANCES FOR PASSENGERS AND FREIGHT

Cooling systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING); HYDRONIC SYSTEMS

County buildings, bond issues for construction or repair of, ch 109, §1, 3

Election campaign signs on private property, restrictions, ch 14, §7; ch 215, §244

Electrical systems, see ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS

Elevators for passengers and freight, see CONVEYANCES FOR PASSENGERS AND FREIGHT

Energy conservation and efficiency, see ENERGY

Farm units, firearms discharge prohibition, exception for owners, tenants, or family members, ch 28, §14

Fire extinguishing systems, see FIRES AND FIRE PROTECTION

Heating systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING); HYDRONIC SYSTEMS

Historic property rehabilitation, tax credits, see TAXATION, subhead Historic Preservation and Cultural and Entertainment District Tax Credits

Housing property, see HOUSING

 $Lighting\ systems, see\ ELECTRICITY,\ ELECTRICAL\ SYSTEMS,\ AND\ ELECTRICIANS$

Mechanics' liens, see LIENS, subhead Mechanics' Liens

Memorial building and monument commissions, membership and quorum, ch 21

National guard facility design and construction, design-build contracts authorized by armory board, ch 74, §2

Plumbing systems, see PLUMBING AND PLUMBERS

Power systems, see ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS

Railroad track close clearance, warning device installation, ch 164; ch 219, \$1, 2

State buildings, see STATE OFFICERS AND DEPARTMENTS, subhead Buildings and Facilities of State

Ventilation systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING)

Zoning of residences of medical assistance services recipients, ch 218, §130 - 132

BUILDING WORK, BUILDERS, AND BUILDING EQUIPMENT

See CONSTRUCTION WORK, CONTRACTORS, AND EQUIPMENT

BULLYING

School bullying prohibition and prevention, ch 9

BURIALS

Dead persons, see DEATHS AND DEAD PERSONS

BURNING

See FIRES AND FIRE PROTECTION

BUSES AND BUS SERVICES

Public transportation, see PUBLIC TRANSPORTATION AND TRANSIT SERVICES AND SYSTEMS

School transportation, see SCHOOLS AND SCHOOL DISTRICTS, subhead Transportation

BUSHES

See PLANTS AND PLANT LIFE

BUSINESS AND BUSINESSES

See also COOPERATIVE ASSOCIATIONS AND COOPERATIVES; CORPORATIONS; MANUFACTURERS AND MANUFACTURING; SMALL BUSINESS

Advertising, see ADVERTISING

Antitrust law enforcement and funding of enforcement and education, ch 213, §23

Assistance to business and businesses, see ECONOMIC DEVELOPMENT

Association group health care plans for employees of small employers, ch 57, 1-5, 8; ch 215, 255

Closures of businesses, enterprise zone distress criteria, ch 183

Commercialization and development of technology, ch 122, §3 – 6, 10

Competition law enforcement, ch 213, §23

Consumers, see CONSUMERS

Correctional facility inmates, employment by private industry, requirements, ch 213, §4, 6

Corrections department privatization of services, restrictions, ch 213, §4, 6

Development of business and businesses, see ECONOMIC DEVELOPMENT

Division for business development in state economic development department, see ECONOMIC DEVELOPMENT DEPARTMENT, subhead Business Development Division

Economic development, see ECONOMIC DEVELOPMENT

Employees and employers, see LABOR AND EMPLOYMENT

Endow Iowa program, tax credits under, ch 161, §9, 22; ch 174, §60; ch 215, §87

Enterprise areas and zones, see ENTERPRISE AREAS AND ZONES

Entrepreneurs and entrepreneurship

Entrepreneur development, economic development assistance, appropriations, ch 212, §3

Entrepreneurs with disabilities program, appropriations, ch 212, §11

Small business, see SMALL BUSINESS

Women entrepreneurs establishing early-stage industry companies, financial assistance, ch 212, §3

Exports, see EXPORTS

Fair trade, see FAIR TRADE

Foreign businesses, see FOREIGN BUSINESSES

Franchises, see FRANCHISES

Generation Iowa commission, retention and attraction of young adults, ch 45

High quality job creation program, see HIGH QUALITY JOB CREATION PROGRAM

Highway construction projects to aid business, funding priorities, ch 200, §3

Income taxes, see INCOME TAXES, subhead Business Taxes on Corporations

Inmate housing by private sector, prohibition, ch 103

Investment tax credits, see INCOME TAXES, subhead Investment Tax Credits Iowa-based companies

Research and assistance from regents universities, appropriations, ch 212, \$12 - 14; ch 215, \$73

State purchasing and contract preferences, specifications, ch 115, §6, 18 Iowa great places, see GREAT PLACES

BUSINESS AND BUSINESSES — Continued

Iowa prison industries, see CORRECTIONAL FACILITIES AND INSTITUTIONS, subhead Prison Industries

Jobs and jobholders, see LABOR AND EMPLOYMENT

Judicial magistrate appointing commission members, prohibition against appointment or nomination of business partners, ch 86, §8

Limited liability companies, see LIMITED LIABILITY COMPANIES

Local government innovation commission member appointment, ch 117, §2, 7

Marketing image for state established, business recruitment, expansion, and retention, $ch\ 212, \$3$

Microenterprise study and report, appropriations, ch 212, §3

Myentrenet internet application, appropriations, ch 212, §14; ch 215, §73; ch 219, §14, 15

Natural resource-based business opportunities, resource conservation and development, appropriations, ch 211, §28, 30

Partnerships, see PARTNERSHIPS

Preschool program for four-year-old children, statewide, collaboration with, ch 148, §3

Prison industries, see CORRECTIONAL FACILITIES AND INSTITUTIONS

Promotion of business and businesses, see ECONOMIC DEVELOPMENT

Sales taxes, see SALES, SERVICES, AND USE TAXES

Sudan, companies doing business in, state public funds investment prohibition, ch 39 Targeted small businesses, see SMALL BUSINESS

Taxation of income, see INCOME TAXES, subhead Business Taxes on Corporations

Technology industry assistance, promotion, and development by state, ch 122, §1, 4, 10; ch 219, §1, 2

Unemployment compensation, see UNEMPLOYMENT COMPENSATION

Uniform commercial code, see UNIFORM COMMERCIAL CODE

Urban renewal, see URBAN RENEWAL

Women entrepreneurs establishing early-stage industry companies, financial assistance, ch 212, §3

BUSINESS DEVELOPMENT DIVISION

See ECONOMIC DEVELOPMENT DEPARTMENT

BUTTER

Imitation butter (oleomargarine), standards for, Code correction, ch 22, §46

CABLE COMMUNICATIONS SERVICE AND COMMUNICATIONS COMPANIES

See TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES

CABLES

Electrical systems, see ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS

CABLE TELEVISION

See TELEVISION AND TELEVISION EQUIPMENT

CADMIUM

See METALS

CAFES AND CAFETERIAS

See FOOD, subhead Establishments for Provision of Food

CALMAR

Northeast Iowa community college national education center for agricultural safety training, equipment purchases, ch 219, §1, 2

CAMERAS

See PHOTOGRAPHS, PHOTOGRAPHY, AND PHOTOGRAPHIC EQUIPMENT

CAMPAIGN FINANCE

See also POLITICAL ACTIVITIES AND ORGANIZATIONS

Board for ethics and campaign disclosure, see ETHICS AND CAMPAIGN DISCLOSURE BOARD

Committees

Ballot issues, committees advocating passage or defeat of, reporting requirements, ch 14, \$6: ch 65

Funds and property, personal use by candidate prohibited, ch 14, §4

Newly organized committees, financial disclosure report filing requirement, ch 14, §2

Reports and statements, see subhead Disclosure Reports and Statements below

Complaints of violations, dismissal, Code correction, ch 126, §17

Contributions

Nonprofit organizations, contribution and advocacy restrictions, exemption, ch 61, §2 Recipients for committees, duties of, candidates and committee officers excluded, ch 14, §4

Solicitation of contributions, use of ethics and campaign finance disclosure board reports and statements information, ch 5, §3

Transportation provided to candidates, value computation method, ch 14, §1

Unknown or unidentifiable sources, funds from, escheat to state, ch 14, §8

Disclosure reports and statements

Committees advocating passage or defeat of ballot issues, reporting periods, ch 14, §6 Committees from another jurisdiction, contributions made to Iowa committees, ch 14, §3 Filing, duties and enforcement of duties, ch 14, §5

Filing in electronic format, requirements and guidelines, ch 61, §1; ch 80

Newly organized committees, report filing requirements, ch 14, §2

Public release on internet website by ethics and campaign and disclosure board, ch 14, §5

Retention by commissioners of elections, stricken requirements, ch 14, §5

CAMP DODGE

Appropriations, ch 219, §1, 2, 6

Armed forces readiness center, appropriations, ch 219, §1, 2

Gold star museum improvements, appropriations, ch 219, §1, 2, 6

Water distribution system upgrades, appropriations, ch 219, §1, 2

CAMPS AND CAMPERS

Camping rallies sponsored and conducted by motor home manufacturers, motor home sales at, ch 131, \$1-4, 6

CANCER

Appropriations, see APPROPRIATIONS

Breast cancer treatment, medical assistance eligibility and appropriations, ch 208, §1 Cervical cancer treatment, medical assistance eligibility and appropriations, ch 208, §1 Childhood cancer diagnostic and treatment network programs, appropriations, ch 214, §9 Control and screening programs, appropriations, ch 218, §97 Statewide cancer registry of university of Iowa, appropriations, ch 214, §9

CANDIDATES FOR ELECTION

See ELECTIONS

CANINE ANIMALS

Dogs, see DOGS

CAPACITY

See MENTAL HEALTH AND DISABILITIES

CAPITAL FUNDS AND INVESTMENTS

Credit unions

Capital of credit unions, ch 174, §33

Investments in funds by credit unions, ch 174, §35

Iowa fund of funds, investments in, tax credits, ch 161, §18, 22

Tax credits for investments in businesses and seed capital funds, ch 161, §7, 22; ch 174, §60; ch 186, §1, 2

Venture capital funds, investments in, tax credits, ch 161, §8, 22

CAPITAL PROJECTS

See also INFRASTRUCTURE; PUBLIC IMPROVEMENTS

Appropriations, ch 219, $\S1 - 3$, 6 - 26

County projects, bond issues for, ch 109

Iowa state university, see IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY, subhead Construction and Improvement of Buildings and Facilities

State agencies, see STATE OFFICERS AND DEPARTMENTS

University of Iowa, see UNIVERSITY OF IOWA, subhead Construction and Improvement of Buildings and Facilities

University of northern Iowa, see UNIVERSITY OF NORTHERN IOWA, subhead Construction and Improvement of Buildings and Facilities

CAPITOL AND CAPITOL COMPLEX

See also STATE OFFICERS AND DEPARTMENTS, subhead Buildings and Facilities of State

Appropriations, see APPROPRIATIONS

Banners commemorating world food prize awards ceremony, temporary placement on capitol grounds, ch 220, §2

Electrical distribution system, appropriations, ch 206, §20, 39; ch 219, §1, 2

Energy plant addition and improvements, appropriations, ch 219, §1, 2

Friends of capitol hill corporation, repealed, ch 115, §17

Hoover building HVAC system improvements, ch 219, §1, 2

Hy-Vee world cup triathlon awards ceremony, alcoholic beverage use and consumption, ch 221

Judicial building, security of, appropriations, ch 215, §3

Lease payments, appropriations, ch 219, §1, 2

New state office building site acquisition, planning, and energy efficiency requirements and appropriations, ch 219, §22, 23, 42

Parking lot improvements, appropriations, ch 219, §23

Property acquisition, appropriations, ch 219, §1, 2, 23

Restoration of capitol interior and exterior, appropriations, ch 219, §1, 2, 20

Security of buildings, appropriations, ch 215, §3

Shuttle service between capitol and downtown Des Moines, appropriations and operation, ch 215. \$29

Utility tunnel system, renovation feasibility study, appropriations, ch 219, §1, 2

Vehicle dispatch fueling station relocation, appropriations, ch 219, §1, 2

Wallace building, replacement and demolition, appropriations, ch 219, §22

West capitol terrace and capitol grounds improvements

Acknowledgements of private contributors, ch 222

Restoration costs, appropriations, ch 219, §1, 2

Worker's monument construction, appropriations, ch 219, §1, 2

Workforce development building asbestos abatement and renovation feasibility study, appropriations, ch 219, §1, 2

World food prize foundation awards ceremony, wine use and consumption, ch 220,

CARBON DIOXIDE

Greenhouse gases, see GREENHOUSE GASES Medical gases, see GASES, subhead Medical Gases

CARD GAMES

See GAMBLING

CAREERS AND CAREER EDUCATION

Accelerated career education programs, see ACCELERATED CAREER EDUCATION PROGRAMS

Apprenticeship programs, see APPRENTICES AND APPRENTICESHIPS Interns and internships, see INTERNS AND INTERNSHIPS School-to-career programs, appropriations, ch 212, §3; ch 215, §71

CARRIERS

See also MOTOR CARRIERS; RAILROADS

Bills of lading issued for transported goods, see UNIFORM COMMERCIAL CODE, subhead Documents of Title

Cigarette and tobacco product transportation, monthly reports, ch 186, §39 Regulation of carriers, violations of, Code correction, ch 22, §70

CARS

See MOTOR VEHICLES

CAR TITLE LOANS AND LENDERS

Finance charge restrictions, ch 26

CARVER, GEORGE WASHINGTON, ENDOWED CHAIR

Appropriations and matching funds requirement, ch 214, §10

CASA (COURT APPOINTED SPECIAL ADVOCATES) PROGRAM

See COURT APPOINTED SPECIAL ADVOCATES

CASH

See MONEY

CASH RESERVE FUND

Appropriations, ch 215, §7

CASINOS

See GAMBLING

CASUALTIES

Boat and vessel casualties, see BOATS AND VESSELS, subhead Collisions, Accidents, and Casualties

Insurance, see INSURANCE

Workers' compensation, see WORKERS' COMPENSATION

CATS

Dangerous wild animal ownership or possession regulation exception, ch 195, §1

CATTLE

See BOVINE ANIMALS

CAUCUSES

Iowa caucus project, appropriations, ch 206, §8, 39

CEDAR FALLS

University of northern Iowa, see UNIVERSITY OF NORTHERN IOWA

CEDAR RAPIDS

African-American historical museum and cultural center, appropriations, ch 206, §7, 39 Mental health correctional facility, appropriations, ch 219, §1, 2

CELLULAR TELEPHONE SERVICE AND CELLULAR TELEPHONE COMPANIES

Wireless E911 emergency communications services, appropriations and administration, ch 213, §16, 17, 21

CEMENT

Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ch 60

CEMETERIES

General provisions, ch 175, §34 – 50

Examination fees, ch 175, §41, 47

Examinations of cemeteries, ch 175, §42

Funeral merchandise and services, sales regulation, see CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES

Governmental subdivision cemeteries, interment of veterans, ch 175, §44

Inmate labor use for restoration and preservation of rural cemeteries, ch 213, §7 Interment spaces

Memorial installation on spaces, ch 175, §45

Standards for spaces, ch 175, §46

Memorial building and monument commissions, membership and quorum, ch 21

Memorials, installation of, ch 175, §45

Merchandise sales regulation, see CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES

Perpetual care cemeteries

Care funds, use of moneys to purchase recordkeeping software, ch 175, §48

Reporting requirements and penalties for failure to report, ch 175, §49, 50

Receiverships of cemeteries, establishment, appointment of receivers, and termination, ch 175, \$38-40

Rural cemeteries, restoration and preservation using inmate labor, ch 213, §7

Veterans of military service, interment within governmental subdivision cemeteries, ch 175, \$44

Veterans state cemetery

Federal funds for establishment and operation, appropriations, ch 218, §64, 67 Purchase of crypts, appropriations, ch 218, §49, 67

CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES

General provisions, ch 175, §1 – 33, 51 – 94

Establishments, definition stricken, ch 175, §3

Examination fees for sellers, ch 175, §33

Examinations and audits of sellers, ch 175, §12, 13

Fraudulent practices, violations and penalties, ch 175, §25, 26

Licensing and regulation of preneed sellers and sales agents, ch 175, 12, 16 - 20, 26, 29 Preneed sellers

Defined, ch 175, §5

Licensing and regulation, ch 175, §12, 16, 19, 20, 26, 29

Reporting requirements, confidentiality, and administrative penalties, ch 175, §1, 11

Purchase agreements

Disclosure requirements, ch 175, §21, 22

Numbering, rules, ch 175, §24

Security and notice requirements, ch 175, §23

Receiverships of sellers, ch 175, §30, 31

Sales agents

Defined, ch 175, §4

CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES — Continued Sales agents — Continued

Licensing and regulation, ch 175, §12, 17, 19, 20, 26, 29

Reporting requirements, confidentiality, ch 175, §1, 18

Trust funds established by sellers

Deposit, investment, and reporting requirements, ch 175, §6 – 11

Examinations and audits, ch 175, §12, 13

Trusting alternatives for merchandise delivered to purchasers or warehouses, ch 175, §14, 15

Violations by licensees and penalties, ch 175, §12, 19, 26, 29

CENSUS

Redistricting of legislative and congressional districts based on decennial census, see REDISTRICTING OF ELECTION DISTRICTS

CENTRAL IOWA EMPLOYMENT AND TRAINING CONSORTIUM (CIETC)

Accountability and oversight mechanisms, ch 22, §113, 116; ch 126, §2

CERRO GORDO COUNTY

Clear lake restoration project, report, matching funds, and appropriations, ch 219, §1, 2, 26

CERTIFICATES OF TITLE

All-terrain vehicles, ch 141, §49 – 52

Motor vehicles, see MOTOR VEHICLES, subhead Titles, Titleholders, and Certificates of Title

Snowmobiles, ch 141, §21 - 24

CERVICAL CANCER

Treatment, medical assistance eligibility and appropriations, ch 208, §1

CHALLENGES OF VOTERS AND VOTING

General provisions, ch 35, §6, 7; ch 59, §12, 19, 30, 38

CHAMPAGNE

See ALCOHOLIC BEVERAGES AND ALCOHOL

CHARITABLE ORGANIZATIONS AND CHARITABLE GIVING

Games of skill and chance and card games, conduct of, see GAMBLING, subhead Qualified Organizations Conducting Games

Property tax abatements, ch 186, §27, 30

School tuition organizations, tax credits, ch 161, §20, 22; ch 186, §9 – 13, 31; ch 215, §111

Volunteer health care provider program, charitable organizations participating in program, ch 159, §18

CHARITON VALLEY COUNCIL OF GOVERNMENTS

Establishment, ch 76

CHECKOFFS

Corn excise tax assessment moneys, use of, Code correction, ch 126, §40 Income tax checkoffs, ch 126, §68; ch 186, §16

CHECKS

See also MONEY; NEGOTIABLE INSTRUMENTS

Cashing and depositing of checks

Bank deposits and collections, see UNIFORM COMMERCIAL CODE, subhead Bank Deposits and Collections

CHECKS — Continued

Cashing and depositing of checks — Continued

Businesses for cashing and delayed deposit of checks, licensing and regulation, Code correction, ch 22, §94

Credit union authority to sell and cash, ch 118, §1, 3

Traveler's checks, credit union authority to sell and cash, ch 118, §1, 3

CHEETAHS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

CHEMICALS

Carbon dioxide, see GASES, subhead Medical Gases; GREENHOUSE GASES

Chlorofluorocarbons, see GREENHOUSE GASES

Drugs, see DRUGS AND DRUG CONTROL

Greenhouse gases, see GREENHOUSE GASES

Helium, see GASES, subhead Medical Gases

Hydrofluorocarbons, see GREENHOUSE GASES

Medical gases, see GASES, subhead Medical Gases

Methane, see GREENHOUSE GASES; NATURAL GAS

Nitrogen, see GASES, subhead Medical Gases

Nitrous oxide, see GASES, subhead Medical Gases; GREENHOUSE GASES

Oxygen, see GASES, subhead Medical Gases

Perfluorocarbons, see GREENHOUSE GASES

Sulfur hexafluoride, see GREENHOUSE GASES

Veterans exposed to chemicals, investigations of effects of, ch 22, \$14; ch 202, \$8 - 10

CHEMISTRY AND CHEMISTS

Iowa state university chemistry building, appropriations, ch 205

CHEROKEE

Mental health institute, see MENTAL HEALTH AND DISABILITIES, subhead Mental Health Institutes

CHICKENS

See BIRDS, subhead Poultry

CHILD ABUSE

Appropriations, see APPROPRIATIONS

Information related to child abuse, access to, Code correction, ch 22, §55

Prevention, appropriation of federal grant moneys, ch 218, §7

Protection services, priority in filling human services department full-time equivalent positions, ch 218, \$28

School district teachers, superintendent's access to child abuse information checks of, ch 108, §11; ch 215, §102

Sexual abuse prevention initiative, appropriations, ch 218, §18

Victim services to individuals and families, appropriations, ch 218, §18

CHILD ADVOCACY BOARD

See INSPECTIONS AND APPEALS DEPARTMENT

CHILDREN

See also DEPENDENT PERSONS; FAMILIES; MINORS; PARENTS; YOUTHS

Abuse of children and abused children, see CHILD ABUSE

Adoptions of children, see ADOPTIONS

Advocacy board, see INSPECTIONS AND APPEALS DEPARTMENT, subhead Child Advocacy Board

Aid to dependent children program, see FAMILY INVESTMENT PROGRAM

Anatomical gifts, authorization by adult children to make, amend, or revoke gifts, ch 44, §4 Appropriations, see APPROPRIATIONS

Assistance for children, see subheads Child in Need of Assistance; Welfare Services for Children below

At-risk children

Education and development programs, appropriations, ch 215, §62

Eligibility for state child care assistance program, ch 172, §1

Audiological services for children, ch 218, §97

Birth defects

Center for congenital and inherited disorders, appropriations, ch 208, §1 Central registry, appropriations, ch 214, §9

Births, see BIRTHS

Birth to age three services for children with disabilities, appropriations, ch 214, §6

Blood lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Cancer diagnostic and treatment network programs, appropriations, ch 214, §9

Care of children and facilities for care of children

See also subhead Placements and Placing Agencies below

All Iowa opportunity foster care grant program, child care assistance for participants, ch 214, §2, 24, 25

Appropriations, see APPROPRIATIONS, subhead Child Care and Development

Assistance by state, appropriations, ch 218, §7, 16, 51, 56, 67

Cultural educational programs of cultural affairs department, ch 215, §104

Early head start pilot projects, appropriations, ch 214, §6

Educational opportunities to registered child care home providers, appropriation of federal grant moneys, ch 218, §7

Federal matching funds, use in expanding child care assistance programs, ch 218, §16 Foster care, see FOSTER CARE AND CARE FACILITIES

Head start and other child care programs, collaboration with statewide preschool program for four-year-old children, ch 148, §3

List of registered and licensed child care facilities, availability to families receiving state child care assistance, ch 218, §16

Pneumococcal disease immunization requirement for enrollees in child care centers, ch 11

Preschool tuition and supportive services assistance for low-income parents, appropriations, ch 181; ch 214, §6, 41, 44

Professional development for child care and preschool providers, appropriations, ch 214, 86

Professional development system of early care, health, and education, appropriations, ${
m ch}\ 218, \16

Provider quality rating system, development, appropriations, ch 218, §16

Reimbursement rates under state child care assistance program, incentives to become registered providers, ch 218, §31

Resource and referral services, appropriations, ch 218, §16

School district preschool programs, see SCHOOLS AND SCHOOL DISTRICTS, subhead Preschool Program for Four-Year-Old Children, Statewide

Shelter care, see JUVENILE FACILITIES AND INSTITUTIONS

Special needs care, expansion of home health care services and habilitative day care, appropriations, ch 208, $\S 1$

State child care assistance program, ch 172, §1; ch 215, §99; ch 218, §16

Student teaching and educational experiences in preschools, contracts between preparation programs and preschools, ch 215, §101

Child in need of assistance

Appeals from court orders, Code correction, ch 126, §45

Child in need of assistance — Continued

Family-centered services, definition, ch 172, §9

Intensive family preservation services, stricken, ch 172, §9

Permanency hearings for children subject to out-of-home placement, consideration of reasonable efforts, ch 172, §7

Reasonable efforts, definition, ch 172, §6

Removal of children from children's home, ch 218, §114

Transferred custody, placement, ch 67, §4, 5

Children's hospital of Iowa mother's milk bank, appropriations, ch 218, §2

Cloning use for human reproduction, prohibition, ch 6, §4, 5

Community empowerment programs, see COMMUNITY EMPOWERMENT

Congenital disorders, see subhead Birth Defects above

Courts and judicial procedure for children, see COURTS AND JUDICIAL

ADMINISTRATION, subhead Juvenile Court

Crime victims, children of, compensation for, see VICTIMS AND VICTIM RIGHTS, subhead Compensation for Victims

Custodians and custody of children

Adoptions, see ADOPTIONS

Determinations or modifications of custody in paternity proceedings, attorney fee payment, ch 24

Federal access and visitation grant moneys, uses, ch 218, §10

Foster care, see FOSTER CARE AND CARE FACILITIES

Preadoptive care, see ADOPTIONS

Siblings of placed children, placement, visitation, and interaction rights, ch 67; ch 218, §18

Day care of children, see subhead Care of Children and Facilities for Care of Children above

Deaths of children, see DEATHS AND DEAD PERSONS

Delinquency and delinquent children, see JUVENILE JUSTICE

Dental care, see DENTAL CARE AND DENTAL CARE PRACTITIONERS

Developmental disability services for children, see DEVELOPMENTAL DISABILITIES, subhead Services to Persons with Developmental Disabilities

Development of children

Coordinating council, ch 22, §58; ch 215, §62

Preschool program for four-year-old children, see SCHOOLS AND SCHOOL DISTRICTS, subhead Preschool Program for Four-Year-Old Children, Statewide

Disabilities and disabled persons, see DISABILITIES AND DISABLED PERSONS

Disease immunizations, see IMMUNIZATIONS

Early childhood coordinator and Iowa website, appropriations, ch 214, §6

Empowerment programs, see COMMUNITY EMPOWERMENT

Endangerment of children and endangered children, criminal offenses and penalties, Code correction, ch 126, §109

Family investment program, see FAMILY INVESTMENT PROGRAM

Foster care of children, see FOSTER CARE AND CARE FACILITIES

Guardians and guardianships, see GUARDIANS AND GUARDIANSHIPS

Health care for children, see HEALTH, HEALTH CARE, AND WELLNESS

Healthy and well kids in Iowa (hawk-i) program, see HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

Hearing aids for children, ch 218, §97

Hemophilia patients, rural comprehensive care for, appropriations, ch 214, §9

High-risk infant follow-up program, appropriations, ch 214, §9

Human services for children, see subhead Welfare Services for Children below

Immunizations, see IMMUNIZATIONS

Indigent parties in juvenile proceedings, legal representation of, see LOW-INCOME PERSONS, subhead Legal Assistance, Representation, and Services for Indigent Persons

Infant and toddler service providers, medical assistance reimbursement rate exception, ch 218, §31

Inherited disorders, see subhead Birth Defects above

Injuries to children, parent's cause of action, ch 132, §1, 3

Judicial procedure and justice system for children, see JUVENILE JUSTICE

Juvenile boot camp and highly structured programs, review of programming and effectiveness, report, ch 218, \$18, 36

Juvenile delinquency, see JUVENILE JUSTICE

Juvenile facilities, see JUVENILE FACILITIES AND INSTITUTIONS

Lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Legal representation of children in marriage dissolutions pilot project, appropriations and report, ch 213, §1

Medical assistance, see MEDICAL ASSISTANCE

Medical care for children, see HEALTH, HEALTH CARE, AND WELLNESS, subhead Children

Mental development of children from birth through five years of age, local evidence-based strategies, appropriations, ch 218, §2

Mental health services for children, see MENTAL HEALTH AND DISABILITIES, subhead Services to Persons with Mental Illness

Mental retardation services for children, see MENTAL RETARDATION, subhead Services to Persons with Mental Retardation

Military forces members killed on active duty, children of, motor vehicle gold star special registration plates for surviving children, ch 178

Nursery schools, see subhead Care of Children and Facilities for Care of Children above Nutrition, see NUTRITION

Obesity prevention, appropriations, ch 218, §97

Orphans of military veterans, educational assistance, appropriations, ch 218, §4

Pediatrics, perinatal care program, ch 159, §17; ch 204, §3, 15 – 17

Perinatal care program, ch 159, §17; ch 204, §3, 15 - 17

Placements and placing agencies

See also subhead Care of Children and Facilities for Care of Children above Adoptions, see ADOPTIONS

Licensing and regulation of placing agencies, ch 67, §6; ch 172, §11

Siblings of out-of-home placed children, placement, visitation, and interaction rights, ch 67; ch 218, \$18

Preschools, see subhead Care of Children and Facilities for Care of Children above Protection center grant program, appropriations, ch 218, §18

Protection services, priority in filling human services department full-time equivalent positions, ch 218, §28

Psychiatric medical institutions for children, see PSYCHIATRIC FACILITIES AND INSTITUTIONS

Representation of children in marriage dissolutions pilot project, appropriations and report, ch 213, \$1

Runaway children county treatment plans, grants and grant renewals, appropriations, ch 218, \$20

School ready children grant program, appropriations, ch 181; ch 208, §3

Schools, see SCHOOLS AND SCHOOL DISTRICTS

Services for families and individuals, see subhead Welfare Services for Children below Sexual abuse of children, see SEXUAL ABUSE

Shelter care, see JUVENILE FACILITIES AND INSTITUTIONS

Special needs children, expansion of home health care services and habilitative day care, appropriations, ch 208, §1

Students, see STUDENTS

Substance abuse treatment and prevention services, see SUBSTANCE ABUSE, subhead Treatment Programs and Facilities

Support of children, see SUPPORT OF PERSONS

Tobacco law enforcement, appropriations, ch 208, §1

Training school, state, see JUVENILE FACILITIES AND INSTITUTIONS, subhead State Training School

Veterans, children of

Educational assistance, appropriations, ch 218, §4

Vietnam Conflict bonus payment to surviving children, ch 176, §1

Victims, children of, compensation for, see VICTIMS AND VICTIM RIGHTS, subhead Compensation for Victims

Vision health programs, see VISION

Visitation of children and visitation rights

Determinations or modifications of visitation in paternity proceedings, attorney fee payment, ch 24

Federal access and visitation grant moneys, use to increase compliance with court orders, ch 218, §10

Grandparents and great-grandparents, visitation by, ch 218, §206 – 208

Siblings of out-of-home placed children, visitation and interaction with placed children, ch 67; ch 218, §18

Welfare services for children

Appropriations, see APPROPRIATIONS, subhead Child Welfare Services

Committee for child welfare, advisory, ch 218, §116

Decategorization of services, ch 218, §18, 94 – 96

Intensive family preservation services and family-centered services, ch 172, §8 – 10

Minority youth and family projects under child welfare redesign, appropriations, ch 218, \$20

Public assistance, see PUBLIC ASSISTANCE

Shelter care, see JUVENILE FACILITIES AND INSTITUTIONS

Training of nonlicensed relatives caring for children, appropriations, ch 218, $\S 20$

Welfare diversion and mediation pilot projects, appropriations, ch 218, §18

Wellness, see HEALTH, HEALTH CARE, AND WELLNESS

CHILD SUPPORT RECOVERY UNIT

See HUMAN SERVICES DEPARTMENT

CHIROPRACTIC AND CHIROPRACTORS

See also PROFESSIONS

HIV exposure while providing health care, notification procedure, ch 70, §9 Licensing and regulation, ch 10, §26 – 67, 73, 74, 119 – 125; ch 126, §37; ch 215, §250, 260

CHLOROFLUOROCARBONS

Greenhouse gases, see GREENHOUSE GASES

CHRONIC WASTING DISEASE

Farm deer disease control program, appropriations and operation, ch 211, §2

CHURCHES

See RELIGIONS AND RELIGIOUS ORGANIZATIONS

CIETC (CENTRAL IOWA EMPLOYMENT AND TRAINING CONSORTIUM)

Accountability and oversight mechanisms, ch 22, §113, 116; ch 126, §2

CIGARETTES AND CIGARS

See TOBACCO AND TOBACCO PRODUCTS

CIRCUSES

Dangerous wild animal regulation exception, ch 195, §1, 7; ch 215, §119

CITATIONS

Criminal violations, see CRIMINAL PROCEDURE AND CRIMINAL ACTIONS Scheduled violations, see SCHEDULED VIOLATIONS

Traffic violations, see MOTOR VEHICLES, subhead Violations and Violators

CITIES

See also index heading for specific city

Appropriations, definition correction for continuing appropriations, ch 144, \$15 Asbestos removal and encapsulation projects, bid acceptance requirements, ch 125, \$2 Assessors, see ASSESSMENTS AND ASSESSORS

Auditoriums, memorial building and monument commissions, membership and quorum, ch 21

Beer keg registration and sales regulation, preemption of local ordinances, ch 46, \$2 Bonds, revenue financing law applicability to projects, Code correction, ch 22, \$73 Budgets

Procedures for cities with established urban renewal areas, ch 186, §4, 28

Services provided under intergovernmental emergency services agreements, ch 96 Building codes, see BUILDING CODES

Building permits, applicability of state building code to, ch 97

Buildings and facilities of cities

See also subhead Property of Cities below

 ${\it Construction \ and \ improvement, see \ subhead \ Construction \ and \ Improvement \ Projects \ below}$

Memorial building and monument commissions, membership and quorum, ch 21

Cable service franchises, requirements, restrictions, and fees for, ch 201

Cemeteries, see CEMETERIES

Chambers of commerce, energy city designation program involvement, ch 157

Cigarette fire safety standards regulation, city compliance, ch 166, §10

Civil service, see CIVIL SERVICE

Claims against cities, liability for, see TORTS AND TORT CLAIMS, subhead Municipalities, Claims against

Coliseums, memorial building and monument commissions, membership and quorum, ch 21

Communications for public safety, interoperable systems implementation, ch 90

Communications services and utilities, see TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES

Community development loan program loan repayments by cities, Code correction, ch 22, \$72

Community empowerment, see COMMUNITY EMPOWERMENT

Construction and improvement projects

Appropriations for projects, definition correction, ch 144, §15

Bidding and contract procedures, see PUBLIC CONTRACTS, subhead Construction Project Bidding and Contract Procedures

Expenditure authorizations for projects, ch 144, §14

Self-supported improvements using districts to pay or finance, contracts for, letting procedures, ch 144, §19, 20

Special assessments and projects financed by special assessments, $see\ SPECIAL\ ASSESSMENTS$

Street projects, funding priorities and allocations, ch 200, §3, 5, 7

CITIES — Continued

Contracts, see PUBLIC CONTRACTS

Conveyances for passengers and freight, regulation, see CONVEYANCES FOR PASSENGERS AND FREIGHT

Councils

Elected write-in candidates, resignation from office and replacement, ch 59, §18, 19 Membership increase procedures for mayor-council form, ch 55

Vacancies, filling by special election, nomination of candidates for, ch 112, §4

Councils of governments, see COUNCILS, subhead Government, Councils of

Court fees and costs payable to and from cities, settlements of accounts, ch 196, §12 - 14

Deer population control by urban hunting on private property, liability limitation for property owners, Code correction, ch 22, §84

Defibrillator grant program for rural areas, appropriations, ch 208, §1, 7, 8

Development board, application for appropriations, ch 212, §23

Drainage of nonstorm water, see POLLUTION AND POLLUTION CONTROL, subhead National Pollutant Discharge Elimination System (NPDES)

Economic development, see ECONOMIC DEVELOPMENT

Elections, see ELECTIONS

Electrical installation inspections, ch 197, §34, 39, 50

Elevators for passengers and freight, regulation, see CONVEYANCES FOR PASSENGERS AND FREIGHT

Emergency communications systems (911 and E911 service), see EMERGENCY COMMUNICATIONS SYSTEMS (911 AND E911 SERVICE)

Emergency preparedness information, closed session meetings and confidentiality, ch 63 Emergency response training regional centers, *see EMERGENCIES*, *EMERGENCY*

MANAGEMENT, AND EMERGENCY RESPONSES, subhead Regional Emergency Response Training Centers

Emergency services intergovernmental agreements, budget process, ch 96 Employees

See also PUBLIC EMPLOYEES

Civil service, see CIVIL SERVICE

Fire fighters, see FIRES AND FIRE PROTECTION, subhead City Fire Departments and Fire Fighters

Police officers, see POLICE PROTECTION AND SERVICES

Unemployment compensation information confidentiality, penalty for violations by public officials, ch 77

Energy city designation program, development and implementation, ch 157

Enterprise areas and zones for economic development, see ENTERPRISE AREAS AND ZONES

Environmental crime investigations and prosecutions, reimbursement of expenses, ch 213, \$22

Farmers' market nutrition program, local government agencies to cooperate with state agencies and nonprofit entities, ch 84, §3

Finance committee, budget reporting criteria and forms for reports, ch 186, §4, 28 Fire departments and fire fighters, see FIRES AND FIRE PROTECTION

Food establishment and processing plant licensing, regulation, and sanitation, see FOOD, subheads Establishments for Provision of Food; Processing and Production Plants and Establishments

Franchises, see FRANCHISES

Generation Iowa commission, urban membership representation, ch 45

Gymnasiums, memorial building and monument commissions, membership and quorum, ch 21

Health care facilities, see HEALTH CARE FACILITIES

Highways, see HIGHWAYS

Hospitals, see HOSPITALS AND HOSPITAL SERVICES

CITIES — Continued

Hotel and motel licensing, regulation, and sanitation, see HOTELS AND MOTELS Housing regulation and projects, see HOUSING, subhead Municipal Regulation and Projects

Improvement projects, see subhead Construction and Improvement Projects above Infrastructure projects, see subhead Construction and Improvement Projects above Innovation and excellence initiatives, see LOCAL GOVERNMENT INNOVATION COMMISSION AND FUND

Iowa great places, see GREAT PLACES

Jails and holding facilities, see JAILS AND HOLDING FACILITIES

Joint entities and undertakings, see JOINT ENTITIES AND UNDERTAKINGS

Law enforcement and law enforcement officers, see POLICE PROTECTION AND SERVICES

League of cities, see LEAGUE OF CITIES

Libraries, see LIBRARIES

Livestock straying and trespass regulation, ch 64

Local government innovation, see LOCAL GOVERNMENT INNOVATION COMMISSION AND FUND

Local option taxes, see LOCAL OPTION TAXES

Mandates imposed by state, see MANDATES IMPOSED ON POLITICAL SUBDIVISIONS Mayors

Elected write-in candidates, resignation from office and replacement, ch 59, \$18, 19

Elections, nomination of candidates for, signatures requirement, ch 18

Vacancies, filling by special election, nomination of candidates for, ch 112, §4

Memorial buildings, commissions, membership and quorum, ch 21

Monuments, commissions, membership and quorum, ch 21

Officers, see subheads Councils; Mayors above

Operational functions shared with school districts, ch 130, §4, 6

Peace officers, see POLICE PROTECTION AND SERVICES

Police departments and police officers, see POLICE PROTECTION AND SERVICES

Pollution control, see POLLUTION AND POLLUTION CONTROL

Property of cities

See also subhead Buildings and Facilities of Cities above

Disposal for homesteading program, stricken, ch 54, §33

Property taxes, see PROPERTY TAXES

Recreation facilities, memorial building and monument commissions, membership and quorum, ch 21

Residential property, see HOUSING

Retirement systems, see FIRE AND POLICE RETIREMENT SYSTEM; PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Roads, see HIGHWAYS

Security procedures information, closed session meetings and confidentiality, ch 63 Special assessments and projects financed by special assessments, see SPECIAL ASSESSMENTS

Sports authority regional districts, establishment and appropriations, ch 219, \$1, 2, 32 Streets, see HIGHWAYS

Telecommunications services and utilities, see TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES

Tort claims against cities, liability for, see TORTS AND TORT CLAIMS, subhead Municipalities, Claims against

Tourism, see TOURISM

Transportation and transit services and systems, see PUBLIC TRANSPORTATION AND TRANSIT SERVICES AND SYSTEMS

Urban renewal, see URBAN RENEWAL

CITIES — Continued

Utilities, see UTILITIES

Video service franchises, requirements, restrictions, and fees for, ch 201

Water quality improvement projects, local watershed improvement grants for, ch 211, §39

Wild animal regulation exception, ch 195, §7

Wildlife management or removal, use of drugs for, ch 56

Zoning of residences of medical assistance services recipients, ch 218, §131, 132

CITIZENS' AIDE

Investigations by citizens' aide, Code correction, ch 126, §1

CITIZENS AND CITIZENSHIP

Contributions by Iowa citizens to west capitol terrace and capitol grounds improvements, acknowledgements, ch 222

Former Iowa citizens, workforce recruitment effort, ch 212, §3

Jobs receiving economic development assistance, filled by United States citizens, ch 212, §3

CITY DEVELOPMENT BOARD

Appropriations, ch 212, §23

CITY FINANCE COMMITTEE

Budget reporting criteria and forms for reports, ch 186, §4, 28

CIVICS

Before and after school grant program, approved instructional programs, ch 208, \$5; ch 214, \$6, 19; ch 215, \$34

School curriculum, civics literacy requirements, ch 214, §6, 7, 16

CIVIL ACTIONS

See CIVIL PROCEDURE AND CIVIL ACTIONS

CIVIL AIR PATROL

Appropriations, ch 213, §13

CIVIL COMMITMENT

Sexually violent predators, see SEX CRIMES AND OFFENDERS, subhead Sexual Predators and Violence

CIVIL PROCEDURE AND CIVIL ACTIONS

See also COURTS AND JUDICIAL ADMINISTRATION

Children, death or injury of, parent's cause of action, ch 132, §1, 3

Civil penalties, see FINES

Comparative fault for tort claims against state and municipalities, notice requirements, ch 110. \$3-6

Criminal history or intelligence data dissemination, actions for damages for violations, ch 38, §6

Decrees, see JUDGMENTS AND DECREES

Execution of court judgments and decrees, see EXECUTION (JUDGMENTS AND DECREES)

Fines, see FINES

Indian tribal court judgment recognition and enforcement, see JUDGMENTS AND DECREES

Judgments, see JUDGMENTS AND DECREES

Limitations of actions, see LIMITATIONS OF ACTIONS

Protective orders for victims' safety, ch 180, §1 – 11

Tort claims, see TORTS AND TORT CLAIMS

CIVIL RIGHTS

Commission on civil rights in state government, *see CIVIL RIGHTS COMMISSION* Complaints by minors and persons with mental illness, limitations of actions for filing, ch 110, §1, 2, 6

Gender identity discrimination prohibitions, ch 191

Sexual orientation discrimination prohibitions, ch 191

CIVIL RIGHTS COMMISSION

Appropriations, see APPROPRIATIONS

Director, salary, ch 215, §13, 14

Gender identity and sexual orientation discrimination prohibitions, duties, ch 191, §1, 2 Legal assistance to resolve civil rights complaints provided by commission and nonprofit organizations, ch 213, §15

CIVIL SERVICE

City systems and commissions

Fire fighter applicant candidate physical ability tests, ch 167

Number of commissioners, city population threshold, ch 127

County systems and commissions for deputy sheriffs, appeals of commission findings and decisions to district court, ch 58

Peace officers and public safety and emergency personnel, administrative investigations of complaints against, ch 160

CIVIL WAR

Anniversary commemoration, appropriations, ch 212, §1

Battle flag collection condition stabilization, appropriations, ch 219, §1, 2

CLAIMS

Abandoned property, see UNCLAIMED PROPERTY, subhead Claims

Civil claims, see CIVIL PROCEDURE AND CIVIL ACTIONS

Civil rights complaints, see CIVIL RIGHTS

Estates of decedents, claims against, see PROBATE CODE, subhead Claims against

Pharmacy claims, rules for timely payment of, ch 193, §3, 9

Real estate, claims to, preservation by filing with county recorders, ch 22, 103; ch 101, 5-7

Tax deeds, affidavits and claims by title holders under, format and recording, ch 101, §1, 2 Tort claims, see TORTS AND TORT CLAIMS

Unclaimed property, see UNCLAIMED PROPERTY

Wage payment by direct deposit, overdraft charges due to delay of, ch 29

CLARINDA

Clarinda youth corporation, reimbursement to state for services to, ch 213, §3, 6

Correctional facility, see CORRECTIONAL FACILITIES AND INSTITUTIONS

Mental health institute, see MENTAL HEALTH AND DISABILITIES, subhead Mental Health Institutes

Transportation department garage, construction of, appropriations, ch 216, §2

CLAY COUNTY

Motor home manufacturer club rallies at county fairgrounds, requirements and fair board duties, ch 131, §6

CLAYS

Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ch 60

CLEAR LAKE

Restoration projects, appropriations, ch 219, §1, 2, 26

CLERKS OF COURT

See COURTS AND JUDICIAL ADMINISTRATION

CLERKS OF TOWNSHIPS

Elections, see ELECTIONS, subhead Township Officers

CLIMATE

See WEATHER

CLINICS

Field dental clinics, participation in volunteer health care provider program, ch 95 Health clinics, see HEALTH, HEALTH CARE, AND WELLNESS, subhead Health Centers and Clinics

CLONING

Prohibition on human reproduction by cloning, ch 6, §4, 5

CLOTHING

Film, television, and video project wardrobe expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

CLUBS AND LODGES

Motor home owners clubs, motor home sales at club rallies, ch 131, §1 – 4, 6

COAL

Combustion residue from electric generating facilities, landfills for, regulation, ch 215, §115 Mineral interests in coal, claims to, recording and indexing procedures, ch 101, §3 Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ch 60

COAST GUARD

See MILITARY FORCES AND MILITARY AFFAIRS

COBRAS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

CODE AND CODE SUPPLEMENT, IOWA

Headnotes and historical references, consideration as part of law, ch 41, §40 Nonsubstantive corrections, ch 22 Substantive corrections, ch 126

COHABITANTS AND COHABITATION

See FAMILIES

COLISEUMS

Memorial building and monument commissions, membership and quorum, ch 21

COLLECTIVE BARGAINING

Labor organization discrimination against applicants based on gender identity and sexual orientation, prohibited, ch 191, §1, 3

Peace officers and public safety and emergency personnel, administrative investigations of complaints against, collective bargaining procedures for, ch 160

Savings and loan division employees, exclusion from public employee collective bargaining, stricken, ch 88, §1

State employee agreements, funding for, ch 215, §15, 17, 20

Student achievement and teacher quality program bargaining unit employees, see
TEACHING AND TEACHERS, subhead Collective Bargaining Unit Employees, Student
Achievement and Teacher Quality Program

Testing of employees in private sector for alcohol and drugs by employers, exception for employees pursuant to collective bargaining agreement, ch 50

COLLEGES AND UNIVERSITIES

See also COMMUNITY COLLEGES AND MERGED AREAS; DES MOINES UNIVERSITY — OSTEOPATHIC MEDICAL CENTER; DRAKE UNIVERSITY; EDUCATION, EDUCATORS, AND EDUCATIONAL INSTITUTIONS; IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY; REGENTS, BOARD OF, AND REGENTS INSTITUTIONS; UNIVERSITY OF IOWA; UNIVERSITY OF NORTHERN IOWA

All Iowa opportunity assistance program, see COLLEGE STUDENT AID COMMISSION Anatomical gifts made to colleges and universities, purposes for, ch 44, §6

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, \$1, 11, 12

Faculty

Community college quality faculty working group, college faculty participation, ch 214, §8

Nurse educators, definition and forgivable loans for education, ch 214, §4, 26

Financial aid for students, see COLLEGE STUDENT AID COMMISSION

Former students, workforce recruitment effort, ch 212, §3

Generation Iowa commission, retention of young adults in Iowa, ch 45

Instructors, see subhead Faculty above

Midwestern higher education compact, membership fees appropriations, ch 214, §9

Optometry schools, approval by state, repealed, ch 159, §4

Osteopathic medicine, university of, see DES MOINES UNIVERSITY — OSTEOPATHIC MEDICAL CENTER

Pharmacy colleges, accreditation standards, ch 19, §1, 4

Preschool program for four-year-old children, statewide, educational requirements for teachers, ch 148, §3, 10

Real estate education programs, appropriations, ch 206, \$27 – 29, 39; ch 215, \$261 Regents universities, see IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY;

UNIVERSITY OF IOWA; UNIVERSITY OF NORTHERN IOWA

Registered nurse and nurse educator loan forgiveness program, establishment and appropriations, ch 214, §4, 26

Savings plan trust withdrawals, income taxation, ch 186, §8

School district sharing and operations efficiencies, appropriations, ch 130, §6

School-to-career programs, appropriations, ch 212, §3; ch 215, §71

State universities, see IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY; UNIVERSITY OF IOWA; UNIVERSITY OF NORTHERN IOWA

Stem cell research and cures initiative, ch 6

Students

All Iowa opportunity foster care grant program, tuition and assistance for participants, ch 214, §2, 24, 25

Correctional services departments youth leadership model program to help at-risk youth, ch 213, §5, 6

Financial aid, grants, loans, and scholarships, see COLLEGE STUDENT AID COMMISSION

Internships in targeted industries, ch 122, §1, 4, 10

School district students enrolled, payment for, Code correction, ch 22, §62

Statewide information system, education department study, ch 32

Teacher preparation programs, contracts for student teaching and educational experiences, ch 215, §101

Teachers, see subhead Faculty above

Tim Shields center for governing excellence in Iowa, ch 117, §6, 7; ch 215, §54

Tuition aid for students, see COLLEGE STUDENT AID COMMISSION

Work-study program, appropriations, ch 214, §3

COLLEGE STUDENT AID COMMISSION

Administrative rules, ch 214, §26, 28, 31

COLLEGE STUDENT AID COMMISSION — Continued

All Iowa opportunity assistance program

Appropriations, ch 214, §2; ch 215, §33

Foster care grant program, establishment and appropriations, ch 214, §2, 24, 25

Private institutions, accredited, participation contingency, ch 214, §2

Scholarship program and fund, establishment and appropriations, ch 214, §2, 28; ch 215, §33

Appropriations, see APPROPRIATIONS

Des Moines university — osteopathic medical center, primary health care initiative and student forgivable loans, appropriations, ch 214, §2

Executive director, salary, ch 215, §13, 14

Family contribution limit eligibility requirement for tuition grants, study, report, and transition plans, ch 214, §2

Grant programs, appropriations, ch 214, §2

National guard educational assistance program, appropriations, ch 214, §2

Nurses and nurse educators, forgivable loans for education, ch 214, §4, 26

Osteopathic physician recruitment forgivable loan program, administration and appropriations, ch 214, §2

Registered nurse and nurse educator loan forgiveness program, establishment and appropriations, ch 214, §4, 26

Teacher shortage loan programs

Appropriations, ch 214, §2, 30

Student forgivable loan program, ch 214, §29, 30

Teacher shortage loan forgiveness program for practicing teachers, establishment and appropriations, ch 214, §2, 31

Tuition grants

Appropriations, ch 214, §2, 4, 27

Private institutions of higher education in Iowa, tuition grants to students, ch 214, §27 Vocational-technical tuition grants, ch 214, §27

Work-study program, appropriations, ch 214, §3

COLLISIONS

Boat and vessel collisions, see BOATS AND VESSELS, subhead Collisions, Accidents, and Casualties

COMBAT

See WARS AND CONFLICTS

COMBINATIONS, POOLS, AND TRUSTS

Cooperative associations and cooperatives, see COOPERATIVE ASSOCIATIONS AND COOPERATIVES

COMFORT SYSTEMS

Heating and cooling systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING); HYDRONIC SYSTEMS

COMMERCE

Business and businesses, see BUSINESS AND BUSINESSES

Exports, see EXPORTS

Trade, see TRADE

Uniform commercial code, see UNIFORM COMMERCIAL CODE

COMMERCE DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

Accountancy licensing and regulation, ch 170, §7

Alcoholic beverages division

Administrative rules, ch 46, §2

COMMERCE DEPARTMENT — Continued

Alcoholic beverages division — Continued

Administrator, salary, ch 215, §13, 14

Alcoholic beverages regulation, see ALCOHOLIC BEVERAGES AND ALCOHOL

Appropriations, ch 208, §1; ch 217, §7

Charges and revenues, coverage of appropriations and costs, ch 217, §7

Tobacco law, regulation, and ordinance enforcement, appropriations, ch 208, §1

Appropriations, see APPROPRIATIONS

Architectural licensing and regulation, ch 126, §20, 62, 97; ch 170, §7

Banking division

Administrative rules, ch 170, §5, 7

Appropriations, ch 217, §7

Charges and revenues, coverage of appropriations and costs, ch 217, §7

Contractual agreements with other state regulators to assist in examinations, ch 170, §3

Employees of division, prohibited transactions with savings and loan associations, ch 88,

Examinations of debt management business licensees, disclosure of information, ch 170, §4

Federal regulatory authorities, examination reports provision to, ch 170, \$2

Mortgage banker and broker licensing and regulation, see MORTGAGES, subhead Bankers and Brokers

Powers of division, ch 88, §4, 45

Professional licensing and regulation bureau, see subhead Professional Licensing and Regulation Bureau below

Records of division, keeping and disclosure, ch 88, §5, 6, 31; ch 170, §1

Reports by division, ch 88, §7

Savings and loan regulation, see SAVINGS AND LOAN ASSOCIATIONS

Superintendent of banking, salary, ch 215, §13, 14

Thrift certificates issued by industrial loan companies, sales and redemptions, ch 170, §6

Tort claims Act coverage for division personnel assisting another state with examinations, ch 170, §3

Banking regulation, see BANKS AND BANKING

Building and loan association regulation, provisions eliminated, ch 88, §23, 35, 41 – 43, 48 Credit union division

Appropriations, ch 217, §7

Charges and revenues, coverage of appropriations and costs, ch 217, §7

Credit union regulation, see CREDIT UNIONS

Superintendent of credit unions, salary, ch 215, §13, 14

Credit union regulation, see CREDIT UNIONS

Employees of department

Banking division employees, prohibited transactions with savings and loan associations, ch 88 83

Banking division personnel assisting with examinations, tort claims Act coverage for, ch 170, §3

Savings and loan division employees, exclusion from public employee collective bargaining, stricken, ch 88, §1

Engineering licensing and regulation, ch 126, \$14, 21, 38, 44, 52, 59, 61, 62, 75 – 77, 79, 80, 83 – 85, 95, 96, 98; ch 170, \$7

Industrial loan and loan company licensing and regulation, see INDUSTRIAL LOANS AND LOAN COMPANIES

Insurance division

General provisions, ch 137, §6

Administrative rules, ch 57, \$7, 8; ch 137, \$7, 26, 28; ch 169; ch 175, \$16, 17, 24, 25, 28, 29, 37; ch 193, \$3, 9

COMMERCE DEPARTMENT — Continued

Insurance division — Continued

Appropriations, ch 212, §6; ch 215, §52; ch 217, §7

Cemetery merchandise sales regulation, see CEMETERY AND FUNERAL

MERCHANDISE AND FUNERAL SERVICES

Cemetery regulation, see CEMETERIES

Charges and revenues, coverage of appropriations and costs, ch 217, §7

Commissioner of insurance, salary, ch 215, §13, 14

Employee positions, reallocation authority of division, ch 217, §7

Enforcement fund, allocations to fund and use of moneys, ch 175, §41

Examination expenditures exceeding estimates, procedures, ch 217, §7

Funeral merchandise and services, sales regulation, see CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES

Health care plan affordability for small businesses and families, commission on, membership and duties, ch 218, §127, 129

Hemophilia advisory committee membership and duties, ch 31, §3 – 7

Inquiries by commissioner, requirements repealed, ch 152, §84

Insurance regulation, see INSURANCE

Long-term living resources system team membership and duties, ch 92

Motor vehicle financial liability, cards for, regulation, ch 215, §105

Motor vehicle service contracts regulation, filing requirement stricken, ch 137, §16

National conference of insurance legislators, fees, appropriations, ch 217, §7

Pharmacy benefits managers regulation, ch 193

Prescription drug assistance, state clearinghouse program for, repealed, ch 137, §30

Regulatory fund, allocations to fund and use of moneys, ch 175, §32

Securities regulation, see SECURITIES

Insurance regulation, see INSURANCE

Interior design licensing and regulation, ch 170, §7

Landscape architecture licensing and regulation, ch 170, §7

Land surveying licensing and regulation, ch 170, §7

Loan business licensing and regulation, see LOANS AND LENDERS

Mortgage banker and broker licensing and regulation, see MORTGAGES, subhead Bankers and Brokers

Professional licensing and regulation bureau

See also index heading for specific profession licensed and regulated

Appropriations, ch 217, §7, 8

Charges and revenues, coverage of appropriations and costs, ch 217, §7

Licensing boards, powers relating to licensing and regulation of licenses, ch 170, §7

Real estate appraiser licensing and regulation, ch 72; ch 143, §3; ch 170, §7

Real estate broker and salesperson licensing and regulation, see REAL ESTATE, subhead Brokers and Salespersons

Savings and loan association regulation, see SAVINGS AND LOAN ASSOCIATIONS Savings and loan division

Employees of division, exclusion from public employee collective bargaining, stricken, ch 88, §1

Repeal of division and transfer of authority to banking division, ch 88, \$30, 44, 50 Securities regulation, see SECURITIES

Travel out of state by officers and employees, review, ch 217, §7

Utilities division and board

Administrative rules, ch 201, §13

Appropriations, ch 217, §7, 24, 26

Building project with consumer advocate, ch 22, §6; ch 217, §24, 26

Charges and revenues, coverage of appropriations and costs, ch 217, §7

Climate change advisory council membership and duties, ch 120, §5

COMMERCE DEPARTMENT — Continued

Utilities division and board — Continued

Energy efficiency plans of utilities, study of, ch 168, §17, 18

Expenses exceeding budgeted funds, procedures, ch 217, §7

Power fund board membership and duties, ch 168, §6, 18

Salaries for members of utilities board, ch 215, §13, 14

Telecommunications service utilities regulation, see TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES

Utility regulation, see UTILITIES

COMMERCIAL VEHICLES AND DRIVERS

See MOTOR VEHICLES

COMMISSIONS (GOVERNMENTAL BODIES)

See index heading for specific commission

COMMITMENT PROCEEDINGS

Sexually violent predators, see SEX CRIMES AND OFFENDERS, subhead Sexual Predators and Violence

COMMODITY PRODUCTION CONTRACTS

Liens held by contract producers, Code corrections, ch 22, §100, 101

COMMUNICABLE DISEASES

See DISEASES

COMMUNICATIONS SERVICE AND COMMUNICATIONS COMPANIES

Confidential communications, see CONFIDENTIAL COMMUNICATIONS AND RECORDS Electronic communications, see ELECTRONIC COMMUNICATIONS, RECORDS, AND TRANSACTIONS

Internet and internet services, see INTERNET AND INTERNET SERVICES

Iowa communications network (ICN), see TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES, subhead Iowa Communications Network (ICN)

Joint emergency response communications services by local emergency management commissions, ch 149

Public safety interoperable communications systems, implementation at state and local level, ch 90

Telecommunications services, see TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES

Telephone services, see TELEPHONE SERVICE AND TELEPHONE COMPANIES
Utilities, see TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS
COMPANIES

COMMUNITY ACTION AGENCIES

Appropriations, ch 204, §8, 15 – 17

Division of community action agencies in state human rights department, see HUMAN RIGHTS DEPARTMENT, subhead Community Action Agencies Division

COMMUNITY ACTION AGENCIES DIVISION

See HUMAN RIGHTS DEPARTMENT

COMMUNITY COLLEGES AND MERGED AREAS

See also COLLEGES AND UNIVERSITIES; EDUCATION, EDUCATORS, AND EDUCATIONAL INSTITUTIONS

Accelerated career education programs, see ACCELERATED CAREER EDUCATION PROGRAMS

COMMUNITY COLLEGES AND MERGED AREAS — Continued

All Iowa opportunity scholarship program, assistance for students, ch 214, §2, 28; ch 215, §33

Apprenticeship programs, see APPRENTICES AND APPRENTICESHIPS

Appropriations, ch 206, §27, 29, 39; ch 209, §1, 2, 4; ch 214, §6; ch 215, §30, 31, 53, 63, 261; ch 219, §1, 2

Buildings constructed by students, sales by community colleges, required authorization by general assembly and approval by governor, ch 131, §5, 7; ch 215, §133

Career education, see CAREERS AND CAREER EDUCATION

Child care providers, professional development for, appropriations, ch 214, §6

Construction, improvement, and repair projects, ch 219, §1, 2

Correctional facility inmates, educational programs for, ch 213, §4, 6

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, \$1, 11, 12

Emergency response training regional centers, see EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES, subhead Regional Emergency Response Training Centers

Faculty

Half-time instructors, applicability of standards and requirements, ch 214, §23

Propane education and research, ch 182, §3, 15

Quality faculty plans, maintenance, ch 214, §21, 22

Quality faculty working group, faculty participation, ch 214, §8

Salaries, appropriations, ch 215, §31

Generation Iowa commission, retention of young adults in Iowa, ch 45

Industrial new jobs training Act projects, tax credits, ch 161, §3, 22

Instructors, see subhead Faculty above

Interpreters for deaf persons, arrangements between school for deaf and Iowa western community college, appropriations, ch 215, §30

Job training, see LABOR AND EMPLOYMENT, subhead Training for Jobs

Local government innovation, see LOCAL GOVERNMENT INNOVATION COMMISSION AND FUND

Management information system, appropriations, ch 214, §6

Midwestern higher education compact, membership fees, appropriations, ch 214, §9

Motor fuel and biofuel testing laboratory, ch 215, §97

Motor vehicle dealers of used vehicles, prelicensing and continuing education programs, reporting requirements, ch 51, §3

Motor vehicle fuel purchased and used, Code correction, ch 22, §61

National education center for agricultural safety training at northeast Iowa community college, equipment purchases appropriations, ch 219, §1, 2

Operational functions shared with school districts, ch 130, §4, 6

Preschool providers, professional development for, appropriations, ch 214, §6

Property sales by community colleges, required authorization by general assembly and approval of governor, ch 131, §5, 7; ch 215, §133

Real estate education programs, appropriations, ch 206, §27, 29, 39; ch 215, §261

School district sharing and operations efficiencies, planning appropriations, ch 130, §4, 6

School ready children grant program, appropriations, ch 181; ch 208, §3

School-to-career programs, appropriations, ch 212, §3; ch 215, §71

Students

Credit transfer and articulation internet website for community college students transferring to state universities, ch 215, §55

Internships in targeted industries, ch 122, §1, 4, 10

Statewide information system, education department study, ch 32

Teachers, see subhead Faculty above

Tim Shields center for governing excellence in Iowa, ch 117, §6, 7; ch 215, §54

COMMUNITY COLLEGES AND MERGED AREAS — Continued

Virtual classes via communications network, supplementary weighting if shared with schools, ch 214, §20, 44

Vocational education programs, appropriations, ch 214, §6

Workforce training and economic development funds for community colleges, appropriations, ch 209, §1, 2, 4; ch 215, §53, 63; ch 219, §1, 2

Work-study program appropriations, ch 214, §3

COMMUNITY DEVELOPMENT AND ASSISTANCE

See ECONOMIC DEVELOPMENT

COMMUNITY DEVELOPMENT DIVISION

See ECONOMIC DEVELOPMENT DEPARTMENT

COMMUNITY EMPOWERMENT

Appropriations, see APPROPRIATIONS

Business community investment advisory council report and recommendations implementation, reallocations, ch 214, §42, 44

Child vision screening, appropriations, ch 218, §2

Community empowerment office and facilitator, appropriations, ch 214, §6

Early childhood coordinator and Iowa website, appropriations, ch 214, §6

Early childhood programs, appropriations, ch 218, §7

Iowa empowerment board, appropriations, ch 218, §2

Iowa empowerment fund, appropriations, ch 181; ch 208, §3; ch 214, §6, 41, 42, 44; ch 218, §16

Preschool program for four-year-old children, statewide, collaboration with, ch 148, §3 Preschool tuition and supportive services assistance for low-income parents, appropriations, ch 181; ch 214, §6, 41, 44

Professional development for system of early care, health, and education, ch 214, §6 Ready-to-learn-coordinator for support of community empowerment, ch 214, §6 School ready children grant program, appropriations, ch 181; ch 208, §3; ch 214, §6, 41, 44 Technical assistance, appropriations, ch 214, §6

COMMUNITY MENTAL HEALTH CENTERS

See MENTAL HEALTH AND DISABILITIES, subhead Mental Health Centers

COMMUNITY SERVICE (PUBLIC SERVICE)

See also VOLUNTEERS AND VOLUNTEERISM

Criminal offenders, service performed by, calculation of value, ch 215, \$124 Family investment program participants, option for community service engagement,

COMPACTS

ch 124, §5

Midwestern higher education compact, membership fees, appropriations, ch 214, §9 Midwest interstate passenger rail compact, ch 94

COMPANIES

See BUSINESS AND BUSINESSES

COMPARATIVE FAULT

Tort claims against state and municipalities, notice requirements, ch 110, §3 – 6

COMPENSATION

Deferred compensation advisory board members from general assembly, compensation, ch 217. §1

Jurors, compensation for, ch 210, §4

Salaries and wages, see SALARIES AND WAGES

COMPENSATION — Continued

State officers and employees, see STATE EMPLOYEES, subhead Compensation

Unemployment compensation, see UNEMPLOYMENT COMPENSATION Victims

Compensation, see VICTIMS AND VICTIM RIGHTS

Restitution, see RESTITUTION, subhead Criminal Offenders, Restitution by

Vietnam veterans bonus, ch 176, §1

Workers' compensation, see WORKERS' COMPENSATION

COMPETENCY

See also MENTAL HEALTH AND DISABILITIES

Voting by mentally incompetent persons, disqualification, proposed constitutional amendment, ch 223

COMPETITION

Enforcement of Iowa competition, fair trade, and antitrust laws, ch 213, §23

COMPETITIVE BIDDING AND BIDDERS

See BIDDING AND BIDDERS

COMPETITIVE OUOTATIONS

Public improvement construction projects, see PUBLIC CONTRACTS, subhead Construction Project Bidding and Contract Procedures

COMPLAINTS

Banking division complaints, disclosure of identity of complainant, ch 170, §4

Civil rights complaints by minors and persons with mental illness, limitations of actions for filing, ch 110, §1, 2, 6

Criminal complaints, see CRIMINAL PROCEDURE AND CRIMINAL ACTIONS

Peace officers and public safety and emergency personnel, administrative investigations of complaints against, ch 160

COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND AND BOARD

See TANKS

COMPUTERS AND COMPUTER SOFTWARE

See also ELECTRONIC COMMUNICATIONS, RECORDS, AND TRANSACTIONS; INFORMATION TECHNOLOGY; INTERNET AND INTERNET SERVICES; TECHNOLOGY

Banking division records, storage format, ch 170, §1

Before and after school grant program, approved instructional programs, ch 208, \$5; ch 214, \$6, 19; ch 215, \$34

Corrections offender network (ICON) data system, appropriations, ch 213, §4, 6; ch 219, §14, 15

Disabled persons

Assistive technology for disabled persons, loans to purchase, ch 206, §10, 39 Computerized information and referral services (Iowa compass program), appropriations, ch 218, §26

Education data warehouse, appropriations, ch 214, §6; ch 219, §14, 15 E-mail. see E-MAIL

Hunting of animals by remote control or internet, violations and penalties for violations, ch 156

Spyware and malware protection, Code corrections, ch 126, \$108; ch 215, \$257

Student information, education department statewide data and software systems study, ch 32

COMPUTERS AND COMPUTER SOFTWARE — Continued

Voting systems, see ELECTIONS, subheads Machines Used for Voting; Optical Scan Systems Used for Voting

Web search portal businesses, tax exemptions and refunds for equipment, fuel, and electricity expenditures, ch 199, §1, 3, 4

CONCEALMENT OF CRIMES

Abuse of corpses with intent to conceal crimes, criminal offenses and penalties, ch 91, §2

CONCILIATION

See DISPUTE RESOLUTION

CONDEMNATION

See also EMINENT DOMAIN

Electrical systems not complying with codes or standards, ch 197, §36 – 38, 43, 50

Tax credits and refunds for gains on condemned property reacquired by taxpayer as prior owner, claims filing, ch 186, §18

CONDOMINIUMS

Declaration to submit property to condominiums, Code correction, ch 22, §85

CONFIDENTIAL COMMUNICATIONS AND RECORDS

See also PRIVACY

Abandoned property, records of, maintenance and confidentiality, ch 37, §1, 6

Actuarial opinion statements for property and casualty insurance companies, confidential documents, ch 137, §15

Adult abuse reports and information, ch 159, §15, 16

AIDS and HIV medical information, ch 70, §10, 11

Banking division records, ch 88, §5, 6

Cemetery merchandise sales, preneed seller and sales agent reporting information, ch 175, \$1, 11, 18

Charitable donations to foundations, Code correction, ch 126, §11

Credit union records, ch 174, §8, 56

Debt management business licensees, records related to, ch 170, §4

Drug prescribing and dispensing information program, confidentiality, ch 8, §19

Electrical examining board, ch 197, §27, 50

Funeral merchandise and services sales, preneed seller and sales agent reporting information, ch 175, \$1, 11, 18

Government security procedures and emergency preparedness information, closed session meetings and confidentiality, ch 63

Health care professional patient information, release to organ procurement organizations, confidentiality, ch 44, §9

Hospital patient information, release to organ procurement organizations, confidentiality, ch 44, §9

Medical examiner patient information, release to organ procurement organizations, confidentiality, ch 44, §9

Peace officer ongoing investigation e-mail and telephone billing records, confidentiality and limitations of actions, ch 62

Unclaimed property, records of, maintenance and confidentiality, ch 37, §1, 6

Unemployment compensation information, confidentiality requirements and penalty for violation, ch 77

CONFINED PERSONS AND CONFINEMENTS

Disease control, employment protection for confined persons, ch 159, §25

Operating while intoxicated violators, costs of confinement, appropriations, ch 206, §13, 39

Parole violators, costs of confinement, appropriation, ch 206, §13, 39

Work release violators, costs of confinement, appropriations, ch 206, §13, 39

CONFINEMENT FEEDING OPERATIONS

See ANIMALS, subhead Feeding Operations and Feedlots

CONFLICTS

See WARS AND CONFLICTS

CONFLICTS OF INTEREST

Credit union directors, committee members, officers, and employees, ch 174, §26

Finance authority members and employees, ch 54, §14, 45

Governmental ethics regulation, ch 5

Pharmacy benefits managers, ch 193, §4, 9

Power fund board and due diligence committee members, ch 168, §8, 18

CONGENITAL DISORDERS

See CHILDREN, subhead Birth Defects

CONGRESS

Redistricting of Congressional districts, see REDISTRICTING OF ELECTION DISTRICTS

CONNIE BELIN & JACQUELINE N. BLANK INTERNATIONAL CENTER FOR GIFTED EDUCATION AND TALENT DEVELOPMENT

Appropriations and use restrictions, ch 214, §6

CONSCIENTIOUS OBJECTORS

Vietnam veterans bonus eligibility, ch 176, §1

CONSERVATION

Energy, see ENERGY

Environmental protection, see ENVIRONMENTAL PROTECTION

Peace officers, see NATURAL RESOURCES DEPARTMENT, subhead Conservation Peace Officers

Soil and water conservation, see SOIL AND WATER CONSERVATION

Wildlife, see WILDLIFE

CONSERVATORS AND CONSERVATORSHIPS

See also PROBATE CODE, subhead Conservators and Conservatorships Substitute decision makers and decision-making services, state and local offices, appropriations, ch 218, §1

CONSIGNMENTS, CONSIGNEES, AND CONSIGNORS

Bills of lading, see UNIFORM COMMERCIAL CODE, subhead Documents of Title

CONSPIRACY

Real estate broker and salesperson licensees and licensure applicants convicted of conspiracy to defraud, ch 187

CONSTITUTION OF IOWA

Amendments to Constitution, elections on, ballot forms, ch 59, \$9, 16, 19; ch 190, \$23, 24, 32

Conventions, election on holding of, ballot forms, ch 59, §9, 16, 19

Voting privilege denied to mentally incompetent persons, proposed constitutional amendment, ch 223

CONSTRUCTION WORK, CONTRACTORS, AND EQUIPMENT

Alarm systems, see ALARM SYSTEMS, CONTRACTORS, AND INSTALLERS

Asbestos removal and encapsulation, ch 125

Building codes, see BUILDING CODES

Building permits, applicability of state building code to, ch 97

CONSTRUCTION WORK, CONTRACTORS, AND EQUIPMENT — Continued Community college buildings constructed by students, sales by community colleges, required authorization by general assembly and approval by governor, ch 131, §5, 7; ch 215, §133

County capital projects, bond issues for, ch 109

Electrical systems, see ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS Electric power generating facility permit applications for projects emitting greenhouse gases, requirements, ch 120, §3

Film, television, and video project expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Fire extinguishing systems, see FIRES AND FIRE PROTECTION

Housing, see HOUSING

HVAC systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING) Hydronic systems, see HYDRONIC SYSTEMS

Materials, supplies, and equipment used in projects for tax exempt entities, sales tax exemption, ch 186, §22

Mechanics' liens, see LIENS, subhead Mechanics' Liens

National guard facilities, design-build contracts authorized by armory board, ch 74, §2 Plumbing, see PLUMBING AND PLUMBERS

Public improvements, construction and improvement of, bid and contract requirements, see PUBLIC CONTRACTS

Registration of contractors by state, hearing costs reimbursement by labor services division, ch 212, §16; ch 217, §12

State infrastructure and capital projects, see CAPITOL AND CAPITOL COMPLEX; STATE OFFICERS AND DEPARTMENTS, subhead Buildings and Facilities of State

Targeted small businesses, purchasing and procurement by state agencies from small businesses, ch 207, §1, 2, 6, 9 – 11, 15, 16, 18

Taxation of equipment, see TAXATION, subhead Construction Equipment

CONSUMER ADVOCATE

See ATTORNEY GENERAL

CONSUMER CREDIT CODE

Administration of law, Iowa Code correction, ch 22, §98

Consumer loans

Application fees, ch 118, §2

Secured by motor vehicle titles (car title loans), finance charge restrictions, ch 26

Credit unions, enforcement with respect to and application to, ch 174, §16, 46

Health service provider disputed fees in workers' compensation proceedings, ch 128, \$2-4

Leases and agreements under uniform commercial code, exclusion from regulation, ch 41, \$41

Workers' compensation, contested case proceedings, debt collection prohibition, ch 128, \$2-4

CONSUMER EDUCATION AND LITIGATION FUND

General provisions, ch 213, §24

CONSUMERS

Advocate, see ATTORNEY GENERAL, subhead Consumer Advocate Division and Consumer Advocate

Credit, see CONSUMER CREDIT CODE

Education fund, establishment and appropriations, ch 213, §24

Frauds against consumers

Cemetery and funeral merchandise and funeral services sales, fraudulent practices, ch 175, \$25

CONSUMERS — Continued

Frauds against consumers — Continued

Education and litigation fund, establishment and appropriations, ch 213, §24

Enforcement of and education about consumer fraud laws, ch 170, §4; ch 213, §24

Loans secured by motor vehicle titles (car title loans), unlawful loan structuring, ch 26, §3 Real estate appraisal assignments, improper influence upon, violations and penalties,

ch 72, §5, 7

Litigation fund, establishment and appropriations, ch 213, §24

Loans, see CONSUMER CREDIT CODE

CONTAGIOUS DISEASES

See DISEASES

CONTAINERS

Beer kegs, registration and sales regulation, ch 46

Cigarette packaging, fire safety standards markings for, ch 166, §7

Heavy metal packaging components, restrictions on, violations and penalties for violations, ch 151, \$5 - 11

CONTAMINATION

Pollution, see POLLUTION AND POLLUTION CONTROL

CONTEMPT

Delinquent child support obligors, pilot project alternative to jail for contempt of court, ch 218, §7

Dissolutions of marriage conciliation orders, waivers if party held in contempt, ch 180, §1 No-contact or protective order violation, ch 180, §9, 10

CONTESTS

Gambling games, see GAMBLING

CONTESTS OF ELECTIONS

Lieutenant governor elections, stricken, ch 59, §17, 19

CONTINUING EDUCATION

Cemetery and funeral merchandise and funeral services sales agents, continuing education requirements, ch 175, §17

Electricians, ch 197, §28, 50

Insurance producers, continuing education requirements, ch 137, §23

Motor vehicle dealers of used vehicles, continuing education requirements and exemptions, ch 51, §2, 3

Pharmacy technicians, ch 20, §2

Plumbers and mechanical systems professionals, ch 198, §20, 35

CONTRABAND

Jailed persons suspected of possession, sheriff authorization to x-ray, ch 89, \{1}

Possession prohibition in criminal or juvenile facilities and institutions, criminal violations and penalties for violations, ch 89

CONTRACEPTIVE DRUGS, DEVICES, AND SERVICES

See PREGNANCY, subhead Prevention and Planning of Pregnancy

CONTRACTORS

Alarm systems, see ALARM SYSTEMS, CONTRACTORS, AND INSTALLERS

Construction contractors, see CONSTRUCTION WORK, CONTRACTORS, AND EOUIPMENT

Electrical systems, see ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS

CONTRACTORS — Continued

Fire extinguishing systems, see FIRES AND FIRE PROTECTION, subhead Fire Extinguishing Systems

HVAC (heating, ventilation, air conditioning) service contractors, licensing and regulation, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING)

Hydronic service contractors, licensing and regulation, see HYDRONIC SYSTEMS

Plumbing service contractors, licensing and regulation, see PLUMBING AND PLUMBERS

Refrigeration service contractors, licensing and regulation, see REFRIGERATION AND REFRIGERATION EQUIPMENT

CONTRACTS

City contracts, see PUBLIC CONTRACTS

County contracts, see PUBLIC CONTRACTS

Finance authority contracts, competitive bidding, ch 54, §19, 45

Government contracts, see PUBLIC CONTRACTS

Public contracts, see PUBLIC CONTRACTS

School district contracts, see PUBLIC CONTRACTS

State government contracts, see PUBLIC CONTRACTS

Township contracts, see PUBLIC CONTRACTS

Uniform commercial code, see UNIFORM COMMERCIAL CODE

CONTRIBUTIONS

See also GIFTS

Political contributions, see CAMPAIGN FINANCE

Unemployment compensation, see UNEMPLOYMENT COMPENSATION

West capitol terrace and capitol grounds improvements, acknowledgements of private contributors, ch 222

CONTROLLED SUBSTANCES

See also ANABOLIC STEROIDS; DRUGS AND DRUG CONTROL; MARIJUANA; OPIATES Abuse and addiction, see SUBSTANCE ABUSE

Boat operation while controlled substance present in operator, see BOATS AND VESSELS, subhead Intoxicated Operators

Contraband, see CONTRABAND

Criminal offenses, offenders, and penalties

Dangerous wild animal possession prohibited for convicted offenders, ch 195, §4 Prohibited acts, Code correction, ch 8, §18

Dealer excise taxes, amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Driving motor vehicles while controlled substance present in driver, *see MOTOR VEHICLES*, *subhead Intoxicated Drivers (Operating while Intoxicated)*

Forfeiture of substances and related articles, Code correction, ch 126, §19

Isomers, definitions revised, ch 8, §1, 3

Narcotics enforcement division, see PUBLIC SAFETY DEPARTMENT, subhead Narcotics Enforcement, Division of

Prescribing and dispensing

Drug prescribing and dispensing information program, ch 8, \$19; ch 126, \$25 - 34 Electronic and facsimile prescriptions for controlled substances, ch 8, \$17

Schedules of substances, included and excluded substances revised, ch 8; ch 126, §24

Testing of employees in private sector by employers, exception for employees due to collective bargaining agreement, ch 50

CONVEYANCES FOR PASSENGERS AND FREIGHT

Building codes, conflicts with, ch 16, §3

CONVEYANCES FOR PASSENGERS AND FREIGHT — Continued

Dangerous operations, remedial actions by labor commissioner, ch 16, §1, 9

Terminology changes, ch 16, §2 – 16

CONVEYANCES OF REAL ESTATE

Homesteads, format of instruments for spouses, ch 68

Marketable record titles, interests in and claims to affected land, notice recording and indexing procedures, ch 101, §7

Recording, filing, and indexing procedures, ch 101, §4

Tax deeds, affidavits and claims by title holders under, format and recording, ch 101, §1, 2

COOLING AND COOLING EQUIPMENT

Comfort systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING); HYDRONIC SYSTEMS

Food refrigeration, see REFRIGERATION AND REFRIGERATION EQUIPMENT

COOPERATIVE ASSOCIATIONS AND COOPERATIVES

See also BUSINESS AND BUSINESSES

Agricultural cooperatives, participation in propane education and research, ch 182, §3, 15

Agricultural land lessees, reports by, time of filing, Code correction, ch 126, §3

Articles of incorporation, recordation requirement stricken, ch 23, §4

Certificates of membership or stock, issuance of, ch 23, §1 – 3

Dissolution, trustee reporting requirement stricken, ch 23, §5; ch 215, §254

Mergers and consolidations, Code correction, ch 126, §86

Principal office, change of, statement filing requirements, ch 23, §6

COOPERATIVE EXTENSION SERVICE IN AGRICULTURE AND HOME ECONOMICS Appropriations, ch 214, §9

COPPERHEADS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

COPYRIGHTS

Finance authority ownership powers, ch 54, §19

CORN AND CORN PRODUCTS

See also CROPS; GRAIN

Excise tax assessment moneys, use of, Code correction, ch 126, §40

CORPORATIONS

See also BUSINESS AND BUSINESSES; PROFESSIONAL CORPORATIONS

Articles of incorporation and amendments to articles, ch 140, §3, 7, 8

Business taxes on corporations, see INCOME TAXES, subhead Business Taxes on Corporations

Cooperative associations and cooperatives, see COOPERATIVE ASSOCIATIONS AND COOPERATIVES

Factual information relating to corporations outside of filed documents and plans, defined and use authorized, ch 140, $\S1 - 4$, 8 - 12

Filing fees refund by secretary of state, ch 217, §20

Foreign corporations

Filing fees refund by secretary of state, ch 217, §20

Tort actions against foreign corporations, Code correction, ch 126, §101

Income taxes, see INCOME TAXES, subhead Business Taxes on Corporations

Investment tax credits, see INCOME TAXES, subhead Investment Tax Credits

Mergers of corporations, ch 140, §1, 2, 9

Nonprofit corporations, see CORPORATIONS, NONPROFIT

Officers voluntarily rejecting workers' compensation coverage, ch 128, §1

CORPORATIONS — Continued

Records kept by corporations

Location, ch 140, §11

Notices to shareholders, ch 140, §1, 2, 12

Shares and securities of corporations

Authorized shares, ch 140, §4, 5

Exchanges, ch 140, §1, 2, 10

Purchase rights, options, and warrants, ch 140, §6

Taxes on corporations, see INCOME TAXES, subhead Business Taxes on Corporations

CORPORATIONS, NONPROFIT

Abraham Lincoln bicentennial commission, ch 99; ch 215, §98; ch 217, §11

Association group health care plans for employees of small employers, ch 57, 1 - 5, 8; ch 215, 255

Cooperative associations and cooperatives, see COOPERATIVE ASSOCIATIONS AND COOPERATIVES

Directors, boards of

Powers, Code correction, ch 126, §88

Standards of conduct, ch 15

Filing fees refund by secretary of state, ch 217, §20

CORPSES

See DEATHS AND DEAD PERSONS

CORRECTIONAL FACILITIES AND INSTITUTIONS

See also CORRECTIONS DEPARTMENT; JAILS AND HOLDING FACILITIES; PRISONS AND PRISONERS

Accounts of inmates, allowance distributions, departmental report, ch 213, §7

Appropriations, see APPROPRIATIONS, subhead Corrections Department and Correctional Facilities

Capital projects, see subhead Construction, Improvement, and Repair Projects below

Clarinda correctional facility utilization for offenders with mental illness, ch 105

Clinical care unit at Fort Madison facility, appropriations, ch 208, §1

Construction, improvement, and repair projects

Anamosa correctional facility kitchen remodeling, appropriations, ch 219, §11 - 13

Appropriations, see APPROPRIATIONS, subhead Corrections Department and Correctional Facilities

Cedar Rapids mental health correctional facility, appropriations, ch 219, §1, 2

Mitchellville correctional facility master planning process for remodeling and expansion, appropriations, ch 219, §1, 2

Oakdale medical and classification center facility construction, appropriations nonreversion, ch 219, §19

Contraband, criminal violations and penalties for violations, ch 89

Farms, labor-intensive farming and gardening and growing food for institutional consumption, ch 213, §4, 6

Infrastructure projects, see subhead Construction, Improvement, and Repair Projects above Inmates

Accounts, allowance distributions, departmental report, ch 213, §7

Cemetery restoration and preservation using inmate labor, ch 213, §7

Contraband, criminal violations and penalties for violations, ch 89

Correctional farm job opportunities, ch 213, §4, 6

Custody classification systems development and implementation, appropriations, ch 219, \$1, 2

Dual diagnosis, services for offenders with, appropriations, ch 208, §1

Educational programs, appropriations, ch 206, §14, 39; ch 213, §4, 6; ch 215, §74

CORRECTIONAL FACILITIES AND INSTITUTIONS — Continued

Inmates — Continued

Historical landmarks restoration and preservation using inmate labor, ch 213, §7

Intermediate criminal sanctions program, appropriations, ch 213, §5, 6

Labor and private industry employment, reports, ch 213, §4, 6, 7

Mental health treatment, appropriations, ch 213, §4, 6

Mental illness, offenders with, utilization of Clarinda correctional facility for, ch 105

Moneys recouped from earnings for facility operations, reports, ch 213, §4, 6

Muslim imam services, appropriations, ch 213, §3, 6

Parole and parolees, see PAROLE AND PAROLEES

Private industry employment agreements, requirements and reports, ch 213, §4, 6, 7

Private sector housing of inmates, prohibition, ch 103

Private sector nongovernmental entity housing of inmates, agreement restrictions, ch 213, §4, 6

Road clean up using inmate labor, ch 213, §7

Substance abuse treatment programs, appropriations, ch 204, §6, 15 - 17; ch 213, §3, 4, 6

Viral hepatitis prevention and treatment, appropriations, ch 213, §4, 6

Vocational training and education programs, appropriations and transfers, ch 213, §4, 6

Water sources clean up using inmate labor, ch 213, §7

Work release violators, confinement by counties, reimbursement appropriations, ch 206, \$13, 39; ch 213, \$3, 6

Iowa prison industries, see subhead Prison Industries below

Muslim imam services, appropriations, ch 213, §3, 6

Parole and parolees, see PAROLE AND PAROLEES

Prisoners, see subhead Inmates above

Prison industries

Moneys transfer for inmate educational programs, ch 213, §4, 6

State agency purchases from, ch 213, §9

Produce and meat for institutional consumption, inmate production, ch 213, §4, 6

Special needs unit at Fort Madison, electrical system lease-purchase payments, appropriations, ch 219, §1, 2

Substance abuse counselor and program at Luster Heights correctional facility, appropriations, ch 213, §3, 6

Work release violators, confinement by counties, reimbursement appropriations, ch 206, \$13, 39; ch 213, \$3, 6

CORRECTIONAL RELEASE CENTER (NEWTON CORRECTIONAL FACILITY)

See CORRECTIONAL FACILITIES AND INSTITUTIONS

CORRECTIONAL SERVICES DEPARTMENTS

See also PRISONS AND PRISONERS

Alternatives to prison, ch 213, §5, 6

Appropriations, ch 208, §1; ch 213, §5, 6; ch 215, §75; ch 218, §32

Day programming, appropriations, ch 208, §1; ch 213, §5, 6

Drug court programs, appropriations, ch 208, §1; ch 218, §32

Electronic monitoring devices for offenders, appropriations and report, ch 213, \$5, 6, 8

Federal grants, local government grant status, ch 213, §5, 6

Intensive supervision programs, appropriations, ch 213, §5, 6

Intermediate criminal sanctions program, appropriations, ch 213, §5, 6

Job development programs, appropriations, ch 213, §5, 6

Low-risk offenders, least restrictive sanctions program, appropriations, ch 213, §5, 6

Moneys recouped from inmate earnings for department operations, reports, ch 213, §4, 6

Parole and parolees, see PAROLE AND PAROLEES

Probation and probationers, see PROBATION AND PROBATIONERS

Sex offender treatment programs, appropriations, ch 213, §5, 6

CORRECTIONAL SERVICES DEPARTMENTS — Continued

Transitional housing pilot project for paroled offenders recovering from substance abuse, appropriations and report, ch 213, §4, 6

Youth leadership model program to help at-risk youth, ch 213, §5, 6

CORRECTIONS DEPARTMENT

See also CORRECTIONAL FACILITIES AND INSTITUTIONS; STATE OFFICERS AND DEPARTMENTS

Appropriations, see APPROPRIATIONS

Correctional farms gardening, increased production expansion feasibility, ch 213, §4, 6 Correctional services departments, *see CORRECTIONAL SERVICES DEPARTMENTS* Corrections offender network (ICON) data system, appropriations, ch 213, §4, 6; ch 219,

§14, 15 Corrections officers

Administrative investigations of complaints against officers, ch 160

Vacant positions, authorization to fill, ch 213, §3, 6

Demonstration to maintain independence and employment (DMIE), appropriations, ch 218, \$11

Director, salary, ch 215, §13, 14

Educational programs for inmates, appropriations, ch 206, \$14, 39; ch 213, \$4, 6; ch 215, \$74

Inmates, see CORRECTIONAL FACILITIES AND INSTITUTIONS

Interoperable communications system board, membership and duties, ch 90

Moneys recouped from inmate earnings for facility operations, reports, ch 213, §4, 6

Officers, see subhead Corrections Officers above

Parole board, see PAROLE BOARD

Private sector housing of inmates, prohibition, ch 103

Private sector nongovernmental entity housing of inmates, agreement restrictions, ch 213, \$4,6

Privatization of services, restrictions, ch 213, §4, 6

Reallocation of appropriations and funds, notice requirement, ch 213, §6

Sexual predator evaluations in commitment proceedings, appropriations, ch 215, \$64, 65

Vehicles and fuel used by vehicles of department, Code correction, ch 22, \$107 Vocational training and education programs, appropriations, ch 213, \$4, 6

COSMETICS

Film, television, and video project makeup expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

COSMETOLOGY AND COSMETOLOGISTS

See also PROFESSIONS

Licensing and regulation, ch 10, §26 – 67, 73, 157, 158; ch 215, §260

Pedicuring, inclusion in cosmetology arts and sciences definition, ch 10, §158

COSTS IN COURT ACTIONS

See COURTS AND JUDICIAL ADMINISTRATION, subhead Fees and Costs

COUGARS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

COUNCILS

City councils, see CITIES

Government, councils of

Appropriations, ch 212, §5

Area fifteen regional planning commission divided, ch 76

COUNCILS — Continued

Government, councils of — Continued

Local government innovation commission member appointment, ch 117, §2, 7; ch 215, §240

COUNSELING AND COUNSELORS

Marital and family therapists, see MARITAL AND FAMILY THERAPY AND THERAPISTS Mental health counseling and counselors, see MENTAL HEALTH AND DISABILITIES, subhead Mental Health Counseling and Counselors

School guidance counselors, see SCHOOLS AND SCHOOL DISTRICTS, subhead Guidance Counselors

Victims of crimes, counseling services reimbursable from victim compensation, transportation to, ch 27, §9

COUNTIES

See also index heading for specific county

All-terrain vehicle registration and permitting, ch 126, §56; ch 141, §28 – 32, 48

Asbestos removal and encapsulation projects, bid acceptance requirements, ch 125, §2

Assessors, see ASSESSMENTS AND ASSESSORS

Association of counties, see ASSOCIATION OF COUNTIES

Attorneys

See also ATTORNEYS AT LAW, subhead Prosecuting Attorneys

Arrests or takings into custody, final disposition reports, forwarding to clerks of court, ch 38, §7

Debt collection services agencies, use to collect delinquent court costs and penalties, ch 196, §7

Delinquent court costs and penalties, collection and disposition, duties, ch 196, \$1, 2, 7-11, 15-17; ch 215, \$47

Food establishment and processing plant licensing, regulation, and sanitation enforcement, ch 215, §219

Installment agreements for repayment of delinquent court costs and penalties, duties, ch 196, \$1, 2, 7, 8, 11, 15 - 17; ch 215, \$47

Insurance law violations, legal proceedings against, ch 152, §51, 84

Vacancies in office, nomination of candidates for election to fill, ch 59, §2, 19

Victim notification system, see VICTIMS AND VICTIM RIGHTS, subhead Automated Victim Notification System

Auditoriums, memorial building and monument commissions, membership and quorum, ch 21

Auditors

Deputy officers, annual base salary, ch 123, §2, 3

Elections administration, see ELECTIONS

Livestock habitual trespass control, fence costs levied as property taxes to landowner, ch 64, §2

Overpayments of fees and charges paid to county, ch 75, §2

Township trustee meeting public notices, duties, ch 139

Vacancies in office, nomination of candidates for election to fill, ch 59, §2, 19

Beer keg registration and sales regulation, preemption of local ordinances, ch 46, §2

Boards of supervisors, see subhead Supervisors, Boards of, below

Bonds, general obligation, uses and election requirement threshold, ch 109

Brain injury services administration, see BRAIN INJURIES, subhead Services to Persons with Brain Injuries

Bridges, see BRIDGES

Budgets

Deputy officers, annual base salary increase, applicability, ch 123, §2, 3

Procedures for counties with established urban renewal areas, ch 186, §3, 28

Services provided under intergovernmental emergency services agreements, ch 96

Building codes, see BUILDING CODES

Buildings and facilities of counties

See also subhead Property of Counties below

Construction and improvement, see subhead Construction and Improvement Projects below

Memorial building and monument commissions, membership and quorum, ch 21

Cable service franchise requirements, restrictions, and fees, ch 201

Cemeteries, see CEMETERIES

Child welfare services administration, see CHILDREN, subhead Welfare Services for Children

Cigarette fire safety standards regulation, county compliance, ch 166, §10

Civil service commission findings and decisions regarding deputy county sheriffs, appeals, ch 58

Claims against counties, liability for, see TORTS AND TORT CLAIMS, subhead Municipalities, Claims against

Coliseums, memorial building and monument commissions, membership and quorum, ch 21

Communications for public safety, interoperable systems implementation, ch 90

Community-based mental health and developmental disabilities services fund, moneys allocation and utilization, ch 218, §26

Community empowerment, see COMMUNITY EMPOWERMENT

Conservation boards

Dangerous wild animal regulation exception, ch 195, §7

Water quality improvement projects, local watershed improvement grants for, ch 211, §39

Wetlands conservation joint projects with natural resources department, ch 194, §4 Construction and improvement projects

Bidding and contract procedures, see PUBLIC CONTRACTS, subhead Construction Project Bidding and Contract Procedures

Bond issues for construction and repair, ch 109, §1, 3

Contracts, see PUBLIC CONTRACTS

Conveyances for passengers and freight, regulation, see CONVEYANCES FOR PASSENGERS AND FREIGHT

Councils of governments, see COUNCILS, subhead Government, Councils of

Culverts, bond issues for construction or repair, ch 109, §2

Deer population control by urban hunting on private property, liability limitation for property owners, Code correction, ch 22, §84

Defendants sentenced to custody, temporary confinement before transfers, appropriations for reimbursement, ch 213, §3, 6

Deputy officers, annual base salaries, ch 123, §2, 3

Developmental disability services administration, see DEVELOPMENTAL DISABILITIES, subhead Services to Persons with Developmental Disabilities

Driver's license issuance, see MOTOR VEHICLES, subhead Licenses and Permits for Drivers

Economic development, see ECONOMIC DEVELOPMENT

Elections and election administration, see ELECTIONS

Electrical installation inspections, ch 197, §34, 39, 50

Elevators for passengers and freight, regulation, see CONVEYANCES FOR PASSENGERS AND FREIGHT

Emergency communications systems (911 and E911 service), see EMERGENCY COMMUNICATIONS SYSTEMS (911 AND E911 SERVICE)

Emergency preparedness information, closed session meetings and confidentiality, ch 63

Emergency response training regional centers, see EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES, subhead Regional Emergency Response Training Centers

Emergency services intergovernmental agreements, budget process, ch 96 Employees

See also PUBLIC EMPLOYEES

Deputy officers, annual base salaries, ch 123, §2, 3

Overpayments of fees and charges paid to county, ch 75, §2

Unemployment compensation information confidentiality, penalty for violations by public officials, ch 77

Enterprise areas and zones for economic development, see ENTERPRISE AREAS AND ZONES

Environmental crime investigations and prosecutions, reimbursement of expenses, ch 213, §22

Fairs, see FAIRS AND FAIRGROUNDS

Farmers' market nutrition program, local government agencies to cooperate with state agencies and nonprofit entities, ch 84, §3

Finance committee, budget reporting criteria and forms for reports, ch 186, §3, 28

Food establishment and processing plant licensing, regulation, and sanitation, see FOOD, subheads Establishments for Provision of Food; Processing and Production Plants and Establishments

Franchises for cable or video services, requirements, restrictions, and fees for, ch 201 General funds, revenues credited to, ch 174, \$92; ch 185, \$2

Gymnasiums, memorial building and monument commissions, membership and quorum, ${
m ch}~21$

Health care facilities, see HEALTH CARE FACILITIES

Highways, see HIGHWAYS

Hospitals, see HOSPITALS AND HOSPITAL SERVICES

Hotel and motel licensing, regulation, and sanitation, see HOTELS AND MOTELS Housing regulation and projects, see HOUSING, subhead Municipal Regulation and Projects

Improvement projects, see subhead Construction and Improvement Projects above Infrastructure projects, see subhead Construction and Improvement Projects above Inmate labor, use to clean up roads and water sources, ch 213, §7

Innovation and excellence initiatives, see LOCAL GOVERNMENT INNOVATION COMMISSION AND FUND

Iowa great places, see GREAT PLACES

Jails and holding facilities, see JAILS AND HOLDING FACILITIES

Joint entities and undertakings, see JOINT ENTITIES AND UNDERTAKINGS

Juvenile homes, see JUVENILE FACILITIES AND INSTITUTIONS

Law enforcement and law enforcement officers, see subhead Sheriffs and Deputy Sheriffs below

Libraries, see LIBRARIES

Livestock straying and trespass regulation, ch 64

Local government innovation, see LOCAL GOVERNMENT INNOVATION COMMISSION AND FUND

Loess hills development and conservation authority, see LOESS HILLS DEVELOPMENT AND CONSERVATION AUTHORITY

Mandates imposed by state, see MANDATES IMPOSED ON POLITICAL SUBDIVISIONS

Medical examiners, see MEDICAL EXAMINERS, STATE AND COUNTY

Memorial buildings, commissions, membership and quorum, ch 21

Mental health and mental illness services administration, see MENTAL HEALTH AND DISABILITIES, subhead Services to Persons with Mental Illness

Mental health patient advocates, see MENTAL HEALTH AND DISABILITIES, subhead Patient Advocates for Hospitalized Persons

Mental retardation services administration, see MENTAL RETARDATION, subhead Services to Persons with Mental Retardation

Monuments, commissions, membership and quorum, ch 21

Motor vehicle registration and titling, see MOTOR VEHICLES, subheads Registration and Registration Plates; Titles, Titleholders, and Certificates of Title

Natural resource-based business opportunities, eligibility of local resource conservation and development groups to receive appropriations, ch 211, §28, 30

Officers

See also subheads for specific officers under this index heading

Vacancies in office, nomination of candidates for election to fill, ch 59, §2, 19

Operating while intoxicated (OWI) violator confinement, appropriations for reimbursements, ch 206, §13, 39; ch 213, §3, 6

Operational functions shared with school districts, ch 130, §4, 6

Parole violator confinement, appropriations for reimbursements, ch 206, §13, 39; ch 213, §3, 6

Peace officers, see subhead Sheriffs and Deputy Sheriffs below

Pollution control, see POLLUTION AND POLLUTION CONTROL

Property of counties

 $See\ also\ subhead\ Buildings\ and\ Facilities\ of\ Counties\ above$

Disposal for homesteading program, stricken, ch 54, §32

Property taxes, see PROPERTY TAXES

Recorders

All-terrain vehicle registration and permitting, ch 126, §56; ch 141, §28 – 32, 48

Boat and vessel registration duties, see BOATS AND VESSELS, subhead Registration of Boats and Vessels

Cooperative associations and cooperatives, articles of corporation recordation and dissolution reporting requirements stricken, ch 23, §4, 5; ch 215, §254

Deputy officers, annual base salary, ch 123, §2, 3

Joint government entity boards, filing and recording of electronic records, duties revised, ch 158

Overpayments of fees and charges paid to county, ch 75, §2

Personally identifiable information, restricted use on documents and websites, ch 123, §1

Real estate and real property records and recordkeeping, ch 101

Snowmobile registration and permitting, ch 141, §3 – 8, 20

Underground storage tank certificate recording requirements, ch 171, §2

Vacancies in office, nomination of candidates for election to fill, ch 59, §2, 19

Recreation facilities, memorial building and monument commissions, membership and quorum, ch 21

Residential property, see HOUSING

Retirement system, see PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Roads, see HIGHWAYS

Runaway children treatment plans, grants and renewal of grants, appropriations, ch 218, \$20

Rural areas and services, see RURAL AREAS AND SERVICES

Sanitary districts, see SANITARY DISTRICTS

Security procedures information, closed session meetings and confidentiality, ch 63 Sheriffs and deputy sheriffs

See also LAW ENFORCEMENT AND LAW ENFORCEMENT OFFICERS; PEACE OFFICERS

Candidates for sheriff, administrative investigations of complaints against and candidates' rights regarding, ch 160

Sheriffs and deputy sheriffs — Continued

Civil service commission findings and decisions, appeals to district court by county, ch 58

Communications for public safety, interoperable systems implementation, ch 90

Contraband suspected on person committed to jail, authorization to x-ray, ch 89, \$1

Law enforcement academy basic training course, temporary fee authorization, ch 213, 818

Overpayments of fees and charges paid to county, ch 75, §2

Vacancies in office, nomination of candidates for election to fill, ch 59, §2, 19

Victim assistance, automated victim notification system, see VICTIMS AND VICTIM RIGHTS, subhead Automated Victim Notification System

Southern Iowa development and conservation fund, appropriations, ch 211, §26, 30

Streets, see HIGHWAYS

Supervisors, boards of

Livestock habitual trespass control, fence erection and maintenance authority, ch 64, §2 Overpayments of moneys paid to county, ch 75, §1

Vacancies in office, nomination of candidates for election to fill, ch 59, §2, 19

Voting machine purchases, ch 190, §6, 27, 30, 35, 40, 41

Taxes, see TAXATION

Tort claims against counties, liability for, see TORTS AND TORT CLAIMS, subhead Municipalities, Claims against

Tourism, see TOURISM

Townships, see TOWNSHIPS

Trail projects, appropriations and nonreversion, ch 219, §1, 2, 18

Transportation and transit services and systems, see PUBLIC TRANSPORTATION AND TRANSIT SERVICES AND SYSTEMS

Treasurers

Deputy officers, annual base salary, ch 123, §2, 3

Driver's license issuance, see MOTOR VEHICLES, subhead Licenses and Permits for Drivers

Motor vehicle registration and titling, see MOTOR VEHICLES, subheads Registration and Registration Plates; Titles, Titleholders, and Certificates of Title

Overpayments of fees and charges paid to county, ch 75, §2

Property tax administration, see PROPERTY TAXES

Tax collection by treasurers, limitations of actions, ch 40

Transit district levies, collection and payment, ch 143, §36

Vacancies in office, nomination of candidates for election to fill, ch 59, \$2, 19

Urban renewal, see URBAN RENEWAL

Veterans affairs and benefits, see VETERANS AND VETERANS AFFAIRS

Video service franchise requirements, restrictions, and fees, ch 201

Voting administration and regulation, see ELECTIONS

Water quality improvement projects, local watershed improvement grants for, ch 211, §39 Wildlife management or removal, use of drugs for, ch 56

Work release violator confinement, appropriations for reimbursements, ch 206, §13, 39; ch 213, §3, 6

Zoning of residences of medical assistance services recipients, ch 218, §130, 132

COUNTY FINANCE COMMITTEE

Budget reporting criteria and forms for reports, ch 186, §3, 28

COURT APPOINTED SPECIAL ADVOCATES

Appropriations, ch 217, §12

Fundraising for program, investigation and development, ch 217, §12

COURT COSTS AND FEES

See COURTS AND JUDICIAL ADMINISTRATION, subhead Fees and Costs

COURT RULES

Juror compensation, ch 210, §4

State patrol use of digital cameras in vehicles, assessment of issues related to rules of evidence, ch 213, §19

COURTS AND JUDICIAL ADMINISTRATION

See also CIVIL PROCEDURE AND CIVIL ACTIONS; CRIMINAL PROCEDURE AND CRIMINAL ACTIONS; JUDGES, JUSTICES, MAGISTRATES, AND REFEREES; JUDICIAL BRANCH

Administrators

District court administrator salaries, appropriations, ch 210, §1

State court administrator, see subhead State Court Administrator below

Adoption petitions, see ADOPTIONS

Appellate courts, see subheads Court of Appeals; Supreme Court below

Appropriations, see APPROPRIATIONS, subhead Judicial Branch

Children's justice initiative, authorization for additional staff and appropriations, ch 210, §1 Clerk of supreme court

Electronic mail use for attorney notifications of rulings and decisions, ch 33, §2

Salary, appropriations, ch 210, §1

Clerks of district court

Accessibility, legislative intent, ch 210, §1

Arrest final disposition reports, receipt from county attorney, ch 38, §7

Audits by auditor of state, appropriations, ch 210, §1

Cities, fees and costs payable from and to courts, duties of clerks, ch 196, \$12 - 14

Delinquent court costs and penalties, collection and disposition, duties of clerks, ch 196, §2. 8 – 11. 15: ch 215. §47

Foreign judgments, duties of clerks, ch 192, §1

Juror mileage and parking expense reimbursement, rate determination, ch 210, §4

Mortgage foreclosure recisions, disposition of loan documents and fee payment, ch 71, §5

Name changes, recording duties repealed, ch 71, §6

Probate court duties, see subhead Probate Court below Probation revocation fees, duties of clerks, ch 180, §2

Records, destruction of, ch 71, §2

Salaries, appropriations, ch 210, §1

Takings into custody, final disposition reports, receipt from county attorney, ch 38, §7

Tribal judgments, duties of clerks, ch 192, §1, 6, 8, 11

Costs, see subhead Fees and Costs below

Court information system, collections usage report and sentencing and information sharing with criminal justice agencies, ch 210, §1, 3

Court of appeals

Foreign or tribal judgments on appeal, effect on attachment of liens against real estate, ch 192, §1 – 3, 6, 8, 11

Judges, see JUDGES, JUSTICES, MAGISTRATES, AND REFEREES

Salaries, appropriations, ch 210, §1

Court reporters and reporting, see SHORTHAND REPORTING AND REPORTERS

District court

Civil service commission findings and decisions, appeals by counties, ch 58

Clerks of court, see subhead Clerks of District Court above

Conciliation orders in dissolutions of marriage, waivers for history of domestic abuse, ch 180, §1

Court administrator salaries, appropriations, ch 210, §1

COURTS AND JUDICIAL ADMINISTRATION — Continued

District court — Continued

Judges, see JUDGES, JUSTICES, MAGISTRATES, AND REFEREES

Juvenile court duties, see subhead Juvenile Court below

Patient advocate appointments, stricken, ch 86, §3

Probate court duties, see subhead Probate Court below

Propane education and research Act, enforcement, ch 182, §6, 15

Records, see subhead Records below

Salaries, appropriations, ch 210, §1

School district reorganization decisions by area education agency boards or joint boards, appeals of, ch 214, §34

Victim compensation for transportation to court, ch 27, §9

Electronic documents, procedures and requirements, ch 33; ch 215, §259

Fees and costs

Adoptions, waivers for multiple petitions, ch 71, §3

Child custody, visitation, or paternity proceedings, attorney fee payment, ch 24

Conservatorship establishment proceedings, payment of fees, ch 134, §15, 28

Delinquent, collection by judicial branch, ch 210, §1, 3

Delinquent, repayment and collection, ch 196, \$1, 2, 5, 7 - 11, 15 - 17; ch 215, \$47

Efficiency and best practices of judicial branch, study and report, ch 210, §1, 3

Guardianship establishment proceedings, payment of fees, ch 134, §15, 28

Juror fees and expenses, reimbursement, ch 210, §4

Mortgage foreclosure recisions, ch 71, §5

Probate transcripts, filing and indexing fee, ch 180, §3

Probation revocation fines and fees, ch 180, §2, 12

Restitution by criminal offenders, see RESTITUTION

Indian tribal courts, civil judgments of, recognition and enforcement, see JUDGMENTS AND DECREES

Judicial districts

Chief judges, see JUDGES, JUSTICES, MAGISTRATES, AND REFEREES

Correctional services departments, see CORRECTIONAL SERVICES

DEPARTMENTS

Delinquent child support obligors, pilot project for employment and support services, appropriations, ch 218, §7

Efficiency and best practices study and report, ch 210, §1, 3

Juries and jurors, see JURIES AND JURORS

Juvenile court

See also JUVENILE JUSTICE

Adoption proceedings, see ADOPTIONS

Aftercare services, dispositional review hearing, ch 218, §18

All Iowa opportunity foster care grant program, participation of persons under court custody, ch 214, §2, 24, 25

Children's justice initiative, authorization for additional staff and appropriations, ch 210,

Group foster care, service area budget targets, requirements applicable to juvenile court services, ch 218, \$18, 67

Juvenile services, court-ordered, appropriations and administration, ch 218, §18

Salaries of court officers, appropriations, ch 210, §1

School-based liaison officers, funding, ch 218, §18

Takings into custody, final disposition reports, receipt from county attorney, ch 38, §7 Juvenile drug court programs, appropriations, ch 218, §18, 57, 67 Probate court

Fiduciary service by judges, clerks, and deputy clerks for family members' estates, compensation, ch 86, §9

COURTS AND JUDICIAL ADMINISTRATION — Continued

Probate court — Continued

Small estate administration, duties of clerks, ch 134, §6, 23, 27, 28

Transcripts, filing and indexing fee, ch 180, §3

Real estate actions, indexing requirements, ch 71, §4

Records

Destruction of records, duties of clerks, ch 71, §2

Juror questionnaires, court sealing to protect safety or privacy of jurors or family members, ch 210, §5

Mortgage foreclosure recisions, disposition of loan documents, ch 71, §5

Real estate petitions, indexing requirements, ch 71, §4

Rules, see COURT RULES

Salaries, appropriations, ch 210, §1

Seals of courts, electronic images on electronic documents, ch 33, §1

Shorthand reporting and reporters, see SHORTHAND REPORTING AND REPORTERS

State court administrator

Delinquent court costs and penalties, collection and disposition, duties of administrator, ch 196, §9, 10

Juvenile drug court programs, allocation of funding duties, ch 218, §18

Juvenile services, court-ordered, distribution of appropriations, ch 218, \$18

Salary, ch 210, §1; ch 215, §13, 14

Supreme court

Clerk of supreme court, see subhead Clerk of Supreme Court above

District judge apportionment, case-related workload formula, ch 86, §4 – 7

Jurors, rules for additional compensation for long service, ch 210, §4

Salaries, appropriations, ch 210, §1

Tribal courts, civil judgments of, recognition and enforcement, see JUDGMENTS AND DECREES, subhead Indian Tribal Court Civil Judgments

COWS

See BOVINE ANIMALS, subhead Cattle and Calves

COYOTES

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

CRAWFORD COUNTY

Trail projects, appropriations, ch 219, §1, 2

CREDIT

See also DEBTS, DEBTORS, AND CREDITORS; LOANS AND LENDERS

Consumer credit, see CONSUMER CREDIT CODE

Discriminatory practices based on gender identity and sexual orientation, prohibited, ch 191, §1, 13

CREDITORS

See DEBTS, DEBTORS, AND CREDITORS

CREDIT UNION DIVISION

See COMMERCE DEPARTMENT

CREDIT UNIONS

See also FINANCIAL INSTITUTIONS

General provisions, ch 174

Administration of regulatory law for credit unions, ch 174, §1 – 17, 77, 91, 93, 95, 96

Consumer credit and loans, see CONSUMER CREDIT CODE

Credit practices, discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1, 13

CREDIT UNIONS — Continued

Deposits in credit unions

Deposits and collections law, see UNIFORM COMMERCIAL CODE, subhead Bank Deposits and Collections

Insurance for credit union accounts, ch 174, §38

Money and payment instruments for money, see UNIFORM COMMERCIAL CODE, subhead Bank Deposits and Collections

Public funds, see PUBLIC FUNDS

Tangible property unclaimed by owner, report filing and delivery to treasurer of state, ch 37, §4

Division of credit unions in state commerce department, see COMMERCE DEPARTMENT, subhead Credit Union Division

Investment tax credits, see INCOME TAXES, subhead Investment Tax Credits

Liens, see LIENS

Loans, see LOANS AND LENDERS

Mergers, conversions, and dissolutions of credit unions, ch 174, §62 – 67, 81

Moneys and credits taxes, see MONEYS AND CREDITS TAXES

Money transfer instruments, authority to sell and cash, ch 118, §1, 3

Motor vehicle dealer continuing education requirements, exemption for credit unions, ch 51. §3

Operations of credit unions, ch 174, §32 – 61, 94

Organization of credit unions, ch 174, §18 – 31, 78 – 80

Out-of-state credit unions, service charges, sales taxation of, ch 186, §20

Property deposited in credit unions for safekeeping, unclaimed by owner, report filing and delivery to treasurer of state, ch 37, §4

Property taxes, ch 174, §60

Public funds deposits, see PUBLIC FUNDS

Records, ch 126, §91; ch 174, §8, 53 – 56

Safe deposit boxes, ch 174, §48 – 51

Share drafts, see SHARE DRAFTS

Supervisory actions, administration, and penalties, ch 174, §68 – 76, 97

Taxes, see TAXATION

Unclaimed property held by credit unions, see UNCLAIMED PROPERTY

CREMATION, CREMATION ESTABLISHMENTS, AND CREMATORIUMS

Anatomical gifts of bodies and body parts, cremation of, ch 44, §10

Inspections of preparation places, fees, ch 159, §10

CRIMES AND CRIMINAL OFFENDERS

See also CRIMINAL PROCEDURE AND CRIMINAL ACTIONS

Alcohol abuse and addiction, see SUBSTANCE ABUSE

Amusement devices registration and regulation violations, penalties, ch 173, §2, 8

Anatomical gift law prohibited acts, penalties, ch 44, §12, 13

Appropriations, see APPROPRIATIONS

Arrests and arrested persons, see ARRESTS

Arson, real estate broker and salesperson licensees and licensure applicants convicted of, ch 187

Assault, see ASSAULT

Bail, see BAIL

Beer keg identification sticker violations and penalties, ch 46

Boat operators eluding law enforcement vessels, criminal offenses and penalties, ch 28, §10

Boat-related crimes resulting in deaths or personal injuries, crime victim compensation, ch 27, §7

Child abuse, see CHILD ABUSE

Child endangerment, Code corrections, ch 126, §109

CRIMES AND CRIMINAL OFFENDERS — Continued

Cigarette and tobacco tax violations, ch 186, §50

Cloning use for human reproduction, prohibited acts and penalties, ch 6, \$4, 5

Community service, calculation of value, ch 215, §124

Compensation for victims of crimes, see VICTIMS AND VICTIM RIGHTS, subhead Compensation for Victims

Conspiracy to defraud, real estate broker and salesperson licensees and licensure applicants convicted of, ch 187

Consumer fraud, see CONSUMERS, subhead Frauds against Consumers

Contraband prohibition in criminal or juvenile facilities and institutions, criminal offenses, penalties, and surcharge for violations, ch 89

Controlled substance-related offenses, see CONTROLLED SUBSTANCES, subhead Criminal Offenses, Offenders, and Penalties

Corpses, abuse of, criminal offenses and penalties, ch 91

Correctional facilities, see CORRECTIONAL FACILITIES AND INSTITUTIONS

Credit union law violations, ch 174, §76

Dead bodies, abuse of, criminal offenses and penalties, ch 91

Dependent adult abuse, see ADULT ABUSE

Disorderly conduct, United States flag desecration offenses and exceptions, ch 202, §15

Division of criminal and juvenile justice planning in state human rights department, see HUMAN RIGHTS DEPARTMENT, subhead Criminal and Juvenile Justice Planning Division

Division of criminal investigation in state public safety department, see PUBLIC SAFETY DEPARTMENT, subhead Criminal Investigation, Division of

DNA profiling, see GENETIC MATERIALS AND TESTING, subhead DNA Profiling

Domestic abuse and violence, see DOMESTIC ABUSE AND VIOLENCE

Drug abuse, see SUBSTANCE ABUSE

Election misconduct, ch 35, \$1, 7; ch 59, \$20, 21, 38; ch 190, \$13, 14; ch 215, \$222

Electrician licensing and regulation violations, ch 197, §27, 48, 50

Electronic monitoring devices for offenders, appropriations and report, ch 213, §5, 6, 8

Eluding of law enforcement vessels, criminal offenses and penalties, ch 28, §10

Embezzlement, real estate broker and salesperson licensees and licensure applicants convicted of, ch 187

Environmental crimes investigation and prosecution, ch 213, §22

Extortion, real estate broker and salesperson licensees and licensure applicants convicted of, ch 187

Felonies and felons

Abuse of corpses, class "D" felonies, ch 91, §2

Anatomical gift law prohibited acts, class "C" felonies, ch 44, §12, 13

Cemetery merchandise sales licensees, violations by, class "D" felonies, ch 175, §26

Credit union law violations, ch 174, §76

Dangerous wild animal possession prohibited for convicted felons, ch 195, §4

Eluding of law enforcement vessels while in commission of crime or while intoxicated, class "D" felony, ch 28, §10

Funeral merchandise and services sales licensees, violations by, class "D" felonies, ch 175, §26

Gambling violations, felonies, ch 188, §17 - 19

Human reproductive cloning, class "C" felony, ch 6, §4, 5

Real estate broker and salesperson licensees and licensure applicants convicted of felony offenses, ch 187

Voter registration, false statement in written oath, class "D" felony, ch 35, §1, 2, 7; ch 215, §242

Fingerprints, see FINGERPRINTS

Flag desecration, ch 202, §13 – 15

CRIMES AND CRIMINAL OFFENDERS — Continued

Forfeitures, see FORFEITURES OF PROPERTY

Forgery, real estate broker and salesperson licensees and licensure applicants convicted of, ch 187

Fraud and fraudulent practices, see FRAUD AND FRAUDULENT PRACTICES

Gambling violations and penalties, ch 188, §4, 17 – 19

Harassment, see HARASSMENT

Human reproductive cloning, prohibited acts and penalties, ch 6, §4, 5

HVAC (heating, ventilation, air conditioning) professionals, communications by, ch 198, \$25,35

Hydronic service professionals, communications by, ch 198, §25, 35

Indigent defense, see LOW-INCOME PERSONS, subhead Legal Assistance, Representation, and Services for Indigent Persons

Insignia desecration, ch 202, §13, 14

Misdemeanors and misdemeanants

All-terrain vehicle registration suspension and license revocation of repeat offenders, ch 141, §28, 53

Amusement devices registration and regulation violations, misdemeanors, ch 173, §2, 8 Antique vehicles, violation of registration requirements, simple misdemeanor, ch 143, §12, 35

Beer keg identification sticker violations and penalties, ch 46

Child endangerment, Code corrections, ch 126, §109

Cigarette and tobacco tax violations, simple misdemeanors, ch 186, §50

Credit union law violations, ch 174, §75

Electrical examining board members, information confidentiality violations, simple misdemeanors, ch 197, §27, 50

Eluding of law enforcement vessels, misdemeanors, ch 28, §10

Flag or insignia desecration, simple misdemeanor, ch 202, §15

Gambling violations, misdemeanors, ch 188, §4, 17

Human reproductive cloning, aggravated misdemeanor, ch 6, §4, 5

HVAC (heating, ventilation, air conditioning) professionals, communications by, ch 198, \$25, 35

Hydronic service professionals, communications by, ch 198, §25, 35

Intentional releases of dangerous wild animals, aggravated misdemeanors, ch 195, §13

Plumbing professionals, communications by, ch 198, §25, 35

Public adjuster regulation violations, serious misdemeanors, ch 137, §29

Refrigeration professionals, communications by, ch 198, §25, 35

Snowmobile registration suspension and license revocation of repeat offenders, ch 141, §4, 25

Trespass committed while hunting deer, misdemeanors, ch 28, §18

Unemployment compensation information confidentiality, serious misdemeanor for violation, ch 77

Vietnam veterans bonus, fraudulent application materials, serious misdemeanor, ch 176, §1

Wildlife drug administration violations, serious misdemeanors, ch 56

Workers' compensation debt collection practice violations, penalty nonapplicability, ch 128, $\S 3$

Necrophilia, criminal offenses and penalties, ch 91

Parole and parolees, see PAROLE AND PAROLEES

Plumbing professionals, communications by, ch 198, §25, 35

Pretrial release, eligibility of released persons arrested for new offenses, repealed, ch 215, \$134

Probation and probationers, see PROBATION AND PROBATIONERS

Proceeds of crimes, payment to victims, Code corrections, ch 22, §109, 110

CRIMES AND CRIMINAL OFFENDERS — Continued

Public adjuster regulation violations and penalties, ch 137, §29

Real estate broker and salesperson licensees and licensure applicants convicted of criminal offenses, ch 187

Recognizances, releases on, eligibility of released persons arrested for new offenses, repealed, ch 215, §134

Records checks, see CRIMINAL HISTORY, INTELLIGENCE, AND SURVEILLANCE DATA Refrigeration professionals, communications by, ch 198, §25, 35

Registration of offenders in sex offender registry, see SEX CRIMES AND OFFENDERS, subhead Registration and Registry of Offenders

Restitution by criminal offenders, see RESTITUTION, subhead Criminal Offenders, Restitution by

Scheduled violations, see SCHEDULED VIOLATIONS

Sentences and sentencing, see CRIMINAL PROCEDURE AND CRIMINAL ACTIONS, subhead Judgments and Sentences

Sex crimes and offenders, see SEX CRIMES AND OFFENDERS

Sexual abuse and assault, see SEXUAL ABUSE

Sexual exploitation, see SEXUAL EXPLOITATION

Sexually violent predators, see SEX CRIMES AND OFFENDERS, subhead Sexual Predators and Violence

Stalking, no-contact orders for victims, ch 180, §4 – 11

Substance abuse, see SUBSTANCE ABUSE

Surcharges on criminal penalties, see SURCHARGES

Theft, see THEFT

Traffic violations, see MOTOR VEHICLES, subhead Violations and Violators

Trespass, see TRESPASS

Unemployment compensation information confidentiality, serious misdemeanor for violation, ch 77

Vessel operators eluding law enforcement vessels, criminal offenses and penalties, ch 28, \$10

Victims of crimes and victim rights, see VICTIMS AND VICTIM RIGHTS

Voter registration, false oath, ch 35, §1, 2, 7; ch 215, §242

Wanted persons, redissemination of arrest data by criminal and juvenile justice agencies, ch 38, §5

Wild animals, dangerous, prohibited acts and penalties for violations, ch 195, §3, 4, 6, 12, 13

Work release violators, confinement by counties, reimbursement appropriations, ch 206, §13, 39; ch 213, §3, 6

CRIMINAL ACTIONS

See CRIMINAL PROCEDURE AND CRIMINAL ACTIONS

CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

See HUMAN RIGHTS DEPARTMENT

CRIMINAL HISTORY, INTELLIGENCE, AND SURVEILLANCE DATA

Arrest data, redissemination by criminal and juvenile justice agencies, ch 38, §5

Arrests or takings into custody, final disposition reports, ch 38, §7, 8

Cemetery merchandise sales, preneed seller and sales agent license applicants, criminal history checks, ch 175, §16, 17

Criminal justice information system, appropriations, ch 213, \$14; ch 219, \$14, 15

Dissemination of data, ch 22, §105; ch 38, §6

DNA profiling, see GENETIC MATERIALS AND TESTING, subhead DNA Profiling

Foster parent licensure, record check and fingerprint-based criminal history check, ch 172, \$12

CRIMINAL HISTORY, INTELLIGENCE, AND SURVEILLANCE DATA — Continued Funeral merchandise and services sales, preneed seller and sales agent license applicants, criminal history checks, ch 175, §16, 17

Public adjuster license applicants, criminal history record checks, ch 137, §28 School district teachers, criminal history background and fingerprint checks prior to employment, ch 108, §11; ch 215, §102

CRIMINAL INVESTIGATION, DIVISION OF

See PUBLIC SAFETY DEPARTMENT, subhead Criminal Investigation, Division of

CRIMINAL JUSTICE INFORMATION SYSTEM

Appropriations, ch 213, §14; ch 219, §14, 15

CRIMINAL PROCEDURE AND CRIMINAL ACTIONS

See also COURTS AND JUDICIAL ADMINISTRATION; CRIMES AND CRIMINAL OFFENDERS

Arrests and arrested persons, see ARRESTS

Attorney general and justice department, see ATTORNEY GENERAL

Complaints and citations

Destruction following final disposition, ch 71, §2

Scheduled violations, see SCHEDULED VIOLATIONS

Traffic violations, see MOTOR VEHICLES, subhead Violations and Violators

Defendants

Bail, see BAIL

Commencement of prosecution against defendants, limitations on confidentiality of peace officer e-mail and telephone billing records, ch 62

Indigent defense, see LOW-INCOME PERSONS, subhead Legal Assistance,

Representation, and Services for Indigent Persons

No-contact orders against defendants, ch 180, §4 - 11

Sentences to custody, temporary confinement before transfers, appropriations for county reimbursement, ch 213, §3, 6

DNA profiling, see GENETIC MATERIALS AND TESTING, subhead DNA Profiling

Evidence, see EVIDENCE

Indictments, see INDICTMENTS

Informations, see INFORMATIONS

Judgments and sentences

Forfeitures, see FORFEITURES OF PROPERTY

Intermediate criminal sanctions program, appropriations, ch 213, §5, 6

Parole and parolees, see PAROLE AND PAROLEES

Probation and probationers, see PROBATION AND PROBATIONERS

Protective order violations, mandatory sentences, ch 180, §9, 10

Sentencing information, sharing between judicial branch and criminal justice system departments and agencies, ch 210, §1

Surcharges on criminal penalties, see SURCHARGES

Work release violators, confinement by counties, reimbursement appropriations, ch 206, \$13, 39; ch 213, §3, 6

No-contact orders against defendants, ch 180, §4 - 11

Parole and parolees, see PAROLE AND PAROLEES

Probation and probationers, see PROBATION AND PROBATIONERS

Restitution by criminal offenders, see RESTITUTION

Scheduled violations, see SCHEDULED VIOLATIONS

Taxpayers involved in criminal investigations or proceedings, prohibition from participation in tax amnesty program, ch 177, §3, 8

Work release violators, confinement by counties, reimbursement appropriations, ch 206, \$13, 39; ch 213, \$3, 6

CRIMINALS

See CRIMES AND CRIMINAL OFFENDERS

CROCODILES

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

CROPS

See also CORN AND CORN PRODUCTS; SOYBEANS AND SOY PRODUCTS

Assets used for agricultural production, tax credits for transfer of, Code correction, ch 22, \$45

Biomass materials, energy produced from, see ENERGY, subhead Biobased Energy and Energy Production

Commodity production contract liens on crops, Code corrections, ch 22, §100, 101

Correctional facility farm operations, specialized crop production by inmates, ch 213, §4,

Harvesting services, liens for, Code correction, ch 126, §99

Organic agricultural products, see ORGANIC AGRICULTURAL PRODUCTS

CRYSTAL LAKE

Restoration projects, appropriations, ch 219, §1, 2, 26

CULTURAL AFFAIRS DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

African-American historical museum and cultural center, appropriations, ch 206, §7, 39

Appropriations, see APPROPRIATIONS

Archiving of governors records, appropriations, ch 212, §1

Arts division

Abraham Lincoln bicentennial commission, representation, ch 99; ch 215, §98

Administrator, salary, ch 215, §13, 14

Appropriations, ch 212, §1

Battle flag collection condition stabilization, appropriations, ch 219, §1, 2

Community cultural grants, appropriations, ch 212, §1

Cultural trust, use of grant account moneys, ch 73

Director, salary, ch 215, §13, 14

Educational programs in cultural matters, ch 215, §104

Frank Lloyd Wright hotel preservation grant, appropriations, ch 219, §1, 2

Historical building and historic sites

Appropriations, ch 212, §1; ch 219, §1, 2

Attendance promotion activities, ch 212, §1

Site preservation grants, appropriations, ch 219, §1, 2

Historical division and state historical society

Abraham Lincoln bicentennial commission, representation, ch 99; ch 215, §98

Administrator, salary, ch 215, §13, 14

Appropriations, ch 212, §1

Civil war anniversary commemoration, appropriations, ch 212, §1

Historic preservation and rehabilitation tax credit administration, appropriations, ch 212, \$1

Historic preservation and cultural and entertainment district tax credit administration, see TAXATION, subhead Historic Preservation and Cultural and Entertainment District Tax Credits

Iowa caucus project, appropriations, ch 206, §8, 39

Iowa great places, see GREAT PLACES

Records center rent payments, appropriations, ch 212, §1

Salaries, appropriations, ch 212, §1

CULTURE AND CULTURAL RESOURCES

See also ARTS AND ARTWORKS; HISTORY AND HISTORICAL RESOURCES

African-American historical museum and cultural center, appropriations, ch 206, §7, 39 Before and after school grant program, approved instructional programs, ch 208, §5; ch 214, §6, 19; ch 215, §34

Community cultural grants, appropriations, ch 212, §1

Cultural and entertainment districts

Adjacent communities, financial assistance from vision Iowa program, ch 215, §81 Tax credits, see TAXATION, subhead Historic Preservation and Cultural and Entertainment District Tax Credits

Cultural trust, use of grant account moneys, ch 73

Department of cultural affairs in state government, see CULTURAL AFFAIRS DEPARTMENT

Educational programs in cultural matters by cultural affairs department, ch 215, \$104

Iowa great places, see GREAT PLACES

Museums, see MUSEUMS

CULVERTS

County culverts, bond issues for construction or repair, ch 109, §2

CURRENCY

See MONEY

CUSTODIAL HOMES

Health care facilities, see HEALTH CARE FACILITIES

CUSTODIANS AND CUSTODY OF CHILDREN

See CHILDREN

DAIRYING AND DAIRY PRODUCTS

Commodity production contract liens on milk, Code corrections, ch 22, §100, 101 Cooperative associations and cooperatives, see COOPERATIVE ASSOCIATIONS AND COOPERATIVES

Dairy products control bureau, appropriations, ch 211, §4

Imitation butter (oleomargarine), standards for, Code correction, ch 22, §46

DAMAGES

Civil actions, see CIVIL PROCEDURE AND CIVIL ACTIONS

Tort claims, see TORTS AND TORT CLAIMS

Victims of crimes, income tax deductions for damages awarded by courts, ch 27, \$2, 11 Wage payment by direct deposit, overdraft charges due to delay of, ch 29

DAMS

Lake district dam maintenance and operation, appropriations, ch 219, §1, 2

DARFUR

Investments of state public funds in companies doing business in Sudan, prohibition on, ${
m ch}\,39$

DATA PROCESSING

See COMPUTERS AND COMPUTER SOFTWARE; INFORMATION TECHNOLOGY

DAVENPORT

Eastern Iowa community college district water resource training center infrastructure improvements, ch 219, §1, 2

DAY CARE AND DAY SERVICES

Adult day services, see DAY SERVICES AND DAY SERVICES PROGRAMS FOR ADULTS Child care services, see CHILDREN, subhead Care of Children and Facilities for Care of Children

DAY SERVICES AND DAY SERVICES PROGRAMS FOR ADULTS

Appropriations, see APPROPRIATIONS, subhead Adult Day Services
Certification, inspection, and regulation, ch 215, §184 – 206; ch 218, §69
Nursing facility construction, renovation, or replacement, regulation exceptions for provision of services, ch 219, §39, 41, 43

DEAD PERSONS

See DEATHS AND DEAD PERSONS

DEAFNESS AND DEAF PERSONS

See also DISABILITIES AND DISABLED PERSONS; HEARING

Division on deaf services in state human rights department, see HUMAN RIGHTS DEPARTMENT, subhead Deaf Services Division

Hearing aid dispensing and dispensers, see HEARING AID DISPENSING AND DISPENSERS

Interpreting and interpreters for hearing impaired persons, see INTERPRETING AND INTERPRETERS

School for deaf, state

See also REGENTS, BOARD OF, AND REGENTS INSTITUTIONS

Appropriations, see APPROPRIATIONS

Infrastructure improvements, appropriations, ch 219, §9, 10

Interpreter arrangements with Iowa western community college, appropriations, ch 215, \$30

Prescription drugs for students, payment for, ch 214, §9, 12

Tuition, transportation, prescription, and clothing costs of students, payment to school districts, appropriations, ch 214, §9

DEAF, SCHOOL FOR

See DEAFNESS AND DEAF PERSONS, subhead School for Deaf, State

DEAF SERVICES DIVISION

See HUMAN RIGHTS DEPARTMENT

DEATHS AND DEAD PERSONS

Abuse of corpses, criminal offenses and penalties, ch 91

Anatomical gifts of bodies and parts of bodies, see ANATOMICAL GIFTS

Boat-related crimes resulting in deaths, crime victim compensation, ch 27, §7

Burials and interments of dead bodies

Anatomical gifts of bodies and body parts, burial of, ch 44, §10

Cemetery regulation, see CEMETERIES

Concealment of crimes, criminal offenses and penalties, ch 91, §2

Funeral and mortuary merchandise and services, see FUNERALS

Inspections of preparation places, fees, ch 159, §10

Cemeteries, see CEMETERIES

Certificates and certifications of death, see VITAL STATISTICS AND RECORDS

Children, deaths of

Review team for child deaths, membership of, ch 159, §19, 20

Wrongful deaths, cause of action and disposition of damages, ch 132

Concealment of crimes, burials of bodies with intent to commit, criminal offenses and penalties, ch 91, §2

Cremations of dead bodies, see CREMATION, CREMATION ESTABLISHMENTS, AND CREMATORIUMS

DEATHS AND DEAD PERSONS — Continued

Donations of bodies and parts of bodies, see ANATOMICAL GIFTS

Electrical contractors and electricians, continuation of business after death, ch 197, §30, 50

Embalmings of dead bodies, see EMBALMING AND EMBALMERS

Estates of decedents, see ESTATES OF DECEDENTS; PROBATE CODE

Funerals, see FUNERALS

Gifts of bodies and parts of bodies, see ANATOMICAL GIFTS

Hospice services and programs, medical assistance reimbursement rates, ch 218, §31

Investigations of death and recovery of donated organs, procedures, ch 44, §5

Mortuary services, see FUNERALS, subhead Directing and Directors of Funerals

Necrophilia, criminal offenses and penalties, ch 91

Pronouncements of death by nurses, ch 159, §29, 30

Records of deaths, see VITAL STATISTICS AND RECORDS

Safe deposit boxes of dead persons, access to, ch 174, §49

Sex acts with corpses, criminal offenses and penalties, ch 91

Tort claims, see TORTS AND TORT CLAIMS

Wild animals, dangerous, owner's liability for deaths caused by, ch 195, §4

Wrongful deaths of children, parent's cause of action and disposition of damages, ch 132

DEBTS, DEBTORS, AND CREDITORS

See also CREDIT

Bankruptcy, see BANKRUPTCY

Consumer credit transactions, see CONSUMER CREDIT CODE

Debt collection services agencies, use by county attorneys for collection of delinquent court costs and penalties, ch 196, §7 – 9

Debt management businesses, licensing and regulation, ch 126, §92 – 94; ch 170, §4

Decedents, small estates of, notice to interested parties, ch 134, §24, 25, 27, 28

Energy utility payment assistance for low-income persons, see ENERGY, subhead Assistance for Low-Income Persons and Households

Execution of judgments, see EXECUTION (JUDGMENTS AND DECREES)

Exemption from execution by creditors, personal injury payments to debtors and dependents of debtors, ch 114

Foreclosures, see FORECLOSURES

Health care provider fees from workers' compensation contested case proceedings, debt collection prohibition, ch 128, $\S2-4$

Mortgages, see MORTGAGES

Regents board bonds and notes, see BONDS

State, collection of debts owed to, Code correction, ch 126, §68

State-issued obligations, uniform finance procedures

General provisions, ch 133

Authorizing documents, ch 133, §7

Definitions, ch 133, §1

Enabling legislation, ch 133, §2

Payment limitations, ch 133, §3

Powers of issuers, ch 133, §4

Reserve funds, ch 133, §5

Security for obligations, agreements and pledged moneys, ch 133, §6, 8, 10

Tax exemptions, ch 133, §9

Support of persons, debts for, see SUPPORT OF PERSONS

DECEDENTS

See DEATHS AND DEAD PERSONS

DECEIT

See FRAUD AND FRAUDULENT PRACTICES

DECISION MAKERS AND DECISION-MAKING SERVICES

State and local offices, appropriations, ch 218, §1

DECISION MAKING, INSTITUTE OF

Appropriations, ch 212, §14; ch 215, §73

DECREES

See JUDGMENTS AND DECREES

DEEDS

See CONVEYANCES OF REAL ESTATE

DEFR

Control of deer population by urban hunting on private property, liability limitation for property owners, Code correction, ch 22, §84

Damages for illegal taking or possessing of antlered deer, ch 28, §15

Farm deer, see FARM DEER

Game, see GAME

Hunting, see HUNTING

DEFACEMENT

Flag or insignia defacement, ch 202, §13 – 15

DEFAMATION

Building and loan associations, defamation of, criminal offense stricken, ch 88, §23

DEFERRED COMPENSATION

Advisory board members from general assembly, compensation, ch 217, §1

DEFIBRILLATORS

Grant program for rural areas, appropriations, ch 208, §1, 7, 8

DEFILEMENT

Flag or insignia defilement, ch 202, §13 - 15

DELAYED CHECK DEPOSIT BUSINESSES

Licensing and regulation, Code correction, ch 22, §94

DELINQUENT JUVENILES

See JUVENILE JUSTICE, subhead Juvenile Delinquency Proceedings

DEMENTIA

Alzheimer's disease, see ALZHEIMER'S DISEASE

DENTAL CARE AND DENTAL CARE PRACTITIONERS

See also PROFESSIONS

Anatomical gifts made to dental schools, purposes for, ch 44, §6

Appropriations, see APPROPRIATIONS

Children

Dental home for children, ch 218, §74

Dental screening requirements for school enrollment, ch 146; ch 218, §97

Donated dental services program, appropriations, ch 218, §2

Field dental clinics, participation in volunteer health care provider program, ch 95

Free care, field dental clinic participation in volunteer health care provider program, ch 95

Health service corporations, see HEALTH SERVICE CORPORATIONS

HIV exposure while providing health care, notification procedure, ch 70, §9

Hospital orders, procedures for authentication of, ch 93, §1, 3, 4

DENTAL CARE AND DENTAL CARE PRACTITIONERS — Continued

Licensing and regulation, ch 10, \$26 – 67, 73, 74, 78, 81, 132 – 141; ch 22, \$39; ch 215, \$260; ch 218, \$191 – 205

Medical assistance reimbursements

Appropriations, ch 208, §1

Rates, ch 218, §31

State programs for dental and oral health

Dental director, establishment and duties of position, ch 159, §13

Oral health bureau, establishment and duties of bureau, ch 159, §14

School enrollees, screenings for, ch 146; ch 218, §97

University of Iowa college of dentistry, health care data research advisory council membership and duties, ch 218, §128, 129

Volunteer health care provider program, field dental clinic participation, ch 95

DEPENDENT PERSONS

Abuse of dependent adults, see ADULT ABUSE

Children, see CHILDREN

Crime victim compensation to dependents of victims, see VICTIMS AND VICTIM RIGHTS, subhead Compensation for Victims

Debtors, dependents of, personal injury payments exemption from execution and bankruptcy actions, ch 114

Support of dependent persons, see SUPPORT OF PERSONS

DEPOSITS AND DEPOSITORIES

Bank deposits and collections, see UNIFORM COMMERCIAL CODE, subhead Bank Deposits and Collections

Banks, see BANKS AND BANKING

Checks, see CHECKS, subhead Cashing and Depositing of Checks

Credit unions, see CREDIT UNIONS

Safe deposit boxes, see SAFE DEPOSIT BOXES AND CONTENTS OF BOXES

Savings and loan associations, see SAVINGS AND LOAN ASSOCIATIONS

DEPOSITS OF MINERALS

See MINERALS

DEPUTY OFFICERS

County deputy sheriffs, see COUNTIES, subhead Sheriffs and Deputy Sheriffs

DESECRATION

Flag or insignia desecration, ch 202, §13 – 15

DES MOINES

State capitol complex, see CAPITOL AND CAPITOL COMPLEX

DES MOINES UNIVERSITY — OSTEOPATHIC MEDICAL CENTER

See also COLLEGES AND UNIVERSITIES

Appropriations, ch 214, §2

Health care data research advisory council membership and duties, ch 218, §128, 129 Osteopathic physician recruitment forgivable loan program, appropriations, ch 214, §2 Primary health care initiative, appropriations, ch 214, §2

DETENTION FACILITIES

See also PRISONS AND PRISONERS

Contraband prohibition, criminal offenses, penalties, and surcharge for possession, ch 89

Detention officers, administrative investigations of complaints against and officers' rights regarding, ch 160

DETENTION HOMES FOR JUVENILES

See JUVENILE FACILITIES AND INSTITUTIONS, subhead Juvenile Detention Homes and Home Fund

DEVELOPMENTAL DISABILITIES

See also MENTAL RETARDATION

Appropriations, see APPROPRIATIONS, subhead Mental Health, Mental Retardation, Developmental Disability, and Brain Injury Services

Commission on developmental disabilities services, state, see HUMAN SERVICES DEPARTMENT, subhead Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission

Family support subsidy program, appropriations and allocations, ch 218, §21 Medical assistance for persons with developmental disabilities, see MEDICAL ASSISTANCE

Services to persons with developmental disabilities

Allowed growth in services, ch 206, \$25, 39; ch 215, \$1; ch 218, \$77 – 86, 98

Appropriations, see APPROPRIATIONS, subhead Mental Health, Mental Retardation, Developmental Disability, and Brain Injury Services

Assessment process development, appropriations, ch 218, §26

Commission, state, see HUMAN SERVICES DEPARTMENT, subhead Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission

Community-based services, appropriations and allocations, ch 218, §26

County management plan, ch 218, §26

Decategorization project for funding of services, ch 218, §86, 121, 123

Funds, state allocations, ch 218, §26

Improvement of services system, ch 218, §29, 93

Information technology for data reporting by counties, proposal for addressing needs, ch $218,\, \S 90,\, 92$

Intensive family preservation services stricken from programs provided, ch 172, \$8

Local services, purchases by state, appropriations and allocations, ch 218, §26

Medical assistance, see MEDICAL ASSISTANCE

Money allocations to counties, ch 218, §77 – 79, 82 – 84

Money transfers by counties to fund services, authorization and reporting, ch 218, §96

Payments to counties by state, eligibility of counties, ch 49

Property tax relief and relief fund, see PROPERTY TAXES, subhead Relief and Relief Fund

Reimbursement rate increase for purchase of service providers to counties and appropriations, ch 208, §2

Reimbursements and providers that are reimbursed, uniform cost report development for, ch 113

State case services, appropriations and federal funds allocation, ch 218, \$25, 60, 67

Waiting list for services, implementation by counties, ch 218, §80, 81 Social services block grant funding, allocation to counties, ch 218, §26 Vocational rehabilitation, see VOCATIONAL REHABILITATION

DIETETICS AND DIETITIANS

See also PROFESSIONS

Licensing and regulation, ch 10, §26 – 67, 73, 127; ch 215, §260

DIOXINS

Exposure of veterans, investigations of effects of, ch 22, §14; ch 202, §8 – 10

DISABILITIES AND DISABLED PERSONS

See also BLINDNESS AND BLIND PERSONS; DEAFNESS AND DEAF PERSONS

American veterans disabled for life memorial, funding contribution appropriation, ch 219, \$1.2

Appropriations, see APPROPRIATIONS

Assisted living programs, see ASSISTED LIVING SERVICES AND PROGRAMS

Assistive animals and devices

Dangerous wild animal regulation exception for assistive animals, ch 195, \$1, 7

Employees of small businesses, assistive devices for, tax credits, ch 161, §6, 22

Technology purchases, loans for, ch 206, §10, 39

Brain injuries, see BRAIN INJURIES

Bullying and harassment of school students based on physical abilities or disabilities, prohibition and prevention, ch 9

Center for disabilities and development of university of Iowa

Appropriations, ch 214, §9

Employment policy group, allocations, ch 214, §9

Children

Center for disabilities and development of university of Iowa, see subhead Center for Disabilities and Development of University of Iowa above

Disabled children's program, administration, ch 204, §3

Family-to-family health information center, ch 218, §125, 126

Computerized information and referral services (Iowa compass program), appropriations, ch 218, \$26

Congenital disorders, see CHILDREN, subhead Birth Defects

Dental services, donated services program, appropriations, ch 218, §2

Developmental disabilities, see DEVELOPMENTAL DISABILITIES

Division for persons with disabilities in state human rights department, see HUMAN RIGHTS DEPARTMENT, subhead Persons with Disabilities Division

Educational disability special care costs, family support subsidy program, appropriations, ch 218, §21

Entrepreneurs with disabilities program, appropriations, ch 212, §11

Family support subsidy program, appropriations and allocations, ch 218, §21

Farmers with disabilities program, appropriations, ch 214, §9

Gender identity of persons with disabilities, discrimination against, prohibited, ch 191, §1, 3, 4

Inherited disorders, see CHILDREN, subhead Birth Defects

Jurors with disabilities, reimbursement for alternate transportation, ch 210, §4

Medical assistance, see MEDICAL ASSISTANCE

Mental disabilities, see BRAIN INJURIES; DEVELOPMENTAL DISABILITIES; MENTAL HEALTH AND DISABILITIES; MENTAL RETARDATION

Mental retardation, see MENTAL RETARDATION

Prevention of disabilities policy council, appropriations, ch 218, §29

Sexual orientation of persons with disabilities, discrimination against, prohibited, ch 191, \$1, 3, 4

Targeted small business financial assistance board, representation of disabled persons, ch 207, §8, 12, 18

Tax credits for disabled persons, appropriations for and payment of reimbursements, ch 215, §5, 11

Training in accordance with Conner v. Branstad consent decree, appropriations, ch 218, \$22

Transportation department facilities, Americans With Disabilities Act improvements, appropriations, ch 216, §2

Vocational rehabilitation, see VOCATIONAL REHABILITATION

Voting by persons with disabilities, electronic ballot marking devices for, ch 190, §6

DISASTERS

See also EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES

Iowa communications network contracts relating to natural disasters, executive council authorization, ch 116, §2

National disaster medical system of United States, service by Iowa public employees, leaves of absence from employment for, ch 218, §133 – 135

Victims of disasters

Aid to victims, legal immunity for renderers in emergencies, ch 159, §21 State financial assistance for needy persons, ch 7; ch 145

DISCLAIMERS OF PROPERTY INTERESTS

Beneficiaries, disclaimers resulting in failure to file timely inheritance tax return, ch 134, \$1, 28

DISCRIMINATION

Cable or video service franchises

Municipality discrimination against franchises in providing access to municipal buildings and utilities, prohibition of, ch 201, \$10, 15

Service provider discrimination among potential residential subscribers, prohibition of, ch 201, §11, 15

Civil rights complaints, see CIVIL RIGHTS

Fair trade laws, see FAIR TRADE

Gender identity discrimination prohibited, ch 191, §1, 4 – 6, 11, 12

Minors and persons with mental illness, complaints by, limitations of actions for filing, ch 110, §1, 2, 6

Sexual orientation discrimination prohibited, ch 191, §1, 4 – 6, 11, 12

DISEASES

See also HEALTH, HEALTH CARE, AND WELLNESS

Acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV), see ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HUMAN IMMUNODEFICIENCY VIRUS (HIV)

Agricultural animal diseases, veterinarian emergency preparedness and response services, appropriations, ch 211, §11

AIDS, see ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HUMAN IMMUNODEFICIENCY VIRUS (HIV)

Alzheimer's disease, see ALZHEIMER'S DISEASE

Antiviral stockpile management, appropriations, ch 218, §2

Appropriations, see APPROPRIATIONS

Avian influenza, testing and monitoring of, appropriations, ch 211, §5

Bird flu (avian influenza), testing and monitoring of, appropriations, ch 211, §5

Brucellosis control in swine, Code correction, ch 22, §44

Cancer, see CANCER

Care of diseases, see HEALTH, HEALTH CARE, AND WELLNESS

Center for acute disease epidemiology (CADE), bureau chief position, appropriations, ch 218, §2

Children, immunizations of, see IMMUNIZATIONS

Chronic wasting disease, control in farm deer, appropriations, ch 211, §2

Confinement of persons, employment protection for confined persons, ch 159, §25

Congenital disorders, see CHILDREN, subhead Birth Defects

Disease management programs, insurer premium credits and discounts to small employers, ch 57, §7, 8

Environmental epidemiology, scientific and medical expertise development, appropriations, ch 208, §1

DISEASES — Continued

Epilepsy, services and support for persons and families living with, appropriations, ch 208, §1

Farm deer disease control program, appropriations and operation, ch 211, §2

Hemophilia, see HEMOPHILIA

Hepatitis, see HEPATITIS

HIV, see ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HUMAN IMMUNODEFICIENCY VIRUS (HIV)

HPV, see HUMAN PAPILLOMA VIRUS (HPV)

Human papilloma virus, see HUMAN PAPILLOMA VIRUS (HPV)

Immunizations, see IMMUNIZATIONS

Inherited disorders, see CHILDREN, subhead Birth Defects

Livestock diseases, see LIVESTOCK

Mental diseases, see MENTAL HEALTH AND DISABILITIES

Newcastle disease (avian influenza), testing and monitoring of, appropriations, ch 211, 85

Phenylketonuria (PKU) patients, assistance for special food costs, appropriations, ch 208, \$1; ch 218, \$2

Pneumococcal disease immunization requirement for children enrolling in child care centers, ch 11

Prevention services enhancement, appropriations, ch 208, §1

Sexually transmitted diseases, see SEXUALLY TRANSMITTED DISEASES

Stem cell research and cures initiative, ch 6

Terminally ill persons, anatomical gift authorization by, ch 44, §3

Tuberculosis control in swine, Code correction, ch 22, §44

Vaccines and vaccinations, see VACCINES AND VACCINATIONS

Wildlife disease control, use of drugs for, ch 56

DISFIGUREMENT AND DISMEMBERMENT

See MUTILATION

DISORDERLY CONDUCT

Flag of United States, showing disrespect for, criminal offenses, ch 202, \$15

DISPLACED PERSONS

Homeless persons, see HOMELESS PERSONS

DISPUTE RESOLUTION

Dissolutions of marriage conciliation orders waived for history of domestic abuse, ch 180, §1

Health service provider fees disputed by workers' compensation insurance carriers or employers, ch 128, §2

Marriage dissolutions pilot project, alternative dispute resolution family coordinator, appropriations and report, ch 213, §1

DISSOLUTIONS OF MARRIAGE

Alternative dispute resolution family coordinator for families in dissolutions, appropriations and report, ch 213, §1

Beneficiary designations voided by decrees of dissolution, annulment, or separate maintenance for insurance or other contracts, ch 134, §4, 5, 28

Child custody and visitation, see CHILDREN, subheads Custodians and Custody of Children; Visitation of Children and Visitation Rights

Child support obligations and orders, see SUPPORT OF PERSONS

Conciliation orders waived for history of domestic abuse, ch 180, §1

Property division, inherited or gifted property, ch 163

DISSOLUTIONS OF MARRIAGE — Continued

Representation of children in marriage dissolutions pilot project, appropriations and report, ch 213, §1

Support obligations and orders, see SUPPORT OF PERSONS

DISTRICT COURT

See COURTS AND JUDICIAL ADMINISTRATION

DIVORCES

See DISSOLUTIONS OF MARRIAGE

DNA

See GENETIC MATERIALS AND TESTING

DOCTORS

Dentists, see DENTAL CARE AND DENTAL CARE PRACTITIONERS Pharmacists, see PHARMACY AND PHARMACY PRACTITIONERS Physicians and surgeons, see PHYSICIANS AND SURGEONS

DOCUMENTS OF TITLE

See UNIFORM COMMERCIAL CODE

DOGS

Breeding for racing, appropriations, ch 211, §3

Dangerous wild animal ownership or possession regulation exception, ch 195, §1

Pari-mutuel wagering at racetracks, see GAMBLING, subhead Pari-Mutuel Wagering Racing of dogs, see RACING, subhead Dogs

Tagged dogs caught worrying domestic animals or fowl, right to kill, stricken, ch 111

DOMESTIC ABUSE AND VIOLENCE

Arrested persons

Bail restrictions, ch 180, §6

Conciliation orders in dissolutions of marriage waived, ch 180, §1

Bail restrictions, ch 180, §6

Dissolutions of marriage conciliation orders waived for history of domestic abuse, ch 180, \$1

Grants related to domestic violence, appropriations, ch 217, §11

No-contact and protective orders for victims, ch 180, §4 – 11

Peace officers and public safety and emergency personnel, complaints against alleging violations by, ch 160

Victims and victim rights, see VICTIMS AND VICTIM RIGHTS

DOMESTICATED ANIMALS

Tagged dogs caught worrying domestic animals or fowl, right to kill, stricken, ch 111

DOMESTIC RELATIONS

Adoptions, see ADOPTIONS

Dissolutions of marriage, see DISSOLUTIONS OF MARRIAGE

Marriage, see MARRIAGE AND SPOUSES

Support of persons, see SUPPORT OF PERSONS

DONATIONS

See also GIFTS

Prescription drug donation program, dispensing under, ch 159, §24

DRAINAGE AND DRAINAGE SYSTEMS

Agricultural drainage wells and well areas

Closure of wells, cost-share moneys for, Code correction, ch 22, §83

DRAINAGE AND DRAINAGE SYSTEMS — Continued

Agricultural drainage wells and well areas — Continued

Water quality assistance program and fund, appropriations, ch 211, §26, 30

City nonstorm water drainage, see POLLUTION AND POLLUTION CONTROL, subhead National Pollutant Discharge Elimination System (NPDES)

Plumbing systems, see PLUMBING AND PLUMBERS

DRAKE UNIVERSITY

See also COLLEGES AND UNIVERSITIES

Pharmacy, college of, health care data research advisory council membership and duties, ch 218, \$128, 129

DREDGING

Lake dredging and restoration, appropriations and project selection, ch 211, §44, 45; ch 219, §1, 2, 26

DRINKING WATER

See WATER AND WATERCOURSES

DRIVERS AND DRIVING

Motor vehicles, see MOTOR VEHICLES, subhead Drivers of Motor Vehicles

DROUGHTS

Disaster emergency management, see DISASTERS

DRUGGISTS AND DRUG STORES

See PHARMACY AND PHARMACY PRACTITIONERS

DRUGS AND DRUG CONTROL

See also CONTROLLED SUBSTANCES

Abuse and addiction, see SUBSTANCE ABUSE

AIDS drug assistance program supplemental drug treatment federal grants, leverage funding, appropriations, ch 208, §1

Anabolic steroids, see ANABOLIC STEROIDS

Collaborative safety net provider network, pharmaceutical infrastructure, ch 218, §97, 108 Coordinator of drug policy, see subhead Drug Control Policy Office and Drug Policy Coordinator below

Development program at Oakdale research park, appropriations, ch 212, §13

Devices, limited drug and device distributor licensing and regulation, ch 19, §2, 3, 6

Disposal of pharmaceuticals, pilot project for, appropriations, ch 155

Driving motor vehicles under influence of drugs, see MOTOR VEHICLES, subhead Intoxicated Drivers (Operating while Intoxicated)

Drug abuse resistance education (D.A.R.E.) program, appropriations, ch 217, §10 Drug control policy office and drug policy coordinator

Appropriations, ch 204, §6, 7, 15 – 17, 33; ch 213, §1; ch 217, §10

Drug abuse resistance education (D.A.R.E.) program, appropriations, ch 217, §10

Federal grants to correctional services departments, local government grant status, ch 213, §5, 6

ODCP prosecuting attorney program, appropriations, ch 213, §1

Salary of coordinator, ch 215, §13, 14

Substance abuse treatment and prevention, coordination of services, ch 217, \$10

Drug court programs, appropriations, ch 208, §1; ch 218, §18, 32, 57, 67

Druggists and drug stores, see PHARMACY AND PHARMACY PRACTITIONERS

Edward Byrne memorial formula grant program, appropriation of federal and nonstate moneys, ch 204, §7, 15 – 17

Furosemide, use in horse racing, ch 48, §2, 5, 7

DRUGS AND DRUG CONTROL — Continued

Horse racing, drug testing and procurement of blood and urine test samples, ch 48, \$1, 7 Limited drug and device distributor licensing and regulation, ch 19, \$2, 3, 6

Medical gases, see GASES

Multijurisdictional drug enforcement programs, appropriations, ch 217, §10

Office of drug control policy, see subhead Drug Control Policy Office and Drug Policy Coordinator above

Optometrists employing pharmaceutical agents, ch 159, §1, 3

Pharmaceutical settlement account, appropriations, ch 218, §72

Pharmacy, see PHARMACY AND PHARMACY PRACTITIONERS

Phenylbutazone, use in horse racing, ch 48, §3, 4, 7

Poisons, see POISONS AND POISONINGS

Prescribing and dispensing of drugs

Controlled substance prescribing and dispensing, see CONTROLLED SUBSTANCES

Limited drug and device distributor licensing and regulation, ch 19, §2, 3, 6

Refills, maximum, ch 19, §5

Smoking cessation aids, prescriber options under medical assistance program, ch 218, \$11

Prescription drugs

Assistance programs for access to drugs, state clearinghouse program for, repealed, ch 137, §30

Donation program for prescription drugs, dispensing under, ch 159, §24

Pharmacy benefits managers regulation, ch 193

Substitutions of prescribed drugs, requests by pharmacy benefits managers, limitations, ch 193, \$6, 9

School children, before and after school grant program drug and violence prevention programs, ch 208, §5; ch 214, §6, 19

Testing of private sector employees by employers, exception for employees due to collective bargaining agreement, ch 50

Waste collection and disposal pilot project for pharmaceuticals, appropriations, ch 155 Wildlife, prohibition against use of drugs on wildlife and exceptions, ch 56

DRUNK DRIVING

See MOTOR VEHICLES, subhead Intoxicated Drivers (Operating while Intoxicated)

DUCKS

Game, see GAME

Poultry, see BIRDS, subhead Poultry

DUMBWAITERS

See CONVEYANCES FOR PASSENGERS AND FREIGHT

DWELLINGS

See HOUSING

E-85 GASOLINE

See FUELS, subhead Ethanol and Ethanol Blended Gasoline

E911 SYSTEMS

See EMERGENCY COMMUNICATIONS SYSTEMS (911 AND E911 SERVICE)

EAGLE GROVE

National guard readiness center, construction, appropriations, ch 219, §1, 2

EARNINGS

See SALARIES AND WAGES

EARS

Audiology and audiologists, see AUDIOLOGY AND AUDIOLOGISTS Hearing, see HEARING

EARTHQUAKES

See DISASTERS

EATING AND EATING PLACES

Nutrition, see NUTRITION

Restaurants, see FOOD, subhead Establishments for Provision of Food

School meal programs, see SCHOOLS AND SCHOOL DISTRICTS, subhead Meal Programs

ECONOMIC DEVELOPMENT

Appropriations, ch 212, §2 – 20; ch 215, §46, 71 – 73

Brownfield redevelopment program and fund, appropriations, ch 211, §27, 30

Business development finance Act, repealed, ch 126, §114

Community development and assistance

Appropriations, ch 212, §3; ch 215, §71

Block grants, appropriations, ch 204, §9, 15 – 17; ch 212, §3; ch 215, §71

Division of community development in economic development department, see ECONOMIC DEVELOPMENT DEPARTMENT, subhead Community Development Division

Loan fund, appropriations, ch 212, §7

Community development loan program loan repayments by cities, Code correction, ch 22, \$72

Community economic betterment program, funding of projects under program, Code correction, ch 22, §8

Councils of governments, see COUNCILS, subhead Government, Councils of

Department of economic development in state government, see ECONOMIC DEVELOPMENT DEPARTMENT

Economic protective and investment authority, small business definition stricken, ch 54, 831

Endow Iowa program, tax credits under, ch 161, §9, 22; ch 174, §60; ch 215, §87

Enterprise areas and zones, see ENTERPRISE AREAS AND ZONES

Film, television, and video project promotion program, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Finance authority, see FINANCE AUTHORITY

Generation Iowa commission, retention and attraction of young adults, ch 45

Grow Iowa values fund, appropriations, ch 122, §2, 4, 10

High quality job creation program, see HIGH QUALITY JOB CREATION PROGRAM

Housing and shelter-related programs, appropriations, ch 212, §3; ch 215, §71

Investment tax credits, see INCOME TAXES, subhead Investment Tax Credits

Iowa great places, see GREAT PLACES

Preschool program for four-year-old children, statewide, economic development programs collaboration with, ch 148, §3

Regions for economic development, contributions to revolving funds, tax credits, ch 161, \$12, 22

Research at state universities, ch 212, §12 – 14; ch 215, §73

Rural development, see RURAL AREAS AND SERVICES

Small business assistance, see SMALL BUSINESS, subhead Targeted Small Businesses

Strategic investment fund

Appropriations, ch 207, §14, 18; ch 212, §3

Targeted small business financial assistance program account grants and loans, terms of awards and appropriations, ch 207, §6 – 8, 12, 14, 18

ECONOMIC DEVELOPMENT — Continued

Targeted high technology industries, products, and services, assistance programs for, ch 122, §1, 4, 7, 10; ch 219, §1, 2

Targeted small business assistance, see SMALL BUSINESS

Technology commercialization and development, ch 122, §3 – 7, 10

Technology transfer and economic development, strategic plan for, regents institutions progress report, ch 212, §15

Tourism, see TOURISM

Urban renewal, see URBAN RENEWAL

Value-added agricultural products and processes, see AGRICULTURE AND AGRICULTURAL PRODUCTS

Wage-benefits tax credits, ch 22, §9; ch 161, §13, 22; ch 215, §82

Workforce training and economic development funds for community colleges, appropriations, ch 209, §1, 2, 4; ch 215, §53, 63; ch 219, §1, 2

ECONOMIC DEVELOPMENT DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

Abraham Lincoln bicentennial commission, representation, ch 99; ch 215, §98 Administration division

Appropriations, ch 212, §3

Duties, ch 212, §3

Administrative rules, ch 122, §1; ch 165, §3

Ag-based industrial lubrication technology, application for appropriations, ch 212, §23

Agricultural products advisory council, application for appropriations, ch 212, §23

Appropriations, see APPROPRIATIONS

Assistance programs for business and industry

Financial assistance to bioscience development organization, stricken, ch 122, §3

Grow Iowa values fund, appropriations, ch 122, §2, 4, 10

Targeted high technology industries, promotion and development of, ch 122, \$1, 4, 7, 10; ch 219, \$1, 2

Targeted small businesses, see SMALL BUSINESS, subhead Targeted Small Businesses Technology commercialization and business development, appropriations, ch 122, §4, 7, 10

Brownfield redevelopment program and fund, appropriations, ch 211, §27, 30 Business development division

Appropriations, ch 212, §3

Duties, ch 212, §3

Strategic investment fund, see ECONOMIC DEVELOPMENT

Value-added agriculture products and processes, see AGRICULTURE AND

AGRICULTURAL PRODUCTS, subhead Value-Added Agriculture and Agricultural Products

City development board, application for appropriations, ch 212, §23

Community assistance, appropriations, ch 212, §3; ch 215, §71

Community betterment program, application for appropriations, ch 212, §23

Community development and assistance, see ECONOMIC DEVELOPMENT

Community development division

Appropriations, ch 212, §3; ch 215, §71

Duties, ch 212, §3

Housing and shelter-related programs, appropriations, ch 212, §3; ch 215, §71

Marketing of regional tourism, disbursements of gambling receipt tax allocations for, ${\rm ch}\ 100$

Rural development, see RURAL AREAS AND SERVICES

Tourism, see TOURISM

Community economic betterment program, see ECONOMIC DEVELOPMENT

ECONOMIC DEVELOPMENT DEPARTMENT — Continued

Community economic preparedness program, application for appropriations, ch 212, §23 Director, salary, ch 215, §13, 14

Economic protective and investment authority, small business definition stricken, ch 54, \$31

Enterprise areas and zones, see ENTERPRISE AREAS AND ZONES

Entrepreneurs with disabilities program, appropriations, ch 212, §11

Export assistance, appropriations, ch 212, §3

Film office, appropriations, ch 212, §3

Film, television, and video project promotion program, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Finance authority, see FINANCE AUTHORITY

Generation Iowa commission established, ch 45

High quality job creation program, see HIGH QUALITY JOB CREATION PROGRAM

HOME program, application for appropriations, ch 212, §23

Housing improvement fund, appropriations, ch 217, §8

Information technology facility tax refunds, verification of eligibility, ch 199, §2

International office, application for appropriations, ch 212, §23

International trade, appropriations, ch 212, §3

Iowa state commission grant program, appropriations, ch 212, §3

JOBS program, see PROMISE JOBS PROGRAM

Jobs receiving assistance, filled by United States citizens or legal resident aliens, ch 212, §3

Local government innovation commission member appointment, ch 117, §2, 7

Mainstreet and rural mainstreet programs, appropriations, ch 212, §3; ch 215, §71

Marketing and compliance manager, duties and appropriation, ch 207, \$10, 15, 16, 18

Marketing image for state established, business recruitment, retention, and expansion, ch 212, §3

Microenterprise study and report, appropriations, ch 212, §3

Partner state program, appropriations, ch 212, §3

Power fund board membership and duties and due diligence committee appointment, ch 168, §6, 7, 18

Promise and mentoring partnership program, appropriations, ch 208, §4

PROMISE JOBS program, see PROMISE JOBS PROGRAM

Property tax study committee membership and duties, ch 215, §127

Public-private partnerships with businesses, cooperative efforts for advertising, ch 212, §3

Rural development, see RURAL AREAS AND SERVICES

Salaries, appropriations, ch 212, §3, 9

School-to-career programs, appropriations, ch 212, §3; ch 215, §71

Shelter assistance fund, allocation priorities for appropriations, ch 212, §24

Small business assistance, see SMALL BUSINESS, subhead Targeted Small Businesses

Sports authority regional districts, establishment and appropriations, ch 219, \$1, 2, 32

Strategic investment fund, see ECONOMIC DEVELOPMENT

Targeted jobs withholding tax credit for urban renewal improvements funding in pilot project cities, duties, ch 2

Targeted manufacturing, science, and technology businesses, state assistance programs, ch 122, §1, 4, 10

Targeted small business assistance, see SMALL BUSINESS

Tax structures and economic development incentives analysis, comparison with border states, ch 212, §3

Tourism, see TOURISM

Tourism division and office

Appropriations, applications for, ch 212, §23

State historical building and historic sites, attendance promotion, ch 212, §1

Trade, see TRADE

ECONOMIC DEVELOPMENT DEPARTMENT — Continued

Value-added agricultural products and processes, see AGRICULTURE AND AGRICULTURAL PRODUCTS

Vendor fair for targeted small business financial assistance program, appropriation, ch 207, \$16. 18

Vision Iowa program, see VISION IOWA PROGRAM

Workforce recruitment, appropriations, ch 212, §3

World food prize, see WORLD FOOD PRIZE

ECONOMIC PROTECTIVE AND INVESTMENT AUTHORITY

Small business definition stricken, ch 54, §31

EDUCATIONAL EXAMINERS BOARD

See also PROFESSIONS

Administrative rules, ch 108, §4, 10; ch 214, §33

Licensing and regulation of education practitioners

Administrators, ch 108, §3, 10, 53, 57, 58

Guidance counselors, ch 108, §4, 40

Misconduct charges against education practitioners, see subhead Misconduct Charges against Education Practitioners below

Teaching assignment noncompliance with license and endorsements, disclosure and complaint procedures, ch 214, §18, 33, 35

Membership, ch 22, §64; ch 104

Misconduct charges against education practitioners

Employee reporting duties, ch 214, §33

Teaching assignment noncompliance with license and endorsements, failure of practitioner to disclose, ch 214, §35

Preschool program for four-year-old children, statewide, teacher licensure, ch 148, §3 School nurses, endorsements or statements of recognition for, issuance and appropriations, ch 108, §4, 40, 65

School service personnel holding baccalaureate degrees, professional recognition statements, ch 108, §9

Teacher licensing and regulation, student teaching and educational experience, ch 215, \$101

Teaching assignment noncompliance with license and endorsements, board duties, ch 214, \$18, 33, 35

EDUCATION BOARD, STATE

See EDUCATION DEPARTMENT, subhead Board of Education, State

EDUCATION DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

Abraham Lincoln bicentennial commission, representation, ch 99; ch 215, §98

Accreditation of school districts, appropriations, ch 214, §6

Administrative rules, ch 51, §3; ch 130, §4

Administrator quality program, ch 108, §2, 3, 10, 50 – 58, 60 – 63

Appropriations, see APPROPRIATIONS

Area education agency administration, see AREA EDUCATION AGENCIES

At-risk children programs, appropriations, ch 215, §62

Board of education, state

Administrative rules, ch 108, \$1, 2, 22; ch 148, \$2, 3, 5, 10; ch 214, \$16, 23; ch 215, \$100 Bullving prevention in schools, ch 9, \$2

Community college faculty, standards and requirements for instructors working half-time or more, ch 214, §23

Harassment prevention in schools, ch 9, §2

EDUCATION DEPARTMENT — Continued

Board of education, state — Continued

Professional development plans for school districts and area education agencies, rules and reports, ch 108, §1, 37; ch 215, §103

School administrators, development of standards for, ch 108, §2, 3, 50, 55

School district reorganization decisions by area education agency boards or joint boards, appeals to board stricken, ch 214, §34

Teacher professional development plans, rules, ch 108, §22

Budget review committee, see SCHOOL BUDGET REVIEW COMMITTEE

Career ladder pilots for teacher compensation, establishment and appropriations, ch 108, \$41, 42, 45, 49, 64, 65

College student aid commission, see COLLEGE STUDENT AID COMMISSION

Community college administration, see COMMUNITY COLLEGES AND MERGED AREAS

Curriculum requirements for schools, see SCHOOLS AND SCHOOL DISTRICTS, subhead Curriculum Requirements

Data on students, statewide software system for information collection and sharing, ch 32

Data warehouse, implementation, appropriations, ch 214, §6; ch 219, §14, 15

Dental screenings of school children, implementation, ch 146

Director

Educational examiners board membership, ch 104

Salary, ch 215, §13, 14

Early intervention block grant program, appropriations and extension, ch 215, §60, 61, 67

Educational excellence program, appropriation limitations, ch 215, §4

Educator licensing, preparation, and regulation, see EDUCATIONAL EXAMINERS BOARD, subhead Licensing and Regulation of Education Practitioners

Employees, additional positions, appropriations, ch 108, §37, 65

Farm-to-school council membership and duties, ch 215, §94, 96

Gifted and talented education, appropriations, ch 214, §6

Health and wellness literacy curriculum requirements and standards, ch 98

Human growth and development curriculum, age-appropriate and research-based materials, ch 98

Instructional support state aid, appropriation limitations, ch 215, §4

JOBS program, see PROMISE JOBS PROGRAM

Learning technology initiatives, see SCHOOLS AND SCHOOL DISTRICTS, subhead Learning Technology Initiatives

Libraries and information services division, commission of libraries, and state library Appropriations, ch 214, §6

Enrich Iowa program, ch 126, §46 – 48; ch 214, §6; ch 219, §1, 2

Licensing and regulation of education practitioners, see EDUCATIONAL EXAMINERS BOARD, subhead Licensing and Regulation of Education Practitioners

Market factor incentive allocations and appropriations for teachers by districts, review, ch 108, §33, 36, 39, 65

Math and science education improvement project, ch 122, §8, 10, 11

Misconduct charges against education practitioners, see EDUCATIONAL EXAMINERS BOARD, subhead Misconduct Charges against Education Practitioners

Motor vehicle dealers of used vehicles, prelicensing and continuing education course fees, establishment of, ch 51, §3

National board for professional teaching standards certification pilot project awards, teacher application and certification deadlines and appropriations, ch 108, §6, 7, 36, 65

Pay-for-performance commission, teacher and staff development planning pilot projects and appropriations, ch 108, §41, 42, 45 – 48, 64, 65

Practitioner licensing and regulation, see EDUCATIONAL EXAMINERS BOARD

EDUCATION DEPARTMENT — Continued

Preschool program for four-year-old children, statewide, administration of, see SCHOOLS AND SCHOOL DISTRICTS, subhead Preschool Program for Four-Year-Old Children, Statewide

PROMISE JOBS program, see PROMISE JOBS PROGRAM

Public broadcasting division

Administrator, salary, ch 215, §13, 14

Appropriations, ch 206, §11, 39; ch 214, §6; ch 219, §1, 2

Digital television installation costs, appropriations nonreversion, ch 219, §18

Equipment, appropriations, ch 219, §1, 2

Mobile production unit purchase, appropriations, ch 206, §11, 39

Ready-to-learn coordinator for support of community empowerment, ch 214, §6

Reading instruction pilot project grant program, repeal and reallocations of appropriations, ch 214, §42 – 44

Reorganization of school districts, see SCHOOLS AND SCHOOL DISTRICTS, subhead Reorganization of School Districts

Research and development prekindergarten through grade twelve school, creation of, study by task force, ch 215, §128, 131

School budget review committee, see SCHOOL BUDGET REVIEW COMMITTEE

School district sharing and operations efficiencies, planning appropriations, ch 130, §6

School ready children grant program, appropriations, ch 181; ch 208, §3

School transportation for nonpublic schools, payments by state, appropriation limitations, ch 215, §4

Sexual exploitation of students via use of internet, prevention, instructional materials, ch 98, §1

Skills Iowa technology grant program, ch 206, §9, 39

Statewide student information system, education department study, ch 32

Student achievement and teacher quality program, see TEACHING AND TEACHERS, subhead Student Achievement and Teacher Quality Program

Supplemental strategies and educational services grant program, establishment and appropriations, ch 214, §6, 37

Teacher licensing and regulation, see EDUCATIONAL EXAMINERS BOARD, subhead Licensing and Regulation of Education Practitioners

Teacher shortage loan forgiveness program, identification of shortage areas, ch 214, §31

Teaching assignment comparison with license and endorsements, disclosure and noncompliance, ch 214, \$18, 33, 35

Vocational rehabilitation services division

Appropriations, ch 206, §10, 39; ch 214, §6

Client and potential client assessments acceptance, ch 214, §6

Employees, hiring authority for additional employees, ch 214, §6

Federal vocational rehabilitation funds matching funds collection, ch 214, §6

Website, use for listing teacher vacancies, ch 214, §6

EDUCATION, EDUCATORS, AND EDUCATIONAL INSTITUTIONS

See also AREA EDUCATION AGENCIES; COLLEGES AND UNIVERSITIES; COMMUNITY COLLEGES AND MERGED AREAS; SCHOOLS AND SCHOOL DISTRICTS; STUDENTS; TEACHING AND TEACHERS

All Iowa opportunity assistance program, see COLLEGE STUDENT AID COMMISSION

Anatomical gifts for purposes of education, ch 44, §6

Antitrust law, public education about, ch 213, §23

Appropriations, see APPROPRIATIONS

Career education, see CAREERS AND CAREER EDUCATION

EDUCATION, EDUCATORS, AND EDUCATIONAL INSTITUTIONS — Continued Child care providers, see CHILDREN, subhead Care of Children and Facilities for Care of Children

Collaborative educational facilities, sales tax exemption for, ch 215, §112, 125

Community empowerment programs, see COMMUNITY EMPOWERMENT

Consumer and criminal fraud against older persons, public education appropriations, ch 213, §24

Continuing education, see CONTINUING EDUCATION

Correctional facility inmates, education and training for, ch 213, §4, 6; ch 215, §74

Correctional system centralized education program, appropriations, ch 206, §14, 39

Cultural educational programs of cultural affairs department, ch 215, §104

Department of education in state government, see EDUCATION DEPARTMENT

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, \$1, 4-6, 11, 12

Educational examiners board, see EDUCATIONAL EXAMINERS BOARD

Electricians, continuing education, ch 197, §28, 50

Epilepsy education services, appropriations, ch 208, §1

Examiners board, see EDUCATIONAL EXAMINERS BOARD

Excellence program, appropriation limitations, ch 215, §4

Foster care recipients leaving foster care, support for participation in education and training, ch 218, §18

Generation Iowa commission, retention and attraction of young adults to Iowa, ch 45

Gifted and talented education, appropriations, ch 214, §6

Hunter safety and ethics education requirements, ch 28, §19

Insurance producers, continuing education requirements, ch 137, §23

Job training, see LABOR AND EMPLOYMENT, subhead Training for Jobs

Juvenile home, state, see JUVENILE FACILITIES AND INSTITUTIONS, subhead State Juvenile Home

Learning technology initiatives, see SCHOOLS AND SCHOOL DISTRICTS, subhead Learning Technology Initiatives

Licensing, preparation, and regulation of education practitioners, see EDUCATIONAL EXAMINERS BOARD, subhead Licensing and Regulation of Education Practitioners

Local education agencies medical assistance reimbursement rates exception, ch 218, §31 Math education, improvement project, ch 122, §8, 10, 11

Mechanical systems professionals, continuing education, ch 198, §20, 35

Medical education by university of Iowa hospitals and clinics, appropriations, ch 218, §73

Misconduct charges against education practitioners, see EDUCATIONAL EXAMINERS

BOARD, subhead Misconduct Charges against Education Practitioners

Motor vehicle dealers of used vehicles, continuing education requirements, ch 51, \$2, 3 Nonpublic schools, see SCHOOLS AND SCHOOL DISTRICTS, subhead Nonpublic

Nurses and nurse educators, forgivable loans for education, ch 214, §4, 26

Pharmacy colleges and schools accreditation standards, ch 19, §1, 4

Pharmacy technicians, continuing education, ch 20, §1

Plumbers, continuing education, ch 198, §20, 35

Private education, institutions, instruction, and schools

See also SCHOOLS AND SCHOOL DISTRICTS, subhead Nonpublic Schools Dual enrollment in public schools, Code correction, ch 22, §67

Propane education and research, see PROPANE, subhead Education and Research Property tax abatements, ch 186, §27, 30

Rape prevention education, appropriations, ch 204, §4, 15 – 17

Real estate education programs, ch 206, §27 – 29, 39; ch 215, §261

School-to-career programs, appropriations, ch 212, §3; ch 215, §71

Science education, improvement project, ch 122, §8, 10, 11

EDUCATION, EDUCATORS, AND EDUCATIONAL INSTITUTIONS — Continued Training school, state, see JUVENILE FACILITIES AND INSTITUTIONS, subhead State Training School

Veterans

Children of veterans, educational assistance, appropriations, ch 218, §4
Public education and awareness programs on veterans needs, ch 202, §1, 4; ch 218, §4

Vocational education, see VOCATIONAL EDUCATION

EGGS

Handlers, license fees, ch 215, §218

ELDER AFFAIRS DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

Administrative rules, ch 215, §206; ch 218, §1

Adult day services program certification, inspection, and regulation, transfer of duties to inspections and appeals department, ch 215, §184 – 206; ch 218, §69

Aging programs and services, appropriations and administration, ch 218, §1

Alzheimer's disease task force, ch 121; ch 218, §1

Appropriations, see APPROPRIATIONS

Area agencies on aging, see AREA AGENCIES ON AGING

Assisted living program certification, inspection, and regulation, transfer of duties to inspections and appeals department, ch 215, §160 – 183, 206; ch 218, §69

Case management program for frail elders, see ELDERLY PERSONS AND ELDER AFFAIRS, subhead Case Management Program for Frail Elders

Day services program certification, inspection, and regulation, transfer of duties to inspections and appeals department, ch 215, §184 – 206; ch 218, §69

Director, salary, ch 215, §13, 14

Elder affairs program administration, see ELDERLY PERSONS AND ELDER AFFAIRS

Elder group home certification and regulation, transfer of duties to inspections and appeals department, ch 215, \$135 - 159, 206; ch 218, \$69

Long-term care resident's advocate program, additional positions, appropriations, ch 218, \$1

Long-term living resources system team membership and duties, ch 92

Resident advocate committee coordination, appropriations, ch 218, §1

Retired and senior volunteer program, appropriations, ch 218, $\S 1$

Senior living services and program, see SENIOR LIVING SERVICES AND PROGRAM Substitute decision makers and decision-making services, state and local offices,

appropriations, ch 218, §1

ELDERLY PERSONS AND ELDER AFFAIRS

Alzheimer's disease, see ALZHEIMER'S DISEASE

Appropriations, see APPROPRIATIONS

Area agencies on aging, see AREA AGENCIES ON AGING

Assisted living programs, see ASSISTED LIVING SERVICES AND PROGRAMS

Case management program for frail elders

Appropriations, ch 218, §68

Cost and provision of services, ch 218, §68

Consumer and criminal fraud against older Iowans, public education enforcement appropriations, ch 213, \$24

Day services and day services facilities for adults, see DAY SERVICES AND DAY SERVICES PROGRAMS FOR ADULTS

Dental services for indigent elderly, donated services program, appropriations, ch 218, §2

Department of elder affairs in state government, see ELDER AFFAIRS DEPARTMENT

ELDERLY PERSONS AND ELDER AFFAIRS — Continued

Elder group homes

See also HEALTH CARE FACILITIES, subhead Nursing Facilities, Nursing Homes, and Nursing Administrators

Certification and regulation, ch 215, §135 – 159, 206; ch 218, §69

Resident advocate committees, appropriations, ch 218, §1

Health care facilities, see HEALTH CARE FACILITIES

Income tax exemptions, Code and Iowa Acts corrections, ch 126, §65, 112, 116

Livable community initiative, appropriations, ch 215, §32

Long-term living and care, see LONG-TERM LIVING AND CARE

Medical assistance elderly waiver, reimbursement of case management services under, appropriations, ch 218, §68

Medicare, see MEDICARE

Nursing homes, see HEALTH CARE FACILITIES, subhead Nursing Facilities, Nursing Homes, and Nursing Home Administrators

Professional aging specialist, appropriations, ch 215, §32

Retired and senior volunteer program, appropriations, ch 218, §1

Retirement and retirement plans, see RETIREMENT AND RETIREMENT PLANS

Senior farmers' market nutrition program, see FARMERS MARKETS

Senior living services and program, see SENIOR LIVING SERVICES AND PROGRAM

Social security, see SOCIAL SECURITY

Taxes, see TAXATION, subhead Elderly Persons

Wellness services, see HEALTH, HEALTH CARE, AND WELLNESS

ELDORA

State training school, see JUVENILE FACILITIES AND INSTITUTIONS, subhead State Training School

ELECTIONS

See also POLITICAL ACTIVITIES AND ORGANIZATIONS

General provisions, ch 59

Absentee voting and absent voters

General provisions, ch 59, §20 – 38; ch 215, §222 – 239, 243

Applications for ballots, ch 59, §23, 38

Armed forces members, voting by, ch 59, §31 – 36, 38; ch 215, §237 – 239, 243

Challenges to voters, ch 59, §30, 38

Counting of ballots, ch 59, §29, 38

Criminal offenses, ch 35, §1, 2, 7; ch 59, §20, 21, 38; ch 215, §222, 242

Delivery of ballots to voters and return of ballots to commissioners, ch 59, \$20, 25, 27, 38; ch 215, \$222, 223, 225 – 228

Election day, voting on, ch 59, §23, 38

Envelopes for ballots and affidavits, ch 215, §224, 231 – 239

Fraud, false statement in written oath, ch 35, §1, 2, 7; ch 215, §242

Hospital patients and health care facility residents, voting by, ch 59, §26, 28, 38

Optical scan voting system use, ch 190, §9, 39

Printing deadline for ballots, ch 59, §22, 38

Refusal to cast or return ballots, criminal offense for, repealed, ch 59, §21, 34, 37, 38

Registration and voting after registration deadline, ch 35, §2, 3, 6, 7; ch 215, §242

Returned ballots and affidavits, processing by election commissioners, ch 215, §229

Return of ballots and affidavits, ch 59, \$20, 25, 27, 38; ch 215, \$222, 223, 225 – 228

Satellite voting stations for city elections, ch 112, §1 – 3

ELECTIONS — Continued

Absentee voting and absent voters — Continued

Solicitation and affidavit taking by public employees, ch 59, §24, 38

Voting at polling places, ch 215, §230

Abstracts of votes

See also subhead Canvasses of Votes below

Form of abstracts, ch 59, §14, 15, 19

Appropriations, ch 215, §76; ch 217, §19

Attorneys, county, vacancies in offices, nomination of candidates for election to fill, ch 59, \$2, 19

Auditors, county, vacancies in offices, nomination of candidates for election to fill, ch 59, \$2, 19

Ballots

Absentee ballots, see subhead Absentee Voting and Absent Voters above

Form requirements, ch 59, §8 – 10, 19

Machines used for voting, see subhead Machines Used for Voting below

Optical scan systems, see subhead Optical Scan Systems Used for Voting below

Paper ballots, use of, ch 190, §1

Bond issues for county projects, election requirement threshold, ch 109, §3

Campaign finance, see CAMPAIGN FINANCE

Candidates

Campaign contributions and funds, see CAMPAIGN FINANCE

City election write-in candidates elected, resignation from office and replacement, ch 59, \$18, 19

City mayors, signatures requirement, ch 18

County office vacancies, nomination of candidates for election to fill, ch 59, \$2, 19

Newspaper owners, publishers, or editors, use of newspapers to promote candidacies of, restrictions, ch 61, §2

Nomination of candidates, see subhead Nomination of Candidates below

Peace officers and public safety and emergency personnel running for office, rights of, ch 160

Sheriffs, administrative investigations of complaints against candidates for, ch 160

Township officers, see subhead Township Officers below

Canvasses of votes

See also subhead Abstracts of Votes above

Lieutenant governor elections, canvas by general assembly stricken, ch 59, §1, 19

Primary elections, ch 190, §15, 16

Caucuses, historical museum project on, appropriations, ch 206, §8, 39

Cities and city elections

Absentee voting, satellite voting stations for city elections, ch 112, §1 – 3

Council membership increase procedures for mayor-council form, ch 55

Franchise elections, voting by optical scan systems, ch 190, §42

Mayors, nomination of candidates for, signatures requirement, ch 18

Precinct redrawing by cities, ch 59, §6, 19

Utility proposals, ch 215, §109, 110

Vacancies in office, nomination of candidates for, ch 112, §4

Write-in candidates elected, resignation from office and replacement, ch 59, \$18, 19

Congressional redistricting, see REDISTRICTING OF ELECTION DISTRICTS

Constitutional amendments, ballot forms, ch 59, §9, 16, 19; ch 190, §23, 24, 32

Constitutional convention questions, ballot forms, ch 59, §9, 16, 19

Contests of lieutenant governor elections, stricken, ch 59, §17, 19

Contributions to campaigns, see CAMPAIGN FINANCE

Councils of cities, see subhead Cities and City Elections above

ELECTIONS — Continued

Counties and county elections

Abstracts of votes for county officers, ch 59, §14, 15, 19

Bonds for county projects, election requirement threshold, ch 109, §3

Purchase, provision, and use of voting systems, ch 190, §6, 7, 27, 30, 35, 40, 41; ch 219, §1, 2, 7, 34

Tax elections, polling place opening times, ch 59, §11, 19

Vacancies in offices, nomination of candidates for election to fill, ch 59, §2, 19

Counting of and counting boards for votes, see subheads Canvasses of Votes above;

Precincts and Precinct Boards; Tallies of Votes and Tally Lists below

Criminal offenses, ch 35, \$1, 2, 7; ch 59, \$20, 21, 38; ch 190, \$13, 14; ch 215, \$222, 242

Disabled voters, electronic ballot marking devices for, ch 190, §6

Electronic systems used for voting, see subheads Machines Used for Voting; Optical Scan Systems Used for Voting below

Franchise elections in cities, voting by optical scan systems, ch 190, §42

Funds, see CAMPAIGN FINANCE

General assembly redistricting, see REDISTRICTING OF ELECTION DISTRICTS

House of representatives, state, redistricting of, see REDISTRICTING OF ELECTION DISTRICTS

Judicial elections, voting by optical scan systems, ch 190, §18

Legislative redistricting, see REDISTRICTING OF ELECTION DISTRICTS

Lieutenant governor

Contests of elections of lieutenant governor, stricken, ch 59, §17, 19

Vacancies in office of lieutenant governor, elections filling, canvass by general assembly stricken, ch 59, \$1, 19

Machines used for voting

General provisions, ch 190, §4, 13, 21, 23

Examiners board for voting systems, ch 190, §28

Printed ballot supplies and use, ch 190, §1

Printing on ballots, ch 59, §16, 19

Purchase and operation requirements for machines, ch 190, §6, 7; ch 219, §1, 2, 7, 34

Recounts, records from machines used for, ch 190, §3

Testing of machines, ch 190, §8

Mayors of cities, see subhead Cities and City Elections above

Military forces members, absentee voting by, ch 59, §31 – 36, 38; ch 215, §237 – 239, 243

Moneys, see CAMPAIGN FINANCE

Nomination of candidates

City mayors, signatures requirement, ch 18

City office vacancies, nomination of candidates for election to fill, ch 112, §4

County office vacancies, nomination of candidates for election to fill, ch 59, §2, 19

Petitions to nominate candidates, form of, ch 59, §4, 5, 19

Primary elections to nominate candidates, see subhead Primary Elections below

Township officers, see subhead Township Officers below

Notices of elections, ch 190, §2, 11

Officials of precincts, see subhead Precincts and Precinct Boards below

Optical scan systems used for voting

General provisions, ch 190, §4, 5, 13, 14

Absentee ballots, tabulation of, ch 190, §39

Absentee voting using systems, ch 190, §9

Equipment for precincts, ch 190, §19

Examiners board for and examination of voting systems, ch 190, §28, 29

Format of ballots, ch 190, §20 – 24, 36, 37

Franchise elections in cities, ch 190, §42

Procedure in precincts, ch 190, §38

ELECTIONS — Continued Optical scan systems used for voting — Continued Provisional ballots, tabulation of, ch 190, §39 Purchase, provision, and use by counties, ch 190, §6, 27, 30, 35, 40, 41 Requirements for systems, ch 190, §33, 34 Testing of systems, ch 190, §10 - 12 Write-in votes, tabulation of, ch 190, §26, 39 Petitions to nominate candidates, see subhead Nomination of Candidates above Polling places, see subhead Precincts and Precinct Boards below Precincts and precinct boards Caucuses, historical museum project on, appropriations, ch 206, §8, 39 Closing of polling places, procedures repealed, ch 190, §13, 16 Counting centers and early pick-up sites, establishment and procedures, ch 190, §13, 39 Eligibility for membership of boards and counting boards, ch 138 Presence, absence, and substitution of board members, requirements, ch 59, §7, 19 Redrawing of precincts by cities, ch 59, §6, 19 Registration of voters on election day, ch 35, §1 – 3, 6, 7; ch 215, §242 Special precinct election board, tabulation of absentee and provisional ballots, ch 190, §39 Student members of boards, ch 34 Primary elections Canvasses of votes, ch 190, §15, 16 Counts of votes, public availability, ch 190, §17 County office vacancies, nomination of candidates for elections to fill, ch 59, §2, 19 Nomination papers for candidates, form of, ch 59, §3, 19 Poll closing procedures, ch 190, §16 Public measures, ballot forms, ch 59, §9, 16, 19; ch 190, §23, 24, 32 Recorders, county, vacancies in offices, nomination of candidates for election to fill, ch 59, §2, 19 Recounts, records from voting machines, use for recounts, ch 190, §3 Registration of voters General provisions, ch 35, §4, 5, 7; ch 59, §39 - 43 Age qualification for registration, ch 59, §40, 43 Applications for registration, incomplete, procedure for, ch 59, §41, 43 Armed forces members, ch 59, §32, 38, 42, 43; ch 215, §237 Election day and in-person absentee registration, requirements, ch 35, §2, 3, 6, 7; ch 215, §242 Fraud, false statement in written oath, ch 35, §1, 2, 7; ch 215, §242 Inactive records, ch 35, §4, 5, 7 List compiled from records, defined, ch 59, §39, 43 School district instructional support program participation, suspension of election requirement for continuation, ch 214, §13, 44 Senate, state, redistricting of, see REDISTRICTING OF ELECTION DISTRICTS Senators, state, first elections after decennial redistricting, ch 78, §7 Sheriffs, county, vacancies in offices, nomination of candidates for election to fill, ch 59, \$2, Signs on private property, restrictions, ch 14, §7; ch 215, §244 Supervisors, county, vacancies in offices, nomination of candidates for election to fill, ch 59, §2, 19 Tallies of votes and tally lists Form of tally lists, ch 59, §13, 19

Tax elections
County local option taxes, opening time for polling places, ch 59, §11, 19

Voting machine tallies, ch 190, §25, 31

ELECTIONS — Continued

Tax elections — Continued

Local option tax elections, notice of results, ch 186, §24 - 26

Township officers

Affidavits of candidacy, ch 25, §1, 3

Nomination petition requirement stricken, ch 25, §1, 2

Treasurers, county, vacancies in offices, nomination of candidates for election to fill, ch 59, \$2, 19

Vote counting, see subheads Canvasses of Votes; Precincts and Precinct Boards above Voting and voters

Absentee voting and absent voters, see subhead Absentee Voting and Absent Voters above

Armed forces members, ch 59, §31 – 36, 38, 42, 43; ch 215, §237 – 239, 243

Challenges of voters and voting, ch 35, §6, 7; ch 59, §12, 19, 30, 38

Disabled voters, electronic ballot marking devices for, ch 190, §6

Hospital patients and health care facility residents, ch 59, §26, 28, 38

Machines used for voting, see subhead Machines Used for Voting above

Mentally incompetent persons, disqualification from voting, proposed constitutional amendment, ch 223

Optical scan systems used for voting, see subhead Optical Scan Systems Used for Voting above

Registration of voters, see subhead Registration of Voters above

Write-in votes, tabulation by optical scan systems, ch 190, §26, 39

Write-in votes, tabulation by optical scan systems, ch 190, §26, 39

ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS

See also ENERGY; UTILITIES

Biomass production project at university of northern Iowa, ch 206, §6, 39

Fort Madison correctional facility special needs unit system, appropriations, ch 219, §1, 2 Generating facilities, see UTILITIES, subhead Electric Utilities

Information technology facilities, electricity and fuel to generate electricity, sales and use tax refunds, ch 199, §2

Inspection and regulation of electrical systems, ch 197, §33 – 44, 50

Licensing and regulation of electricians and examining board for licensing and regulation See also PROFESSIONS

General provisions, ch 197, §11 – 50

Activities of licensees and classes of licenses, ch 197, §18 – 23, 25, 28 – 31, 45 – 47, 50

Administrative rules, ch 197, §16, 50

Authority and duties of board, ch 197, §12 – 16, 27, 50

Continuing education, ch 197, §28, 50

Examinations, ch 197, §26, 50

Fees, ch 197, §17, 29, 35, 42, 50

Inspection and regulation of electrical systems, ch 197, §33 – 44, 50

Violations and penalties for violations, ch 197, §27, 35, 48 – 50

Replacement taxes, see TAXATION, subhead Replacement Taxes on Electricity and Natural Gas Providers

State capitol complex distribution system, appropriations, ch 206, $\S20$, 39; ch 219, $\S1$, 2 Taxes, see TAXATION

University of northern Iowa electrical distribution loop system load break, appropriations, ch 205

Web search portal businesses, electricity and fuel for power generation, sales tax exemptions, ch 199, §1

ELECTROLOGY AND ELECTROLOGISTS

See COSMETOLOGY AND COSMETOLOGISTS

ELECTRONIC COMMUNICATIONS, RECORDS, AND TRANSACTIONS

See also COMPUTERS AND COMPUTER SOFTWARE; E-MAIL; INTERNET AND INTERNET SERVICES; TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES; TELEPHONE SERVICE AND TELEPHONE COMPANIES

Anatomical gift law, electronic signatures, ch 44, §19

Animal feeding operations, electronic document processing system development, appropriations, ch 211, §28, 30

Banking division records, preservation of documents in electronic medium, ch 170, \$1 Boat and vessel registration system development, ch 28, \$3

Campaign finance committee reports and statements, transmission requirements and guidelines, ch 61, \$1; ch 80

Cigarette permit holder reports, forms for and transmission of, ch 186, §37, 38

Cigarette shipments, report filing, ch 186, §39, 47

City and county budget reporting, criteria and report forms for, availability, ch 186, §3, 4, 28

Commercial transactions under uniform commercial code, ch 41, §10, 42

Controlled substance prescriptions, electronic and facsimile, ch 8, §17

Court documents, ch 33; ch 215, §259

Court information system, collections usage report and sentencing and information sharing with criminal justice agencies, ch 210, §1, 3

Credit unions, satellite terminals and transactions, ch 174, §32

Documents of title, ch 30, §3, 5, 6

Energy independence plan, availability, ch 168, §4, 18

Fund transfers and transfer instruments, authority of credit unions to sell and receive, ch 118, §1, 3

Governmental body meetings by electronic means, Code correction, ch 22, §11

Government information and transactions, appropriations, ch 217, §3

Harassment or bullying of school students via electronic communications, prohibition, ch 9, §2

IowAccess, appropriations, ch 217, §3

Joint government entity boards, publication, filing, and recording electronic records, ch 158

Medical contracts, electronic cross-matching with state vital records databases, appropriations, ch 218, §13

Motor vehicle dealer licensure, ch 51, §1, 2

Political committee reports and statements, transmission requirements and guidelines, ch 61, \$1; ch 80

Real estate court cases, use of electronic records, ch 71, §4

Resource centers, state, procurement and installation of electronic medical records system, appropriations, ch 218, §59, 67

Scheduled violation citations and complaints, electronic signatures and dates, ch 33, \$3; ch 215, \$259

Seals of courts, electronic images on electronic documents, ch 33, §1

Signatures, regulation by federal law and uniform commercial code, ch 30, §3; ch 41, §10

Student electronic transcripts and information, study of statewide data systems, ch 32

Tax records, maintenance format, ch 186, §23

Tobacco products

Shipments, report filing, ch 186, §39, 47

Tax returns, forms for, ch 186, §48, 49

Traffic citations and complaints, electronic signatures and dates, ch 33, §3; ch 215, §259

Victim notification system, see VICTIMS AND VICTIM RIGHTS, subhead Automated Victim Notification System

Voter registration inactive records, ch 35, §5, 7

ELECTRONIC COMMUNICATIONS, RECORDS, AND TRANSACTIONS — Continued Voting systems, see ELECTIONS, subheads Machines Used for Voting; Optical Scan Systems Used for Voting

Warehouses for agricultural products, receipt issuance, ch 30, §81

ELECTRONIC DEVICES AND EQUIPMENT

Computers, see COMPUTERS AND COMPUTER SOFTWARE Information technology, see INFORMATION TECHNOLOGY

ELEPHANTS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

ELEVATORS FOR GRAIN

See WAREHOUSES AND WAREHOUSE OPERATORS, subhead Agricultural Products, Warehouses for

ELEVATORS FOR PASSENGERS AND FREIGHT

See CONVEYANCES FOR PASSENGERS AND FREIGHT

ELK

Farm deer, see FARM DEER

Game, see GAME

Hunting, see HUNTING

Illegal taking or possessing of elk, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, \$16

ELUDING OF LAW ENFORCEMENT VESSELS

Criminal offenses and penalties, ch 28, §10

E-MAIL

See also ELECTRONIC COMMUNICATIONS, RECORDS, AND TRANSACTIONS; INTERNET AND INTERNET SERVICES

Peace officer use in ongoing investigations, confidentiality and limitations of actions, ch 62 Supreme court use for attorney notifications of rulings and decisions, ch 33, §2

EMBALMING AND EMBALMERS

Anatomical gifts of bodies and body parts, embalming of, ch 44, §10

Funeral directing and directors, see FUNERALS, subhead Directing and Directors of Funerals

EMBEZZLEMENT

Real estate broker and salesperson licensees and licensure applicants convicted of embezzlement, ch 187

EMERALD ASH BORERS

Public awareness and information project, appropriations, ch 211, §8

EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES

See also DISASTERS; EMERGENCY MEDICAL CARE AND SERVICES; FIRES AND FIRE PROTECTION; SECURITY

Alarm systems, see ALARM SYSTEMS, CONTRACTORS, AND INSTALLERS

Communications for public safety, interoperable systems implementation, ch 90

County facility repairs, contract letting procedures, ch 144, §13

Division of emergency management in state public defense department, see PUBLIC DEFENSE DEPARTMENT, subhead Homeland Security and Emergency Management Division

Government emergency preparedness information, closed session meetings and confidentiality, ch 63

EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES — Continued

Joint emergency response communications services by local emergency management commissions, ch 149

Local emergency management commissions, joint emergency response communications services, ch 149

Regional emergency response training centers

Additional centers, authorization, ch 219, §33

Appropriations, ch 219, §1, 2

Construction and infrastructure grants program appropriations and appropriations contingency, ch 219, §1, 2

State commission for emergency response, duties, ch 211, §31 – 34

State emergency response training facility, construction of, appropriations, ch 219, \\$1, 2 Veterinary emergency preparedness and response services, appropriations, ch 211, \\$11

EMERGENCY COMMUNICATIONS SYSTEMS (911 AND E911 SERVICE)

Administrator and program manager, appropriations, ch 213, §17

Appropriations, see APPROPRIATIONS, subhead E911 Systems

Joint E911 service boards

Allocations, yearly percent of surcharge revenues, ch 213, §21

Wireless E911 phase 2 upgrades and equipment purchases, appropriations and report, ch 213, §16

Wireless E911 emergency communications services, appropriations and allocations, ch 213, \$16, 17, 21

EMERGENCY MEDICAL CARE AND SERVICES

See also AMBULANCES AND AMBULANCE SERVICES; EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES; RESCUE SERVICES AND PERSONNEL

Anatomical gift law duties, ch 44, §7

Appropriations, see APPROPRIATIONS

Communications officers, administrative investigations of complaints against and officers' rights regarding, ch 160

Defibrillators, grant program for rural areas, appropriations, ch 208, §1, 7, 8

Delivery system, appropriations, ch 208, §1

Emergency medical services fund

Appropriations, ch 218, §2

Disposition of special registration plate fees, ch 184, §3, 7

Emergency medical technicians, administrative investigations of complaints against and technicians' rights regarding, ch 160

HIV exposure of providers while providing health care, notification procedure, ch 70, §9 Immunity from legal liability for renderers of emergency aid in public health disasters, ch 159, §21

Intergovernmental services agreements, budget process, ch 96

Motor vehicle special registration plates for emergency medical service personnel, use of fees, ch 184, §3, 7

Organ donation law duties, ch 44, §7

Township services

Emergency services intergovernmental agreements, budget process, ch 96

Meetings of township trustees relating to emergency medical services, public notice of, ch 139, \$1

Volunteer emergency services organizations, annual game nights conducted by, ch 119, §3

EMERGENCY RESCUE

See RESCUE SERVICES AND PERSONNEL

EMERGENCY VEHICLES

See AMBULANCES AND AMBULANCE SERVICES; FIRES AND FIRE PROTECTION, subhead Vehicles Used by Fire Fighters and Operation of Vehicles by Fire Fighters; RESCUE SERVICES AND PERSONNEL

EMERGENCY VESSELS

See also RESCUE SERVICES AND PERSONNEL

Boat operators eluding law enforcement vessels, criminal offenses and penalties, ch 28, §10

EMINENT DOMAIN

See also CONDEMNATION

Appraisement commission meetings, Code correction, ch 22, §1

EMISSIONS

Greenhouse gas emissions, see GREENHOUSE GASES

EMPLOYMENT APPEAL BOARD

See INSPECTIONS AND APPEALS DEPARTMENT

EMPLOYMENT, EMPLOYERS, AND EMPLOYEES

See LABOR AND EMPLOYMENT

EMPOWERMENT OF COMMUNITIES

See COMMUNITY EMPOWERMENT

FMS

See EMERGENCY MEDICAL CARE AND SERVICES

ENCUMBRANCES

Homesteads, format of instruments for spouses, ch 68

Liens, see LIENS

Mortgages, see MORTGAGES

Security interests, see SECURITY INTERESTS

ENDANGERED SPECIES PROTECTION

Illegal taking or possessing of endangered species, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, §16

ENDANGERMENT OF CHILDREN

Criminal offenses and penalties, Code correction, ch 126, §109

ENDOW IOWA PROGRAM

Tax credits for endowment gifts, ch 161, §9, 22; ch 174, §60; ch 215, §87

ENERGY

See also ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS; FUELS;

NATURAL GAS; UTILITIES

Appropriations, see APPROPRIATIONS

Assistance for low-income persons and households

Appropriations, ch 204, §10, 15 – 17; ch 218, §29

Assessment and resolution program for payment and disconnection prevention, ch 218, \$29, 136

Biobased energy and energy production

Biorefinery and related product research and development, financial incentives for, ch 168, §11, 18

Renewable energy, see subhead Renewable Energy below

University of northern Iowa biomass production project, appropriations, ch 206, §6, 39

ENERGY — Continued

Biomass projects

Research and development programs, financial incentives for, ch 168, §12, 18

University of northern Iowa biomass production project, appropriations, ch 206, §6, 39

Capitol complex energy plant addition and improvements, appropriations, ch 219, §1, 2

Center for energy

Climate change advisory council membership and duties, ch 120, §5

Power fund due diligence committee appointment, ch 168, §7, 18

Comfort systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING); HYDRONIC SYSTEMS

Conservation and efficiency programs

See also subheads Independence Programs and Office of Energy Independence; Renewable Energy below

Administrative services department utility costs, reduction through energy conservation practices, ch 217, §1

Energy city designation program, ch 157

Energy-efficient building project, appropriations, ch 217, §24, 26

Financial incentives for individuals and communities, ch 168, §14, 18

Recycling efforts, see RECYCLING AND RECYCLED PRODUCTS

School district sharing efficiencies, development, ch 130, §6

State office building, new construction, energy efficiency minimum requirements, ch 219, §22

Utility energy efficiency plans and programs offered to customers, ch 168, \$16-18 Weatherization programs for low-income households, appropriations, ch 204, \$10, 15-17

Cooling systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING); HYDRONIC SYSTEMS

Costs, payment assistance for low-income persons, see subhead Assistance for Low-Income Persons and Households above

Heating systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING); HYDRONIC SYSTEMS

Independence programs and office of energy independence

See also subheads Conservation and Efficiency Programs above; Renewable Energy below

General provisions, ch 168, §1 – 9, 18; ch 209, §1, 4; ch 215, §63

Administrative rules, ch 168, §3, 9, 18

Appropriations, ch 206, §5, 39; ch 209; ch 215, §53, 63, 132

Climate change advisory council membership and duties, ch 120, §5

Director, salary, ch 215, §13, 14

Plan for state energy independence, ch 168, §4, 15, 18

Power fund administration and expenditure, see POWER FUND AND POWER FUND BOARD

Juvenile home powerhouse, appropriations, ch 206, §19, 39

Power fund administration and expenditure, see POWER FUND AND POWER FUND BOARD

Reduction in use of energy, see subheads Conservation and Efficiency Programs;

Independence Programs and Office of Energy Independence above

Regents board cost savings, project financing authorized, ch 214, §11

Renewable energy

See also subheads Conservation and Efficiency Programs; Independence Programs and Office of Energy Independence above

Research and development, financial incentives for, ch 168, §13, 18

Tax credits, ch 161, §11, 22

Research, development, and commercialization programs, ch 168, §10 – 14, 18

ENERGY — Continued

State agency utilities, costs of, appropriations, ch 206, §1, 39; ch 215, §50, 51; ch 217, §1 State office building, new construction, energy efficiency minimum requirements, ch 219, §22

Weatherization programs for low-income households, appropriations, ch 204, \$10, 15-17 Wind energy production tax credits, ch 161, \$11, 22

ENGINEERING AND ENGINEERS

See also COMMERCE DEPARTMENT, subhead Professional Licensing and Regulation Bureau; PROFESSIONS

Groundwater professional certification and regulation, ch 171, §4 – 6, 12

Licensing and regulation, ch 126, \$14, 21, 38, 44, 52, 59, 61, 62, 75 – 77, 79, 80, 83 – 85, 95, 96, 98; ch 170, \$7

ENGLISH LANGUAGE

Before and after school grant program, approved instructional programs, ch 208, \$5; ch 214, \$6, 19; ch 215, \$34

Core content standards and courses for all students, ch 214, §17, 37

ENTERPRISE AREAS AND ZONES

Distress criteria, business closures or permanent layoffs, ch 183

Incentives and assistance for businesses, eligibility and applications for, Code corrections, ch 126, \$6-8

ENTERPRISES

Business enterprises, see BUSINESS AND BUSINESSES

ENTERTAINMENT

Cultural and entertainment districts, see CULTURE AND CULTURAL RESOURCES Iowa great places, see GREAT PLACES

ENTREPRENEURS AND ENTREPRENEURSHIP

See BUSINESS AND BUSINESSES

ENVIRONMENTAL CRIMES INVESTIGATION AND PROSECUTION FUND

General provisions, ch 213, §22

ENVIRONMENTAL PROTECTION

Animal feeding operations and feedlots, enforcement of regulatory laws, see ANIMALS, subhead Feeding Operations and Feedlots

Asbestos regulation, implementation and enforcement of federal national emission standards by natural resources department, ch 125, §3

Chemical hazards, reduction of public exposure, appropriations, ch 218, §2

Commission on environmental protection, see NATURAL RESOURCES DEPARTMENT, subhead Environmental Protection Commission

Environment first fund

Appropriations, ch 211, §26 - 30; ch 215, §8

Capital projects receiving appropriations from fund, agency reporting requirements, ch 219, §28, 31

Greenhouse gases, see GREENHOUSE GASES

Hazardous substances and materials, see HAZARDOUS SUBSTANCES AND MATERIALS Investigation and prosecution of environmental crimes. ch 213, \$22

Petroleum diminution charge, amnesty program for payment of delinquent liabilities, see TAX AMNESTY PROGRAM

Pharmaceutical waste collection and disposal, pilot project for, appropriations, ch 155 Pollution control, see POLLUTION AND POLLUTION CONTROL

Refuse, see WASTE AND WASTE DISPOSAL

ENVIRONMENTAL PROTECTION — Continued

Soil protection and conservation regulation, see SOIL AND WATER CONSERVATION Solid waste and disposal of solid waste, see WASTE AND WASTE DISPOSAL Underground storage tank regulation, see TANKS, subhead Underground Storage Tanks Waste and waste disposal, see WASTE AND WASTE DISPOSAL

Water protection and conservation regulation, see SOIL AND WATER CONSERVATION Wildlife conservation and protection, see WILDLIFE

ENVIRONMENTAL PROTECTION COMMISSION

See NATURAL RESOURCES DEPARTMENT

EPILEPSY

Services and support for persons and families living with epilepsy, appropriations, ch 208, §1

EQUAL RIGHTS

Civil rights protection, see CIVIL RIGHTS Discrimination, see DISCRIMINATION

EQUINE ANIMALS

Horses

Breeding for racing, appropriations, ch 211, §3

Feeding operations and feedlots, see ANIMALS, subhead Feeding Operations and Feedlots

Pari-mutuel wagering at racetracks, see GAMBLING, subhead Pari-Mutuel Wagering Racing of horses, see RACING, subhead Horses

Livestock, see LIVESTOCK

Trail construction projects, appropriations, ch 219, §1, 2

EROSION AND EROSION CONTROL

See also SOIL AND WATER CONSERVATION

Appropriations for erosion control, ch 211, §26, 30

Row-cropped land, management practices to control soil erosion, financial incentive appropriations, ch 211, §26, 30

Watersheds above publicly owned lakes, protection from soil erosion and sediment, financial incentive appropriations, ch 211, §26, 30

ESCALATORS

See CONVEYANCES FOR PASSENGERS AND FREIGHT

ESCHEATS

Political campaign contributions from unknown or unidentifiable sources, escheat to state, ch 14, §8

ESCROWS AND ESCROW ACCOUNTS

Credit unions, mortgage loan payments to, ch 174, §46

Mortgage bankers and brokers, analyses for mortgages serviced by, ch 174, §94

ESTATES OF DECEDENTS

See also PROBATE CODE, subhead Estates of Decedents

Administrators, see ADMINISTRATORS, subhead Estate Administrators

Executors, see EXECUTORS

Income taxes, see INCOME TAXES, subhead Estates of Decedents

Inheritance taxes, see INHERITANCE TAXES

Investment tax credits, see INCOME TAXES, subhead Investment Tax Credits

Safe deposit boxes, access to and disposition of contents, ch 174, §49

Taxation, see TAXATION, subhead Estates

ESTHETICS AND ESTHETICIANS

See COSMETOLOGY AND COSMETOLOGISTS

ETHANOL

See FUELS

ETHICS

Board for ethics and campaign disclosure, see ETHICS AND CAMPAIGN DISCLOSURE

Governmental ethics regulation, ch 5

Hunter ethics education requirements, ch 28, §19

ETHICS AND CAMPAIGN DISCLOSURE BOARD

Administrative rules, ch 5, §3; ch 61, §2

Appropriations, see APPROPRIATIONS

Campaign finance regulation, see CAMPAIGN FINANCE

Executive director, salary, ch 215, §13, 14

Gift, bequest, and grant receipt by state

Report and complaint handling by board, Code corrections, ch 126, §15, 16 Reporting requirements, ch 5, §2

Lobbying and lobbyist regulation, see LOBBYING AND LOBBYISTS

Newspapers, use by owners, publishers or editors running for public office, rules prohibiting, ch 61, §2

Nonprofit organizations, solicitations restrictions, rules to exempt member communications, ch 61, §2

Reports and statements

Electronic filing requirements, enforcement of, ch 80, §2, 5

Internet posting, ch 80, §1

Use of copied information, ch 5, §3

ETHNICITY AND ETHNIC GROUPS

See MINORITY PERSONS

EVICTION

Prevention projects under homeless outreach services, ch 204, §13

EVIDENCE

Banking division records, ch 170, §1

Credit union records, ch 174, §54

DNA profiling, see GENETIC MATERIALS AND TESTING, subhead DNA Profiling Insurance commissioner investigations, powers to take evidence, ch 137, §6

Peace officer ongoing investigation e-mail and telephone billing records, confidentiality and limitations of actions, ch 62

Professional malpractice, legal proceedings for, expressions of regret or sorrow and response as evidence, Code correction, ch 126, \$102

Seized property in criminal proceedings, disposition, ch 107

State patrol vehicle conversion to use of digital cameras, assessment of issues related to rules of evidence, ch 213, §19

EXAMINING BOARDS

See PROFESSIONS

EXCISE TAXES

Automobile rentals, amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

EXCISE TAXES — Continued

Cigarettes, see TAXATION, subhead Cigarettes and Tobacco Products

Controlled substance dealers, tax amnesty program, see TAX AMNESTY PROGRAM

Corn assessment moneys, use of, Code correction, ch 126, §40

Drug dealers, tax amnesty program, see TAX AMNESTY PROGRAM

Electricity replacement taxes, see TAXATION, subhead Replacement Taxes on Electricity and Natural Gas Providers

Fuels, see TAXATION, subhead Fuels

Motor fuels, see TAXATION, subhead Fuels

Motor vehicle rentals, amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Natural gas replacement taxes, see TAXATION, subhead Replacement Taxes on Electricity and Natural Gas Providers

Sales taxes, see SALES, SERVICES, AND USE TAXES

Tobacco products, see TAXATION, subhead Cigarettes and Tobacco Products

Use taxes, see SALES, SERVICES, AND USE TAXES

EXCURSION BOAT GAMBLING

See GAMBLING

EXECUTION (JUDGMENTS AND DECREES)

Exemptions from execution, see EXEMPTIONS FROM LEGAL PROCESS (EXEMPTION LAWS)

Trust estate properties, interest of beneficiary or surviving spouse in homestead, ch 134, §3, 28

EXECUTION SALES

Mortgage foreclosures, notices of sales to junior creditors, Code correction, ch 126, §105

EXECUTIVE BRANCH

See GOVERNOR; STATE OFFICERS AND DEPARTMENTS

EXECUTIVE COUNCIL

Clerical and secretarial support, ch 217, §21

Disaster assistance to needy individuals and families, ch 7; ch 145

Finance authority, property acquisitions by, approval by council, ch 54, §19

Iowa communications network contracts relating to natural disasters and homeland security, executive council authorization, ch 116, \$2

EXECUTORS

See also PERSONAL REPRESENTATIVES

Safe deposit boxes of decedents, access by executors, ch 174, §49

EXEMPTIONS FROM LEGAL PROCESS (EXEMPTION LAWS)

Motor vehicles, wages, and tax refunds, Code correction, ch 126, §104

Personal injury payments to debtors or debtors' dependents, ch 114

EXHAUST AND EXHAUST SYSTEMS

Comfort systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING)

EXHIBITIONS AND EXHIBITS

See SHOWS

EXPLOSIVE DEVICES AND MATERIALS

Contraband, see CONTRABAND

EXPORTS

Assistance by state, appropriations, ch 212, §3

Businesses, financial assistance program of Iowa finance authority, repealed, ch 54, \$3, 11, 45

EXPOSITIONS

See SHOWS

EXTINGUISHERS AND EXTINGUISHING SYSTEMS FOR FIRES

See FIRES AND FIRE PROTECTION, subhead Fire Extinguishing Systems

EXTORTION

Real estate broker and salesperson licensees and licensure applicants convicted of extortion, ch 187

EYES

Donors and donations of body parts, see ANATOMICAL GIFTS Optometry, see OPTOMETRY AND OPTOMETRISTS Vision, see VISION

FACTORIES

See MANUFACTURERS AND MANUFACTURING

FACTORY-BUILT STRUCTURES

Regulation by state building code, Code correction, ch 22, §33

FAIRFIELD

Trail projects, appropriations, ch 219, §1, 2

FAIRS AND FAIRGROUNDS

Camping rallies sponsored and conducted by motor home manufacturers, motor home sales at, ch 131, $\S1 - 4$, 6

County fairs

Infrastructure improvements, appropriations, ch 219, §1, 2

Officers of fairs, compensation of, Code correction, ch 126, §39

State fair

Agricultural exhibition center construction, appropriations, ch 219, §1, 2

Appropriations, see APPROPRIATIONS, subhead Fair and Fair Authority, State

Construction, improvement, and repair projects, appropriations, ch 219, §1, 2

Dangerous wild animal regulation exception, ch 195, §7

Secretary of fair board, salary, ch 215, §13, 14

FAIR TRADE

Cigarette sales, ch 17, §1, 2, 12; ch 186, §32

Enforcement and funding of enforcement, ch 213, §23

FALCONS

Dangerous wild animal regulation exception for persons with falconry licenses, ch 195, \$7; ch 215, \$121

FALSE PRETENSES

See FRAUD AND FRAUDULENT PRACTICES

FALSIFICATION

Cemetery and funeral merchandise and funeral services sales licensees convicted of, ch 175, §19

Forgery, real estate broker and salesperson licensees and licensure applicants convicted of, ch 187

FAMILIES

See also CHILDREN; GRANDCHILDREN; GRANDPARENTS; MARRIAGE AND SPOUSES; PARENTS; SIBLINGS

Adoptions, see ADOPTIONS

Alzheimer's disease services and support to families, task force examination of, ch 121; ch 218, §1

Appropriations, see APPROPRIATIONS

Assistance for families, see subhead Welfare Services for Families below

Beneficiary revocations by decrees of dissolution, annulment, or separate maintenance for insurance or other contracts, effect on former spouse's relatives, ch 134, §4, 5, 28

Birth control, see PREGNANCY, subhead Prevention and Planning of Pregnancy Births, see BIRTHS

Community empowerment programs, see COMMUNITY EMPOWERMENT

Crime victims, family members of, compensation, see VICTIMS AND VICTIM RIGHTS, subhead Compensation for Victims

Development and self-sufficiency grant program

Administration by human rights department, ch 218, §8

Appropriations and allocations, ch 218, §7 – 9

Compliance with federal temporary assistance for family block grant requirements, ch 218, §8, 9

Performance measures for grant program, report, ch 218, §8, 36

Disabled Iowans, computerized information and referral services for families (Iowa compass program), appropriations, ch 218, \$26

Disaster victims, see DISASTERS, subhead Victims of Disasters

Dissolutions of marriage, see DISSOLUTIONS OF MARRIAGE

Enduring families program, appropriations, ch 215, §70

Epilepsy services and support to families, appropriations, ch 208, §1

Family investment program, see FAMILY INVESTMENT PROGRAM

Firearms discharge prohibition near farm units, exception for family members of owners and tenants, ch 28, §14

Foster care and foster care facilities, see FOSTER CARE AND CARE FACILITIES

Health care plan affordability for families, commission on, ch 218, §99, 127, 129

Health information center (family-to-family center), ch 218, §125, 126

Health status promotion, appropriations, ch 218, §2, 97

Healthy opportunities for parents to experience success (HOPES) – healthy families Iowa (HFI) program, see HEALTHY OPPORTUNITIES FOR PARENTS TO EXPERIENCE SUCCESS (HOPES) – HEALTHY FAMILIES IOWA (HFI) PROGRAM

Judicial magistrate appointing commission members, prohibition against appointment or nomination of family members, ch 86, §8

Jurors, family members of, court sealing of juror questionnaires to protect safety or privacy of, ch 210, §5

Minority youth and family projects under child welfare redesign, appropriations, ch 218, \$20

Preservation and reunification, emergency assistance, ch 218, §18

Prevention and planning of pregnancy, see PREGNANCY, subhead Prevention and Planning of Pregnancy

Services for families and individuals, see subhead Welfare Services for Families below

Support of dependent persons, see SUPPORT OF PERSONS

Support subsidy program, appropriations and allocations, ch 218, §21

Therapists, see MARITAL AND FAMILY THERAPY AND THERAPISTS

Veterans counseling program, assistance to families, ch 202, §1; ch 218, §4

Victims, family members of, compensation for, see VICTIMS AND VICTIM RIGHTS, subhead Compensation for Victims

FAMILIES — Continued

Voting by absent persons, return of ballots by family members of voters, ch 59, \$20, 25, 27, 38; ch 215, \$222, 223, 225 – 228

Welfare services for families

Intensive family preservation services and family-centered services, ch 172, \$8-10 Public assistance, see PUBLIC ASSISTANCE

FAMILY INVESTMENT PROGRAM

See also PROMISE JOBS PROGRAM

Appropriations, ch 218, §7 – 9, 18

Child care, see CHILDREN, subhead Care of Children and Facilities for Care of Children Children, services to, cost reimbursement from child and family services appropriations, ch 218, §18

Child support collections, disposition, ch 218, §8, 52, 67

Community-level parental obligation pilot projects, appropriations, ch 218, §8

Community service, specific requirements deleted from agreement options, ch 124, §5

Data management system development and implementation, appropriations, ch 218, §8

Food stamp employment and training program, appropriations, ch 218, §8

Funding, federal law citation updated, ch 124, §2

Income consideration, assistance eligibility prohibition eliminated, ch 124, §4

Parental leave in the event of childbirth or adoption, conformation to federal law, ch 124, 85

Parental obligation pilot project, funding and development, ch 218, §8

Participant, definition expanded, ch 124, §1

Services to program participants, coordination between human rights and human services departments, ch 218, §8

Transitional benefits for employed families leaving program, appropriations, ch 218, §8, 39 Work-and-earn incentive disregard, percentage of earned income increased, ch 124, §6 Work expense deduction, assistance eligibility prohibition eliminated, ch 124, §3

FAMILY PLANNING

See PREGNANCY, subhead Prevention and Planning of Pregnancy

FARM DEER

Chronic wasting disease control program, appropriations and operation, ch 211, §2 Hunting deer, trespass regulation applicability, ch 28, §17, 18, 20, 21 Livestock, see LIVESTOCK

FARMERS, FARMING, AND FARMS

See also AGRICULTURAL LAND; AGRICULTURE AND AGRICULTURAL PRODUCTS Agricultural assets transferred to beginning farmers, tax credits, ch 161, \$14, 22

Assistance program, appropriations, ch 213, §1; ch 215, §35

Barns, rehabilitation tax credits for, see TAXATION, subhead Historic Preservation and Cultural and Entertainment District Tax Credits

Conservation programs and practices, see SOIL AND WATER CONSERVATION

Cooperative associations and cooperatives, see COOPERATIVE ASSOCIATIONS AND COOPERATIVES

Correctional facility farms, increased production, produce and organic gardening, ch 213, §4, 6

Disabilities, program for farmers with, appropriations, ch 214, §9

Farm assistance program, appropriations, ch 213, §1; ch 215, §35

Farm deer, see FARM DEER

Farm management demonstration program, appropriations, ch 211, §26, 30

Farm mediation services, appropriations, ch 213, §1; ch 215, §35

Farm-to-school program, ch 211, §26, 30; ch 215, §93 – 96

FARMERS, FARMING, AND FARMS — Continued

Federal conservation program enrollment assistance, appropriations, ch 211, \$26, 30 Firearms discharge prohibition near farm units, exception for owners, tenants, or family members, ch 28, \$14

Organic produce gardening by inmates at correctional facility farm operations, ch 213, §4,

Soil conservation programs and practices, *see SOIL AND WATER CONSERVATION*Tax credits for family farm land, state funding for, appropriations and payment to counties, ch 215, §5, 11

Water conservation programs and practices, see SOIL AND WATER CONSERVATION Workers' compensation for employees, employers' liability for, ch 128, §1

FARMERS MARKETS

Nutrition programs, ch 84; ch 211, §10 Senior farmers' market nutrition program Administration, ch 84 Appropriations, ch 211, §10

FATHERS

See also PARENTS; PATERNITY AND PATERNAL PARENTS Responsible fatherhood support, report, ch 218, §9, 36

FEDERAL FUNDS

Appropriations, see APPROPRIATIONS

Audits, ch 204, §1, 2, 5, 7 - 11

Child access and visitation grant moneys, ch 218, §10

Child care and development block grant, state match funding, ch 218, §16

Community mental health center block grant moneys for mental illness, mental retardation, and developmental disability state cases, ch 218, §25

Correctional services departments, federal grants to, local government grant status, ch 213, 85, 6

Energy city designation program funding, ch 157

Family investment program funding, federal law citation updated, ch 124, §2

Food stamp assistance award funds, appropriations nonreversion, ch 218, §62, 67

Medicaid, see MEDICAL ASSISTANCE

Medicare, see MEDICARE

Public assistance, see PUBLIC ASSISTANCE

School food service programs, appropriations for state matching funds, ch 214, §6 Social services block grant funds

Appropriations, ch 218, §7, 9, 26

Local purchase of services for persons with mental illness, mental retardation, or developmental disabilities, ch 218, §26

Substance abuse and mental health services administration (SAMHSA) system of care grant, state match funding, ch $218,\,\$20$

Temporary assistance for needy families (TANF) block grant funding, see PUBLIC ASSISTANCE, subhead Temporary Assistance for Needy Families (TANF) (Federal Welfare Reform) Program

Veterans affairs department funds for state veterans cemetery, appropriations, ch 218, §64, 67

Vocational rehabilitation services, federal funding for additional employees, ch 214, §6

FEDERAL GOVERNMENT

AIDS drug assistance program supplemental drug treatment grants, leverage funding, appropriations, ch 208, §1

Americans With Disabilities Act, improvements for transportation department, appropriations, ch 216, §2

FEDERAL GOVERNMENT — Continued

Antitrust judgments or settlements, deposits of damages, penalties, costs, or attorney fees to antitrust fund, ch 213, \$23

Banking division examination reports provision to federal regulatory authorities, ch 170, \$2

Biomass Research and Development Act of 2000, participation by state, ch 168, §12, 18 Block grants, see FEDERAL FUNDS

Cable service franchises, federal law applicability to, ch 201, §5, 12, 15

Census of population, redistricting of legislative and congressional districts based on, see REDISTRICTING OF ELECTION DISTRICTS

Centers for disease control and prevention, voluntary confinement requests, employment protection for confined persons, ch 159, §25

Communications for public safety, interoperable systems, coordination of, ch 90, §1

Congress, redistricting of districts, see REDISTRICTING OF ELECTION DISTRICTS

Conservation reserve program, farmer enrollment assistance appropriations, ch 211, \$26, 30

Consumer fraud judgments or settlements, deposits of penalties, costs, or attorney fees to consumer education and litigation fund, ch 213, §24

Disaster medical system of United States, service by Iowa public employees, leaves of absence from employment for, ch 218, §133 – 135

Electronic Signatures in Global and National Commerce Act

Relation to anatomical gift law, ch 44, §19

Relation to documents of title law, ch 30, §3; ch 41, §10

Elementary and Secondary Education Act of 1965

Collaboration of services funded with statewide preschool program for four-year-old children, ch 148, §3

Core content standards in reading, mathematics, and science, adoption for state, ch 214, \$17

Employees serving outside United States, voting by absentee ballot, ch 59, §31 – 36, 38; ch 215, §243

Energy Policy Act, applicable provisions for underground storage tank program maintenance, ch 171, §6

Farmers' market nutrition programs, administration, ch 84

Federal communications commission, filing requirements for cable or video service franchise applicants, ch 201, §4, 15

Flag of the United States, see FLAGS

Food stamp employment and training program, appropriations, ch 218, §8

Funds, see FEDERAL FUNDS

Grants, see FEDERAL FUNDS

Green building council energy and environmental design guidelines, minimum requirements for new state office building, ch 219, §22

Head start programs, collaboration with statewide preschool program for four-year-old children, ch 148, §3

Individuals With Disabilities Education Improvement Act of 2004, services for children from birth to age three, ch 214, \$6

Inheritance taxes, see INHERITANCE TAXES

Internal Revenue Code references in Iowa Code updated, ch 12

Medicaid, see MEDICAL ASSISTANCE

Medicare, see MEDICARE

Military forces, see MILITARY FORCES AND MILITARY AFFAIRS

Motor carrier unified registration system, transition from single state system, ch 143, \$27, 28, 31, 34, 35

National pollutant discharge elimination system, see POLLUTION AND POLLUTION CONTROL, subhead National Pollutant Discharge Elimination System (NPDES)

FEDERAL GOVERNMENT — Continued

No Child Left Behind Act of 2001, adoption of core content standards in reading, mathematics, and science, ch 214, §17

North American Wetlands Conservation Act, funds used for game bird habitat development programs, ch 194, §3, 4

Older Americans Act moneys, supplementation and maximization by state appropriations, ch 218, §68

Passport sanction procedures applied to persons owing delinquent support, monetary threshold for, ch 218, §137 – 141

Propane Education and Research Act, state functions under, ch 182, §3, 15

Public assistance, see PUBLIC ASSISTANCE

Ryan White Care Act, AIDS drug assistance program supplemental drug treatment grants, leverage funding, appropriations, ch 208, §1

Savings and loan regulatory laws and agencies, ch 88, \$18 – 21, 24 – 28, 30 – 34, 38, 47 Social security, see SOCIAL SECURITY

Social security numbers, use prohibited on county recorder documents and websites, ch 123. §1

Stafford loans to college students, state forgiveness programs, ch 214, §26, 31

State-federal relations staff and support appropriations, ch 217, §9

Stem Cell Therapeutic and Research Act of 2005, public cord blood bank network established by, task force to investigate participation in, ch 147

Tax law, references in Iowa Code updated, ch 12

Tax liens filed with county recorders, exception for use of personally identifiable information, ch 123, §1

Temporary assistance for needy families (TANF) (federal welfare reform) program, see $PUBLIC\ ASSISTANCE$

Total maximum daily load program implementation, appropriations, ch 211, §22

Unemployment compensation information confidentiality, penalty for violations by public officials, ch 77

Veterans administration hospitals, assistance in coordination of state veterans counseling program, ch 202, §1; ch 218, §4

Video service franchises, federal law applicability to, ch 201, §5, 12, 15

Welfare, see PUBLIC ASSISTANCE

FEDERAL SAVINGS ASSOCIATIONS

Names of associations, ch 88, §37

FEEDING OPERATIONS AND FEEDLOTS FOR ANIMALS

See ANIMALS, subhead Feeding Operations and Feedlots

FEES IN COURT ACTIONS

See COURTS AND JUDICIAL ADMINISTRATION, subhead Fees and Costs

FEET (BODY PARTS)

Manicuring, pedicuring, and nail technology practices, see COSMETOLOGY AND COSMETOLOGISTS

Podiatry practice, see PODIATRY AND PODIATRIC PHYSICIANS

FELONIES AND FELONS

See CRIMES AND CRIMINAL OFFENDERS

FEMALE PERSONS

See GENDER; WOMEN

FENCES

Livestock straying and trespass control, fence duties and responsibilities of governmental authorities and landowners, ch 64

School attendance center fences, barbed wire prohibition, Code correction, ch 126, §51

FERTILIZERS

Implements used for application, permits for operation on noninterstate highways, ch 143, \$17-20, 32, 35

FETUSES

Anatomical gift law, fetus stricken from decedent definition, ch 44, §2 Human reproductive cloning, prohibition, ch 6, §4, 5

FIDUCIARIES

See also PERSONAL REPRESENTATIVES; PROBATE CODE, subhead Fiduciaries; TRUSTS AND TRUSTEES

Income taxes, see INCOME TAXES

Investment tax credits, see INCOME TAXES, subhead Investment Tax Credits

Real estate broker and salesperson licensees and licensure applicants convicted of criminal breach of fiduciary duty, ch 187

FILMS

Iowa film office, appropriations, ch 212, §3

Production project promotion program, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

General provisions, ch 162

Income exclusions from taxation, ch 162, §3, 4, 8, 13

Investment credits against taxes, ch $162, \S 3, 6, 7, 9, 11 - 13$

Qualified expenditure credits against taxes, ch 162, §3, 5, 7, 9, 10, 12, 13

Registration requirements, ch 162, §3, 13

FINANCE AUTHORITY

General provisions, ch 22, §10; ch 54, §2 – 30, 45

Administrative rules, ch 52, §4; ch 54, §4, 7, 10, 19, 20, 24

Appropriations, see APPROPRIATIONS

Audit and review, ch 212, §22

Conflict of interest regulations, ch 54, §14, 45

Contracts, competitive bidding for, ch 54, §19, 45

Economic development bond bank program, ch 54, §13, 28 – 30, 45

Entrepreneurs with disabilities program, appropriations, ch 212, §11

Executive director, salary, ch 215, §13, 14

Export business finance program, repealed, ch 54, §3, 11, 45

Home ownership assistance program for armed forces members, appropriations and administration, ch 87; ch 203; ch 215, \$70, 241; ch 218, \$5, 66, 67

Homesteading program and projects, repealed, ch 54, \$11, 32, 33, 37 – 41, 45

Housing-related programs

Homesteading program and projects, repealed, ch 54, §11, 32, 33, 37 – 41, 45

Housing assistance fund, ch 54, §24, 27, 44, 45

Housing assistance payments program, ch 54, §22, 23

Housing program fund, replacement of, ch 54, §24, 44

Housing trust fund, see HOUSING

Information technology requirements for state agencies, exception for authority, ch 54, §1

Iowa housing corporation board of directors membership, repealed, ch 54, §45

Liens, filing powers of authority, ch 54, §20

Long-term living resources system team membership and duties, ch 92

Mortgage finance-related programs

Release certificates issued by authority, ch 52

Residential mortgage interest reduction program, repealed, ch 54, §9, 21, 45

Residential mortgage marketing program, ch 54, §9, 26, 45

Reverse annuity mortgage program, ch 54, §25

FINANCE AUTHORITY — Continued

Nonprofit corporations, reports and policies, repealed, ch 54, §45

Property acquisitions by authority, ch 54, §19

Removal from economic development department, ch 215, §77

Rent subsidy and reimbursement program, appropriations, ch 218, §71

Small business loan program, repealed, ch 54, §9, 11, 45

Title guaranty division

General provisions, ch 54, §11, 12

Information technology requirements for state agencies, exception for division, ch 54, \$1 Mortgage release certificates issued by division, ch 52

Title guaranty program, ch 54, §27

Title guaranty program, ch 54, §27

Wastewater treatment financial assistance program, appropriations, ch 219, \(\xi 1, 2 \)

FINANCE CHARGES

See CONSUMER CREDIT CODE

FINANCIAL DISCLOSURE

Political campaigns, see CAMPAIGN FINANCE

FINANCIAL INSTITUTIONS

See also BANKS AND BANKING; CREDIT UNIONS; INDUSTRIAL LOANS AND LOAN COMPANIES; SAVINGS AND LOAN ASSOCIATIONS; TRUST COMPANIES

Account numbers or identifiers, prohibition against use on county recorders documents and websites, ch 123, §1

Beneficiary designations voided by dissolutions of marriage, annulments, or separate maintenance decrees, effect on institution's distributions, ch 134, §5, 28

Building and loan associations, regulatory provisions eliminated, ch 88, §23, 35, 41 – 43, 48 Cemetery merchandise trust funds, see CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES, subhead Trust Funds Established by Sellers

Credit practices, discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1, 13

Federal savings associations, names of, ch 88, §37

Franchise taxes, see FRANCHISE TAXES

Funeral merchandise and services trust funds, see CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES, subhead Trust Funds Established by Sellers

Investment tax credits, see INCOME TAXES, subhead Investment Tax Credits Loans and lenders, see LOANS AND LENDERS

Moneys and credits taxes, see MONEYS AND CREDITS TAXES

Overdraft charges by institution caused by delayed direct deposit wages, liability of employers, ch 29

Targeted small business financial assistance board, industry representation, ch 207, §8, 12, 18

Taxation, see FRANCHISE TAXES; MONEYS AND CREDITS TAXES

FINES

Cemeteries, perpetual care, penalties for failure to file reports, ch 175, §50

Cemetery merchandise sales violations, civil penalties, ch 175, §29

Cigarette and tobacco product tax violations, ch 186, §48, 51

Cigarette fair trade law violations, ch 186, §32

Cigarette sales and fire safety standards regulation violations, civil penalties, ch 166, §8

Delinquent fines, repayment and collection, ch 196, \$1, 2, 5, 7 – 11, 15 – 17; ch 210, \$1, 3; ch 215, \$47

Electrician licensing and regulation violations, civil penalties, ch 197, §35, 49, 50

FINES — Continued

Environmental crimes investigation and prosecution fund, disposition of court-ordered fines, ch 213, §22

Funeral merchandise and services sales violations, civil penalties, ch 175, §29

Groundwater professionals, failure to obtain certification, civil penalty, ch 171, §6

Human reproductive cloning prohibition, civil penalties, ch 6, §4, 5

Insurance violations, civil penalties provision repealed, ch 152, §84

Plumber and mechanical system professional licensing, civil penalties for violations, ch 198, §27, 35

Probation revocation, fines and fees, ch 180, §2, 12

Public adjuster regulation violations, civil penalties, ch 137, §29

Railroad close-clearance warning device installation violations, civil penalty, ch 164

Real estate appraiser violations, ch 72, §7

Scheduled violations, see SCHEDULED VIOLATIONS

Surcharges on criminal penalties, see SURCHARGES

FINGERNAILS

Manicuring and nail technology practice, see COSMETOLOGY AND COSMETOLOGISTS

FINGERPRINTS

Cemetery and funeral merchandise and funeral services sales, preneed seller and sales agent license applicants, criminal history checks, ch 175, \$16, 17

Foster parent licensure, submission for, ch 172, §12

Identification system, lease payments for, appropriations, ch 219, §14, 15

Public adjuster license applicants, criminal history record checks, ch 137, §28

School district teachers, fingerprint checks prior to employment, ch 108, \$11; ch 215, \$102

FIRE AND POLICE RETIREMENT SYSTEM

Benefit costs, appropriation limitations, ch 215, §4

City fire fighters under system, candidate physical ability tests, ch 167

Investments benefiting Sudan government, prohibition, ch 39, §12

FIREARMS

See WEAPONS

FIRE MARSHAL, DIVISION OF

See PUBLIC SAFETY DEPARTMENT, subhead Fire Marshal, Division of

FIRES AND FIRE PROTECTION

See also EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES

Alarm systems, see ALARM SYSTEMS, CONTRACTORS, AND INSTALLERS

Arson, real estate broker and salesperson licensees and licensure applicants convicted of, ch 187

Cigarette fire safety standards, ch 166

City fire departments and fire fighters

Applicant candidate physical ability tests, ch 167

Civil service, see CIVIL SERVICE

Communications for public safety, interoperable systems implementation, ch 90

Complaints against fire fighters, administrative investigations and fire fighters' rights regarding, ch $160\,$

Emergency services intergovernmental agreements, budget process, ch 96

Retirement system, see FIRE AND POLICE RETIREMENT SYSTEM

Workers' compensation coverage, employer liability, ch 128, §1

Clothing and equipment used for fire fighting, standards established by labor commissioner, stricken, ch 36

FIRES AND FIRE PROTECTION — Continued

Communications for public safety, interoperable systems implementation, ch 90

Communications officers, administrative investigations of complaints against and officers' rights regarding, ch 160

Disasters, see DISASTERS

Districts for provision of fire protection under intergovernmental emergency services agreements, budget process, ch 96

Division of fire marshal in state public safety department, see PUBLIC SAFETY DEPARTMENT, subhead Fire Marshal, Division of

Fire extinguishing systems

Advisory board for state fire marshal division, ch 126, \$20; ch 197, \$10, 50 Employees of contractors, ch 197, \$3, 4, 50

Fire fighters and fire fighting

Anatomical gift law duties, ch 44, §7

City fire departments and fire fighters, see subhead City Fire Departments and Fire Fighters above

Complaints against fire fighters, administrative investigations and fire fighters' rights regarding, ch 160

Entry level fire fighter training, equipment, and operations, use of cigarette fire safety standard fund moneys, ch 166, §9

HIV exposure while providing health care, notification procedure, ch 70, §9

Organ donation law duties, ch 44, §7

Propane education and research, ch 182, §3, 15

Township fire departments and fire fighters, see subhead Township Fire Departments and Fire Fighters below

Volunteer fire fighters, see subhead Volunteer Fire Fighters below

Fire marshal division, see PUBLIC SAFETY DEPARTMENT, subhead Fire Marshal, Division of

Fire safety and prevention programs, use of cigarette fire safety standard fund moneys, ch 166, §9

Fire service and emergency response council, appropriations, ch 213, §14

Insurance, see INSURANCE, subhead Fire Insurance and Fire Insurance Companies Intergovernmental services agreements, budget process, ch 96

Iowa state university, fire safety for campus buildings and facilities, appropriations, ch 205

Local government innovation commission member appointment, ch 117, §2, 7
Regional emergency response training centers, see EMERGENCIES, EMERGENCY
MANAGEMENT, AND EMERGENCY RESPONSES

Retirement system for city fire fighters, see FIRE AND POLICE RETIREMENT SYSTEM

Rural water fire protection program, liability, Code correction, ch 126, §58 Township fire departments and fire fighters

Communications for public safety, interoperable systems implementation, ch 90 Emergency services intergovernmental agreements, budget process, ch 96

Meetings of township trustees relating to fire protection services, public notice of, ch 139, \$1

University of Iowa, fire safety for campus buildings and facilities, appropriations, ch 205 University of northern Iowa, fire safety for campus buildings and facilities, appropriations, ch 205

Vehicles used by fire fighters and operation of vehicles by fire fighters

Builders of fire vehicles licensed as wholesalers, authority to be licensed as used motor vehicle dealers, ch 102, §2

Manufacturers of fire vehicles, special plates for transporting, demonstrating, showing, or exhibiting vehicles, ch 102, §1

FIRES AND FIRE PROTECTION — Continued

Volunteer fire fighters

Organizations, annual game nights conducted by, ch 119, §3 Training and equipment needs, appropriations, ch 213, §14

FIRST RESPONSE SERVICES AND FIRST RESPONDERS

See EMERGENCY MEDICAL CARE AND SERVICES

FISCAL YEAR

Credit unions, ch 174, §20

FISH

Endangered species, suspension of hunting, fishing, or trapping licenses for illegal taking or possessing, damages and interest payment, ch 28, §16

Fishing, see FISHING

Illegal taking or possessing of fish, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, §16

Protection fund, see NATURAL RESOURCES DEPARTMENT, subhead Fish and Game Protection Fund

Threatened species, suspension of hunting, fishing, or trapping licenses for illegal taking or possessing, damages and interest payment, ch 28, §16

Wildlife, see WILDLIFE

FISHING

Licenses, suspension for damages to wildlife, ch 28, \$16 Sac and Fox Indian settlement, regulatory authority of state, ch 189

FLAGS

Battle flag collection condition stabilization, appropriations, ch 219, \$1, 2 Desecration of United States and Iowa flags, criminal offenses and penalties, ch 202, \$13-15

FLOODPLAINS

Permit backlog reduction, appropriations, ch 211, §22

FLOODS AND FLOOD CONTROL

See also SOIL AND WATER CONSERVATION Appropriations for flood control, ch 211, §26, 30 Disasters, see DISASTERS

FLOWERS

See PLANTS AND PLANT LIFE

FLU

Avian influenza, disease control in poultry, ch 211, §5

FLUORIDATION

Program and start-ups, appropriations, ch 204, §4, 15 – 17

FLUOROCARBONS

Greenhouse gases, see GREENHOUSE GASES

FOLIAGE

See PLANTS AND PLANT LIFE

FOOD

See also FRUIT; NUTRITION; VEGETABLES

Animal feeding operations and feedlots, see ANIMALS, subhead Feeding Operations and Feedlots

FOOD — Continued

Correctional facilities, production by inmates of produce and meat for institutional consumption, ch 213, §4, 6

Disaster victim state assistance, ch 7; ch 145

Eggs, handler license fees, ch 215, §218

Establishments for provision of food

General provisions, ch 215, §210 – 217, 219 – 221

Defined, ch 215, §211

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, \$1, 5, 6

Enforcement by municipal corporations, ch 215, §207, 213, 214, 221

Home food establishments, licensing and regulation, ch 215, §209, 214, 221

License fees for home food establishments, ch 215, §209

Reports of inspections, posting in establishments, ch 215, §217

Violations found by inspections, explanation and assistance to correct or eliminate, ch 215, §216

Farmers markets, see FARMERS MARKETS

Farm-to-school program, ch 211, §26, 30; ch 215, §93 – 96

Food stamp assistance award funds, appropriations nonreversion, ch 218, \$62, 67

Food stamp employment and training program, appropriations, ch 218, §8

Meat, see MEAT

Organic agricultural products, see ORGANIC AGRICULTURAL PRODUCTS

Phenylketonuria (PKU) patients, assistance for special food costs, appropriations, ch 208, §1; ch 218, §2

Processing and production plants and establishments

General provisions, ch 215, §210 - 217, 219 - 221

Enforcement by municipal corporations, ch 215, §207, 213, 214, 221

License fees for food processing plants, ch 215, §215

Reports of inspections, posting in establishments, ch 215, §217

Violations found by inspections, explanation and assistance to correct or eliminate, ${\rm ch}\ 215, \$216$

Refrigeration, see REFRIGERATION AND REFRIGERATION EQUIPMENT

School district meal programs, see SCHOOLS AND SCHOOL DISTRICTS, subhead Meal Programs

Service establishments and operations, see subhead Establishments for Provision of Food above

Taste of Iowa program, application for appropriations, ch 212, §23

World food prize, see WORLD FOOD PRIZE

FOOT (BODY PART)

Manicuring, pedicuring, and nail technology practices, see COSMETOLOGY AND COSMETOLOGISTS

Podiatry practices, see PODIATRY AND PODIATRIC PHYSICIANS

FORCE

Extortion, real estate broker and salesperson licensees and licensure applicants convicted of, ch 187

FORECLOSURES

Mechanics' liens, ch 83, §14

Mortgages

Nonjudicial foreclosures, filing with county recorder, Code correction, ch 126, §107 Recisions of foreclosures, disposition of loan documents and fee payment, ch 71, §5;

ch 126, §106

Sheriffs' sales, notices of, requests by creditors, Code correction, ch 126, §105

FOREIGN BUSINESSES

Appropriations, ch 212, §3

Insurance companies, see INSURANCE, subhead Foreign Insurance Companies
Real estate brokers and salespersons licensed in foreign countries, business practices
regulation, ch 153

FOREIGN CORPORATIONS

See CORPORATIONS

FOREIGN JUDGMENTS

Attachment of liens on real estate, ch 192, §1 – 3

FOREIGN PERSONS

See IMMIGRANTS

FORENSIC PATHOLOGY

Death investigations and recovery of donated organs, procedures, ch 44, §5

FORFEITURES OF PROPERTY

See also SEIZURES OF PROPERTY

Radar jamming device violations, ch 38, §11

Tobacco products, ch 186, §43

FORGERY

Real estate broker and salesperson licensees and licensure applicants convicted of forgery, ch 187

FORT DODGE

Correctional facility, see CORRECTIONAL FACILITIES AND INSTITUTIONS

FORT MADISON

Correctional facility, see CORRECTIONAL FACILITIES AND INSTITUTIONS

FOSSIL FUELS

See COAL; NATURAL GAS; PETROLEUM AND PETROLEUM PRODUCTS

FOSTER CARE AND CARE FACILITIES

All Iowa opportunity foster care grant program, establishment and appropriations, ch 214, \$2, 24, 25

Appropriations, ch 214, §2; ch 217, §12; ch 218, §18, 20, 67

Child in need of assistance proceedings, right of foster parents to be heard in, ch 172, §13 Children subject to out-of-home placement orders, considerations of court during permanency hearings, ch 172, §5, 7

Consideration of interstate placement of a child in permanency planning decisions and in-state and out-of-state placement at permanency hearings, ch 172, §4, 6

Education of children living in facilities, Code correction, ch 22, §66

Foster family basic daily maintenance rate, ch 218, §31

Group foster care

Highly structured programs, review of programming and effectiveness, report, ch 218, §18, 36

Placements and terminations of placements in group foster care, ch 218, §115

Reimbursement rates for service providers and placement of children out of state, ch 218, §31

Statewide expenditure target appropriations and allocations to service areas, ch 218, \$18, 20, 67, 115

Waiting list for services, report by human services department, ch 218, §117

Health and education records included in case permanency plans, information regarding, ch 172, §2

FOSTER CARE AND CARE FACILITIES — Continued

Independent living services provider reimbursements, appropriations, ch 208, §1

Licensure of foster parents, record check and fingerprint-based criminal history check, ch 172, §12

Multidimensional treatment level foster care program, ch 218, §18, 46, 47

Parental rights termination proceedings, consideration of testimony or written statements provided by foster parents, ch 172, §14

Recipients leaving foster care, preparation for adult living program, appropriations, ch 218, \$18

Review by child advocacy board, appropriations, ch 217, §12

Shelter care, see JUVENILE FACILITIES AND INSTITUTIONS

Social Security Act waiver, placement for children participating in, ch 218, \$18

Supervised apartment living foster care rate, maximum, ch 218, §31

Support network to children placed in foster care, expansion of elevate approach, appropriations, ch 218, §18

Visits for out-of-state placed children, ch 172, §3

FOWI.

See BIRDS

FRANCHISES

Cable or video service franchise requirements, restrictions, and fees, ch 201 Elections on franchises in cities, voting by optical scan systems, ch 190, §42

FRANCHISE TAXES

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM Film, television, and video project promotion program tax credits, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Historic preservation and cultural and entertainment district tax credits, see TAXATION, subhead Historic Preservation and Cultural and Entertainment District Tax Credits Income tax credits for franchise taxes, ch 161, §2, 22

Wage-benefits tax credits, Code correction, ch 22, §9

FRANK LLOYD WRIGHT HOTEL

Preservation grant appropriation, ch 219, §1, 2

FRATERNAL ORGANIZATIONS

Fraternal benefit societies, licensing of, Code correction, ch 126, §90

FRAUD AND FRAUDULENT PRACTICES

Cemetery and funeral merchandise and funeral services sales

Fraudulent practices, ch 175, §25

Licensees convicted of fraud, ch 175, §19

Consumer fraud, see CONSUMERS, subhead Frauds against Consumers

Credit union law violations, ch 174, §74 - 76

Electrician licensing and regulation violations, ch 197, §48, 50

Forgery, real estate broker and salesperson licensees and licensure applicants convicted of, ch 187

Funeral merchandise and services sales, see subhead Cemetery and Funeral Merchandise and Funeral Services Sales above

Odometer fraud enforcement, appropriations, ch 213, §1

Older persons, investigation, prosecution, and consumer education relating to fraud against, ch 213, §24

Real estate broker and salesperson licensees and licensure applicants convicted of fraud, ch 187

Voter registration, ch 35, §1, 2, 7; ch 215, §242

FRAUDS, STATUTES OF

Repeal of uniform commercial code provision, ch 41, §42, 59

FREEZING AND FREEZING EQUIPMENT

See REFRIGERATION AND REFRIGERATION EQUIPMENT

FREIGHT

Elevators for freight, see CONVEYANCES FOR PASSENGERS AND FREIGHT

FRUIT

See also FOOD

Farmers markets, see FARMERS MARKETS

Farm-to-school program, ch 211, §26, 30; ch 215, §93 – 96

Sales of fruit, labeling for baskets, Code correction, ch 126, §41

FUELS

See also ENERGY

Biodiesel fuel and biodiesel blended fuel

Biofuels production and processing facility, ch 219, §21

Highway projects, funds allocation to areas with biodiesel plants, ch 200, §3, 7

Tax credits for biodiesel blended fuel, ch 161, §17, 22

Testing laboratory, ch 215, §97

Biofuels, see subheads Biodiesel Fuel and Biodiesel Blended Fuel above; Ethanol and Ethanol Blended Gasoline below

Biorefineries, highway projects funds allocation to areas with, ch 200, §3, 7

Blind department vehicles and fuel used by vehicles of department, Code correction, ch 22, \$52

Community college vehicles and fuel used by vehicles of colleges, Code correction, ch 22, \$61

Corrections department vehicles and fuel used by vehicles of department, Code correction, ch 22, \$107

E-85 gasoline, see subhead Ethanol and Ethanol Blended Gasoline below

Ethanol and ethanol blended gasoline

Highway projects, funds allocation to areas with ethanol plants, ch 200, §3, 7

Storage and dispensing of E-85 gasoline, ch 22, §80; ch 211, §46 – 49

Tax credits, ch 126, §66, 67; ch 161, §4, 15, 16, 22

Fossil fuels, see COAL; NATURAL GAS; PETROLEUM AND PETROLEUM PRODUCTS Gasoline, see subhead Motor Fuels and Special Fuels below

Information technology facilities, fuel to generate electricity, sales and use tax refunds, ch 199, §2

Marine fuel tax fund, ch 211, §44, 45

Motor fuels and special fuels

Definition, Code correction, ch 22, §50

Inspections, appropriations nonreversion, ch 211, §14, 15

Licenses under motor fuel tax law, grounds for cancellation, ch 143, \$30

Retail dealers, see subhead Retail Dealers of Motor Fuels and Special Fuels below

Sold and dispensed motor fuel by retail dealers, reporting requirements, Code correction, ch 22, §78

Taxation, see TAXATION, subhead Fuels

Testing laboratory, ch 215, §97

Petroleum and petroleum products, see PETROLEUM AND PETROLEUM PRODUCTS

Regents board and institution vehicles and fuel used by vehicles of board and institutions, Code correction, ch 22, §63

Renewable fuels

Biomass research and development, financial incentives for, ch 168, §12, 18

FUELS — Continued

Renewable fuels — Continued

Biorefinery and related product research and development, financial incentives for, ch 168, §11, 18

Defined, Code correction, ch 22, §47

Highway construction projects to support, funding priorities and allocations, ch 200, §3, 7 Iowa state university renewable fuels building, planning, design, and construction, appropriations contingency, ch 219, §1, 2, 21

Storage and dispensing infrastructure, financial incentives program, Code corrections, ch 126, §9, 10

Value-added agricultural products and processes financial assistance fund, application for moneys by renewable fuels and coproducts office, ch 212, §21

Retail dealers of motor fuels and special fuels

Tax credits for biodiesel blended fuel, ch 161, §17, 22

Tax credits for E-85 gasoline promotion, ch 161, §16, 22

Tax credits for ethanol blended gasoline, ch 161, §4, 22

Tax credits for ethanol promotion, ch 161, §15, 22

School corporation motor vehicle fuel purchased and used, Code correction, ch 22, §61

Special fuels, see subhead Motor Fuels and Special Fuels above

State motor vehicles, federal corporate fuel economy standards compliance, reporting requirements, ch 115, §8

Storage tanks, see TANKS, subhead Underground Storage Tanks

Taxation, see TAXATION, subhead Fuels

Transportation department vehicles and fuel used by vehicles of department, Code correction, ch 22, §68

Vehicle dispatch fueling station relocation, appropriations, ch 219, §1, 2

Web search portal businesses, fuel for power generation, sales tax exemptions, ch 199, §1

FUND OF FUNDS

Investments in fund, tax credits for, ch 161, §18, 22; ch 174, §60

FUNDS

See MONEY

FUNERALS

Anatomical gifts of bodies, use of remains in funeral services, ch 44, §10

Directing and directors of funerals

See also PROFESSIONS

Licensing and regulation, ch 10, §26 – 67, 73, 156; ch 159, §5 – 12; ch 215, §260

Merchandise and services related to, sales regulation, see CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES

Victims of crimes and secondary victims, compensation for transportation to funerals, ch 27, §9

FUR-BEARING ANIMALS

Hunting, see HUNTING

Illegal taking or possessing of fur-bearing animals, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, §16

Trapping and traps, see TRAPPING AND TRAPS

FUROSEMIDE

Horse racing, use in, ch 48, §2, 5, 7

GAMBLING

Addiction and treatment of addiction, see subhead Treatment and Treatment Programs below

GAMBLING — Continued

Amusement devices registration and regulation, ch 173

Annual game nights

Prizes of cash and merchandise, award limitations, ch 119, §3

Time period allowed to conduct games, ch 119, §2

Boats, see subhead Excursion Gambling Boats below

Card game tournaments conducted by veterans organizations, regulation of, ch 119, \$1, 3-6

Devices used for gambling, defined, ch 38, §10

Dog racing, see subhead Pari-Mutuel Wagering below

Electrical amusement devices registration and regulation, ch 173

Excursion gambling boats

Conversion of licenses to conduct gambling games on gambling structures, ch 188, §9 Law enforcement personnel, additional positions, ch 213, §14

New licenses to conduct gambling games, location and operation requirements, ch 188,

Operation on rivers, lakes, and reservoirs, location requirements, ch 188, §11

Regulation by racing and gaming commission, appropriations, ch 217, §13

Taxation of receipts, see TAXATION, subhead Gambling

Horse racing, see subhead Pari-Mutuel Wagering below

Impact on Iowans, study of, date, ch 215, §86

Mechanical amusement devices registration and regulation, ch 173

Moored barges, see subhead Excursion Gambling Boats above

Pachislo skill-stop machine, possession prohibited, ch 38, §10

Pari-mutuel wagering

Law enforcement personnel, additional positions, ch 213, §14

Regulation by racing and gaming commission, appropriations, ch 217, §13

Pinball machines, prohibition against possession stricken, ch 38, §9, 10

Qualified organizations conducting games

Annual game nights, see subhead Annual Game Nights above

Card game tournaments conducted by veterans organizations, regulation of, ch 119, \$1, 3-6

Races and racetracks

Gambling games authorization, ch 188, §8

Law enforcement personnel, additional positions, ch 213, §14

Pari-mutuel wagering, see subhead Pari-Mutuel Wagering above

Taxation of receipts, see TAXATION, subhead Gambling

Racing and gaming commission, see INSPECTIONS AND APPEALS DEPARTMENT Regulation and enforcement

Appropriations, ch 217, §13

Officer positions, additional, ch 213, §14

Riverboat gambling, see subhead Excursion Gambling Boats above

Structures, operation of gambling games on, licensing and regulation, ch 188

Taxes, see TAXATION

Treatment and treatment programs

Appropriations, ch 218, §2, 3

Dual diagnosis with substance abuse, priority in treatment, ch 218, §3

Licensing of treatment programs, appropriations, ch 218, §3

State program and fund, appropriations, ch 218, §3

GAME

Drug use on wildlife, prohibition and exceptions, ch 56

Endangered species, suspension of hunting, fishing, or trapping licenses for illegal taking or possessing, damages and interest payment, ch 28, §16

GAME — Continued

Habitat development programs and funding, ch 194

Hunting, see HUNTING

Illegal taking or possessing of game, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, §16

Protection fund, see NATURAL RESOURCES DEPARTMENT, subhead Fish and Game Protection Fund

Refuges, unlawful operation of all-terrain vehicles in, ch 141, §36

Threatened species, suspension of hunting, fishing, or trapping licenses for illegal taking or possessing, damages and interest payment, ch 28, §16

Trapping, see TRAPPING AND TRAPS

GAMES OF ATHLETICS AND SPORTS

See ATHLETICS, ATHLETES, AND TRAINERS

GAMES OF SKILL AND GAMES OF CHANCE

See GAMBLING

GAMING

See GAMBLING

GARBAGE

See WASTE AND WASTE DISPOSAL

GASES

Greenhouse gases, see GREENHOUSE GASES

HVAC systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING) Medical gases

Limited drug and device distributor licensing and regulation, ch 19, §2, 3, 6

Piping systems, installers and repairers of, certification, ch 198, §2, 10, 35

Natural gas, see NATURAL GAS

Petroleum gas, liquefied, see LIQUEFIED GASES

Plumbing systems, see PLUMBING AND PLUMBERS

Propane, see PROPANE

Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ch 60

GASOLINE

See FUELS, subhead Motor Fuels and Special Fuels

GEESE

Game, see GAME

Poultry, see BIRDS, subhead Poultry

GEMS AND GEMSTONES

Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ch 60

GENDER

Bullying and harassment of school students based on gender and gender identity, prohibition and prevention, ch 9

Definition of gender identity, ch 191, §1

Discrimination based on gender identity, prohibited, ch 191

Marriages, gender restrictions, ch 191, §16

GENERAL ASSEMBLY

See also STATE OFFICERS AND DEPARTMENTS

Abraham Lincoln bicentennial commission, representation, ch 99; ch 215, §98

Agricultural development authority executive director appointment confirmation, ch 215, §91 GENERAL ASSEMBLY — Continued

Alzheimer's disease task force membership and duties, ch 121

Appropriations, ch 215, §3

Capital projects committee, duties, ch 115, §1

Child welfare advisory committee membership and appointment confirmation, ch 218, \$116 Citizens' aide, investigations by, Code correction, ch 126, \$1

Community college property sales, authorization by general assembly, ch 131, §5, 7; ch 215, §133

Credit union review board appointment confirmation, ch 174, §7

Credit union superintendent appointment confirmation, ch 174, §4

Debt obligation enabling legislation for state agencies under uniform finance procedures, ch 133

Deferred compensation advisory board members from general assembly, compensation, ch 217, §1

Districts, redistricting of, see REDISTRICTING OF ELECTION DISTRICTS

Election canvasses for lieutenant governor, stricken, ch 59, §1, 19

Electrical examining board appointment confirmation, ch 197, §12, 50

Energy independence office director appointment confirmation, ch 168, §3, 18

Federal grants and funds reductions and additions, notice to general assembly, ch 204, \$15, 17

Generation Iowa commission membership and confirmation, ch 45

Health care plan affordability for small businesses and families, commission on, appointment, membership, and duties, ch 218, §127, 129

Health data research advisory council, ch 218, §99, 128, 129

Iowa communications network purchasing of equipment and services, contract limitations and general assembly authorization, ch 116, §2

Laws enacted by general assembly, headnotes and historical references as part of law, ch 41, \$40

Legislative council and committees

Affordable health care plans for small businesses and families, commission on, appointment, ch 218, §127, 129

Health data research advisory council, appointment, ch 218, §128, 129

Iowa communications network purchasing of equipment and services, contract limitations and legislative council authorization, ch 116, $\S 2$

Mental health patient advocate study, ch 218, §85

Pharmacy benefits managers, interim committee established, ch 193, §8, 9

TIME-21 fund revenue, interim committee established, ch 200, §8

Legislative services agency

Affordable health care plans for small businesses and families, commission on, assistance, ch 218, §127, 129

Judicial branch reports, internet posting, ch 210, §3

Redistricting process, see REDISTRICTING OF ELECTION DISTRICTS

Technology commercialization and business development by regents universities, expenditures review report, ch 122, §3

Workforce development entity and contract salary review, ch 212, §17

Lobbying and lobbyists, see LOBBYING AND LOBBYISTS

Local government innovation commission member appointments, ch 117, §2, 7

Long-term living resources system team membership and duties, ch 92

Midwest interstate passenger rail compact, commission membership and duties, ch 94, \$1, 3

Plumbing and mechanical systems examining board appointment confirmation, ch 198, §3, 35

Power fund board membership and duties and confirmation of appointments, ch 168, \$6, 18 Property tax study committee, ch 215, \$127

GENERAL ASSEMBLY — Continued

Purchases from Iowa prison industries, ch 213, §9

Redistricting of election districts, see REDISTRICTING OF ELECTION DISTRICTS

Sales of goods and services by members and employees to state agencies, restrictions, ch 5, \$1

Title guaranty division board appointment confirmation, ch 54, §11, 12

Transportation department property sales, authorization by general assembly, ch 131, §5, 7

GENERATION IOWA COMMISSION

General provisions, ch 45

GENERATION OF ELECTRICITY

See ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS

GENERATION SKIPPING TRANSFER TAXES

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

GENETIC MATERIALS AND TESTING

DNA profiling

Indictments and informations based on or containing DNA profiles, limitations of actions, Code corrections, ch 126, §110, 111

Sex offenders, DNA samples for profiling, ch 38, §4

Human reproductive cloning, prohibition, ch 6, §4, 5

GENOCIDE

Darfur genocide, prohibition on state public funds investments benefiting Sudan government, ch 39

GEOLOGY AND GEOLOGISTS

Groundwater professional certification and regulation, ch 171, §4 – 6, 12

GEORGE WASHINGTON CARVER ENDOWED CHAIR

Appropriations and matching funds requirement, ch 214, §10

GEOTHERMAL ENERGY

Unclaimed geothermal resources, abandonment, disposition, and definition, ch 60

GIFTED AND TALENTED EDUCATION

Appropriations, ch 214, §6

GIFTS

See also CONTRIBUTIONS; DONATIONS

Anatomical gifts, see ANATOMICAL GIFTS

Dissolution of marriage property divisions, interests in gifted property, ch 163

Endow Iowa program, gifts to community foundations under program, tax credits, ch 161, §9, 22

Organs, tissues, and fluids of human bodies, gifts of, see ANATOMICAL GIFTS State, gifts to

Reporting and complaint handling, Code corrections, ch 126, §15 – 17 Reporting requirements, ch 5, §2

GINSENG

Illegal harvesting, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, §16

GIRLS

See CHILDREN

GLENWOOD

State resource center, see RESOURCE CENTERS, STATE

GLOBAL AND REGIONAL ENVIRONMENTAL RESEARCH, CENTER FOR

Climate change advisory council membership and duties, ch 120, §5

GLOBAL WARMING

Climate change advisory council, ch 120, §5

Greenhouse gas emission reporting and regulation, ch 120, §1 - 4

GOOD SAMARITAN LAWS

Emergency services rendered in public health disasters, immunity of renderers, ch 159, §21

GOOGLE SERVER FACILITY

Tax incentives, ch 199

GOVERNING EXCELLENCE IN IOWA, CENTER FOR (TIM SHIELDS CENTER)

Establishment, ch 117, §6, 7; ch 215, §54

GOVERNMENT BUILDINGS

Construction and improvement, bid and contract requirements, see PUBLIC CONTRACTS, subhead Construction Project Bidding and Contract Procedures

GOVERNMENT CONTRACTS

See PUBLIC CONTRACTS

GOVERNMENT EMPLOYEES

See PUBLIC EMPLOYEES

GOVERNMENT MEETINGS

See MEETINGS

GOVERNMENT PROCUREMENT

See PURCHASING

GOVERNMENT PROPERTY

Construction and improvement, bid and contract requirements, see PUBLIC CONTRACTS, subhead Construction Project Bidding and Contract Procedures

State buildings and facilities, see STATE OFFICERS AND DEPARTMENTS, subhead Buildings and Facilities of State

GOVERNMENT PURCHASING

See PURCHASING

GOVERNMENT RECORDS

See PUBLIC RECORDS

GOVERNOR

See also STATE OFFICERS AND DEPARTMENTS

Abraham Lincoln bicentennial commission, membership appointment and representation, ch 99: ch 215. §98

Administrative rules coordinator, appropriations, ch 217, §9

Agricultural development authority executive director appointment, ch 215, §91

Alzheimer's disease task force, appointments, ch 121

Appropriations, see APPROPRIATIONS

Child welfare advisory committee appointment, ch 218, §116

Climate change advisory council, appointment, ch 72, §5

Community college property sales, approval by governor, ch 131, §5, 7; ch 215, §133

Compensation for state employees, duties of governor, ch 215, §13, 14, 16

Court of appeals judge appointments, ch 86, §1, 2

Credit union review board appointment, ch 174, §7

Credit union superintendent appointment, ch 174, §4

Disaster emergency proclamations, state assistance to individuals and families for disaster-related needs, ch 7; ch 145

GOVERNOR — Continued

Drug control policy office and drug policy coordinator, see DRUGS AND DRUG CONTROL

Electrical examining board appointments, ch 197, §12, 50

Energy independence office, appropriations, ch 206, §5, 39; ch 209, §3, 4

Energy independence office director appointment, ch 168, §3, 18

Executive council duties, see EXECUTIVE COUNCIL

Expense fund for governor-elect, appropriations, ch 206, §3, 39

Farm-to-school council appointment, ch 215, §94

Federal grant reallocation by governor, ch 204, §15

Generation Iowa commission appointments, ch 45

Gifts to state, reporting requirements, ch 5, §2

Health care plan affordability for small businesses and families, commission on, appointment, ch 218, §127, 129

Interoperable communications system board, appointment of members, ch 90, §1

Item vetoes, see ITEM VETOES

Juvenile justice advisory council, coordination of juvenile justice duties, ch 217, §11

Lieutenant governor, see LIEUTENANT GOVERNOR

Local government innovation commission member appointments, ch 117, §2, 7

Long-term living resources system team membership and duties, ch 92

Midwest interstate passenger rail compact, commission membership and duties, ch 94, §1,

National governors association membership, appropriations, ch 217, §9

Plumbing and mechanical systems examining board appointments, ch 198, \$3, 35

Power fund board appointments, ch 168, §6, 18

Propane education and research council appointments, ch 182, §3, 15

Property tax study committee appointments, ch 215, §127

Public broadcasting division appointments and salary of administrator, see EDUCATION DEPARTMENT, subhead Public Broadcasting Division

Records of governors, archiving of, appropriations, ch 212, §1

Terrace Hill quarters, appropriations, ch 206, §2, 20, 39; ch 217, §9

Title guaranty division board appointment, ch 54, §11, 12

Transportation department property sales, approval by governor, ch 131, \$5, 7

Vetoes, see ITEM VETOES

Volunteer services, commission on, ch 218, §1

GRAIN

See also CORN AND CORN PRODUCTS; SOYBEANS AND SOY PRODUCTS

Dealers, licensing and regulation, Code corrections, ch 22, §47, 48

Elevators, storage facilities, and warehouses for grain, see WAREHOUSES AND

WAREHOUSE OPERATORS, subhead Agricultural Products, Warehouses for

GRANDCHILDREN

See also FAMILIES

Anatomical gifts, authorization by adult grandchildren to make, amend, or revoke gifts, ch 44, §4

Visitation by and visitation rights of grandparents and great-grandparents, ch 218, \$206 - 208

GRAND JURIES

See JURIES AND JURORS

GRANDPARENTS

See also FAMILIES

Anatomical gifts, authorization by grandparents to make, amend, or revoke gifts, ch 44, 44, Visitation of grandchildren and great-grandchildren and visitation rights, ch 218, 206 - 208

GRANTS

Federal funds, see FEDERAL FUNDS

GRAPES

Grape development funding and appropriations, ch 211, §13, 41, 42

GRAVEL AND GRAVEL BEDS

Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ch 60

GRAVES AND GRAVEYARDS

See DEATHS AND DEAD PERSONS, subhead Burials and Interments of Dead Bodies

GREAT PLACES

Appropriations, ch 212, §1; ch 215, §45, 46, 69

Designation of additional great places, participation guidelines, ch 43, §1

Financial and technical assistance applications from great places projects, special consideration from state agencies, ch 43, §2

Tax credits for historic preservation of new projects identified in program agreements, ch 165, §3, 9

GREENHOUSE GASES

Climate change advisory council membership and duties, ch 120, §5

Definition, ch 120, §1

Emissions by electric power generating facilities, regulation, ch 120, §2, 3

Inventory and registry, ch 120, §4

Reduction options and strategies in energy independence plan, ch 168, §4, 18

GROCERY STORES

See FOOD, subhead Establishments for Provision of Food

GROUNDWATER

See WATER AND WATERCOURSES

GROW IOWA VALUES FUND

Appropriations, ch 122, §2, 4, 10

GUARANTY COMPANIES

See SURETIES AND SURETY BONDS

GUARD FORCES (MILITARY FORCES)

National guard, see NATIONAL GUARD

GUARDIANS AND GUARDIANSHIPS

See also PROBATE CODE, subhead Guardians and Guardianships

Anatomical gifts, authorization by guardians to make, amend, or revoke gifts, ch 44, §3, 4

Blood lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Crime victims, caretakers of, compensation for, see VICTIMS AND VICTIM RIGHTS, subhead Compensation for Victims

Foster care, see FOSTER CARE AND CARE FACILITIES

Lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Substitute decision makers and decision-making services, state and local offices, appropriations, ch 218, §1

GUNS

See WEAPONS

GUTHRIE COUNTY

Loess hills development and conservation authority membership, ch 211, §43

GYMNASIUMS

Memorial building and monument commissions, membership and quorum, ch 21

GYPSY MOTHS

Detection, surveillance, and eradication, appropriations, ch 211, §7

HAIR

Barbering practice, see BARBERING AND BARBERS

Cosmetology arts and sciences practices, see COSMETOLOGY AND COSMETOLOGISTS

Hairdressing, film, television, and video project expenditure for, tax credits, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

HAMILTON COUNTY

Trail projects, appropriations, ch 219, §1, 2

HANCOCK COUNTY

Crystal lake restoration project, report, matching funds, and appropriations, ch 219, §1, 2, 26

HANDICAPS

See DISABILITIES AND DISABLED PERSONS

HANDS

Fingernail manicuring and nail technology practices, see COSMETOLOGY AND COSMETOLOGISTS

HARASSMENT

No-contact orders for victims, ch 180, §4 – 11 Schools, harassment in, prohibition and prevention, ch 9

HARD-OF-HEARING PERSONS

See DEAFNESS AND DEAF PERSONS

HARVESTERS AND HARVESTING OF CROPS

Liens for services, Code correction, ch 126, §99

HAWK-I PROGRAM

See HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

HAZARDOUS SUBSTANCES AND MATERIALS

Chemical hazards, reduction of public exposure, appropriations, ch 218, §2 Disasters, see DISASTERS

Emergencies, see EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES

Pharmaceutical waste collection and disposal, pilot project for, appropriations, ch 155 Poisons, see POISONS AND POISONINGS

Waste and waste disposal, see WASTE AND WASTE DISPOSAL

HEADNOTES

State law, consideration of headnotes as part of law, ch 41, §40

HEALTH CARE FACILITIES

Division for regulation in state inspections and appeals department, see INSPECTIONS AND APPEALS DEPARTMENT, subhead Health Facilities Division Home and community-based services, see MEDICAL ASSISTANCE

HEALTH CARE FACILITIES — Continued

Intermediate care facilities for persons with mental illness and for persons with mental retardation

Complaints against facilities, on-site inspection guidelines, ch 93, §2

Medical assistance reimbursement rates, ch 218, §31

Personal needs allowances for residents under medical assistance, ch 218, \$11, 44

Veterans counseling program, assistance in coordination of services for veterans with mental illness, ch 202, §1, 16; ch 218, §4

Long-term care, see LONG-TERM LIVING AND CARE

Medical assistance services, see MEDICAL ASSISTANCE

Mental illness care facilities

Intermediate care facilities, see subhead Intermediate Care Facilities for Persons with Mental Illness and for Persons with Mental Retardation above

Residential care facilities, see subhead Residential Care Facilities below

Mental retardation care facilities, see subhead Intermediate Care Facilities for Persons with Mental Illness and for Persons with Mental Retardation above

Nursing facilities, nursing homes, and nursing home administrators

See also ELDERLY PERSONS AND ELDER AFFAIRS, subhead Elder Group Homes; PROFESSIONS

Case-mix and non-case-mix adjusted costs, excess payment allowances, ch 218, §31 Complaints against facilities, on-site inspection guidelines, ch 93, §2

Construction, renovation, or replacement of facilities, assistance by regulation instant relief and nondirect care limit exceptions, ch 219, §1, 2, 35 – 39, 41, 43

Licensing and regulation of administrators, ch 10, \$26 – 67, 73, 151, 152; ch 215, \$260 Medical assistance reimbursements and reimbursement rates, adjustments, and

calculations, ch 218, §31, 33, 67

Payment of facilities from medical assistance income trusts, ch 136; ch 218, §98

Personal needs allowance for residents under medical assistance, ch 218, §11, 44

Senior living services and program, see SENIOR LIVING SERVICES AND PROGRAM Patients and residents

Deaths of patients, pronouncement by nurses, ch 159, §29, 30

Voting by residents, ch 59, §26, 28, 38

Residential care facilities

Alzheimer's disease care at residential care facilities, task force examination of, ch 121; ch 218, §1

Complaints against facilities, on-site inspection guidelines, ch 93, §2

Medical assistance reimbursement rates, ch 218, §31

Patients, deaths of, pronouncements by nurses, ch 159, §29, 30

Personal needs allowance increase for residents under supplementary assistance, increase, ch 218, §14

Supplementary assistance reimbursements, appropriations, ch 208, §1

Respite care services for the elderly, see RESPITE CARE SERVICE AND SERVICE PROVIDERS

Senior living services and program, see SENIOR LIVING SERVICES AND PROGRAM Veterans home, see VETERANS AND VETERANS AFFAIRS, subhead Home for Veterans, State

HEALTH FACILITIES DIVISION

See INSPECTIONS AND APPEALS DEPARTMENT

HEALTH, HEALTH CARE, AND WELLNESS

For provisions relating to licensing and regulation of health-related professions, see index heading for specific profession

See also DISEASES

211 system, appropriations, ch 215, §36; ch 218, §2

Abortions, see ABORTIONS

Acupuncture, see ACUPUNCTURE AND ACUPUNCTURISTS

Affordable health care plans for small businesses and families, commission on, ch 218, \$99, 127, 129

Agricultural health programs at university of Iowa, appropriations, ch 214, §9

AIDS prevention and intervention program, ch 70

Alarm systems, see ALARM SYSTEMS, CONTRACTORS, AND INSTALLERS

Anatomical gifts, see ANATOMICAL GIFTS

Anesthesia, medical assistance reimbursement rate exception, ch 208, §1

Appropriations, see APPROPRIATIONS

Assisted living programs, see ASSISTED LIVING SERVICES AND PROGRAMS

Audiology, see AUDIOLOGY AND AUDIOLOGISTS

Before and after school grant program, approved health-related instructional programs, ch 208, §5; ch 214, §6, 19; ch 215, §34

Behavioral health, see MENTAL HEALTH AND DISABILITIES

Blood lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Centers, see subhead Health Centers and Clinics below

Children

Affordable health care plans for families, commission on, ch 218, §99, 127, 129

Appropriations, see APPROPRIATIONS, subhead Children

Audiological services for children, appropriations, ch 218, §97

Childhood cancer diagnostic and treatment network programs, appropriations, ch 214, §9

Dental screening requirements for school enrollment, ch 146; ch 218, §97

Disabled children's program, administration, ch 204, §3, 15 – 17

Family-to-family health information center, ch 218, §125, 126

Health specialty clinics, appropriations, ch 204, §3, 15 – 17; ch 218, §97

Health status promotion, appropriations, ch 218, §2, 97

Healthy and well kids in Iowa (hawk-i) program, see HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

Hearing aids for children, appropriations, ch 218, §97

High-risk infant follow-up program, appropriations, ch 214, §9

Maternal and child health program, see subhead Maternal and Child Health Program below

Mental development of children from birth through five years of age, local evidence-based strategies, appropriations, ch 218, §2, 97

Obesity prevention, appropriations, ch 218, §97

Perinatal care program, ch 159, §17; ch 204, §3, 15 - 17

Rural comprehensive care for hemophilia patients, appropriations, ch 214, §9

University of Iowa health care services, appropriations, ch 214, §9

Vision health initiatives, appropriations, ch 218, §97

Chiropractic, see CHIROPRACTIC AND CHIROPRACTORS

Clinics, see subhead Health Centers and Clinics below

Collaborative safety net provider network, ch 218, §97, 103, 108, 109

Community health services

See also subhead Local Health Care Delivery Systems and Providers below

Centers, incubation grant program for, appropriations, ch 218, §97

Congenital disorders, center for, appropriations, ch 208, §1

Corporations providing services, nonprofit, see HEALTH SERVICE CORPORATIONS

Correctional facility inmate treatment programs for medical and mental health issues, evidence-based practices research study, appropriations, ch 219, §1, 2

Data research advisory council, ch 218, §99, 128, 129

Decisions and decision-making authority

Advance health care directives, effect of anatomical gifts on, ch 44, §16

Decisions and decision-making authority — Continued

Anatomical gifts, authorization to make, amend, or revoke gift, ch 44, §3, 4 Substitute decision makers and decision-making services, state and local offices, appropriations, ch 218, §1

Defibrillators, grant program for rural areas, appropriations, ch 208, §1, 7, 8

Dental care, see DENTAL CARE AND DENTAL CARE PRACTITIONERS

Department of public health in state government, see PUBLIC HEALTH DEPARTMENT

Dietetics, see DIETETICS AND DIETITIANS

Direct care worker study recommendations and initiatives, appropriations, ch 218, §97 Disaster medical system of United States, service by Iowa public employees, leaves of absence from employment for, ch 218, §133 – 135

Division for facility regulation in state inspections and appeals department, see INSPECTIONS AND APPEALS DEPARTMENT, subhead Health Facilities Division Doctors, see DENTAL CARE AND DENTAL CARE PRACTITIONERS; PHARMACY AND

PHARMACY PRACTITIONERS; PHYSICIANS AND SURGEONS

Drugs, see DRUGS AND DRUG CONTROL

Elderly persons, see ELDERLY PERSONS AND ELDER AFFAIRS

Emergency care, see EMERGENCY MEDICAL CARE AND SERVICES

Eye care, see VISION

Family health status promotion, appropriations, ch 218, §2

Family practice program of university of Iowa college of medicine, appropriations, ch 214, §9

Family-to-family health information center, ch 218, §125, 126

Fees in dispute with workers' compensation insurance carriers and employers, ch 128, \$2-4

Food establishment and processing plant sanitation, see FOOD, subheads Establishments for Provision of Food; Processing and Production Plants and Establishments

Free services

Patient services, appropriations, ch 218, §97

Volunteer health care provider program, see subhead Volunteer Health Care Provider Program below

Gases used in medical facilities, see GASES, subhead Medical Gases

Health care facilities, see HEALTH CARE FACILITIES

Health care trust fund, ch 17, \$5, 6, 12; ch 218, \$76, 97 - 99

Health centers and clinics

Child health clinics of university of Iowa, appropriations, ch 204, §3, 15 - 17

Child health specialty clinics, ch 218, §97

Medical assistance reimbursement rates, ch 218, §31

Patient services at free clinics, appropriations, ch 218, §97

Rural health clinics, see subhead Rural Health Clinics below

University of Iowa hospitals and clinics, see UNIVERSITY OF IOWA, subhead Hospitals and Clinics

Volunteer health care provider program, see subhead Volunteer Health Care Provider Program below

Health promotion enhancement, appropriations, ch 208, §1

Health service corporations, see HEALTH SERVICE CORPORATIONS

Healthy and well kids in Iowa (hawk-i) program, see HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

Hearing care, see HEARING

Home health agencies, medical assistance reimbursement rates, fixed-fee schedule, ch 218, \$31

Home health care services, medical assistance reimbursements, appropriations, ch 208, §1

Hospitals and hospital services, see HOSPITALS AND HOSPITAL SERVICES

Hotel and motel sanitation, see HOTELS AND MOTELS, subhead Licensing, Regulation, and Sanitation

Human services department medical contracts, appropriations, ch 218, §13

Immunizations, see IMMUNIZATIONS

Indigent persons, see subhead Low-Income Persons below

Inherited disorders, center for, appropriations, ch 208, §1

In-home health services, reimbursements, appropriations, ch 208, §1

In-home-related care program, medical assistance reimbursement rates, ch 218, \$31 Insurance, see INSURANCE

IowaCare, see MEDICAL ASSISTANCE, subhead Expansion Services and Population under IowaCare Act

Iowa healthcare collaborative, continuation of grant to, appropriations, ch 218, §11, 98

Lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Local health care delivery systems and providers

See also subhead Community Health Services above

Appropriations, ch 218, §2

Infrastructure, appropriations, ch 218, §97

Long-term care and services, see LONG-TERM LIVING AND CARE

Low-income persons

Appropriations, ch 218, §73

Maternal and child health program, see subhead Maternal and Child Health Program

Medical assistance, see MEDICAL ASSISTANCE

Mobile and regional child health specialty clinics, appropriations, ch 204, §3, 15 – 17

Massage therapy, see MASSAGE THERAPY AND THERAPISTS

Maternal and child health program

Administration of state programs, ch 204, §3

Appropriations, ch 204, §3, 15 – 17

Medicaid, see MEDICAL ASSISTANCE

Medical assistance, see MEDICAL ASSISTANCE

Medical education by university of Iowa hospitals and clinics, appropriations, ch 218, §73

Medical examinations, appropriations, ch 218, §74

Medical information hotline, appropriations, ch 218, §74

Medications, see DRUGS AND DRUG CONTROL

Mental health, see MENTAL HEALTH AND DISABILITIES

Mothers

Maternal and child health program, see subhead Maternal and Child Health Program above

Perinatal care program, ch 159, §17; ch 204, §3, 15 – 17

Noninstitutional health care providers, medical assistance reimbursement rates, ch 218, \$31

Nursing and nurses, see NURSING AND NURSES

Nursing homes, see HEALTH CARE FACILITIES, subhead Nursing Facilities, Nursing Homes, and Nursing Home Administrators

Obesity prevention in children, appropriations, ch 218, §97

 ${\tt Occupational\ disease\ compensation}, \textit{see}\ {\tt OCCUPATIONAL\ DISEASE\ COMPENSATION}$

Occupational hearing loss compensation, see OCCUPATIONAL HEARING LOSS COMPENSATION

Occupational therapy and therapists, see OCCUPATIONAL THERAPY AND THERAPISTS Optometry, see OPTOMETRY AND OPTOMETRISTS

Oral health, see DENTAL CARE AND DENTAL CARE PRACTITIONERS

Organ donors and donations, see ANATOMICAL GIFTS

Osteopathic medicine and surgery, see OSTEOPATHIC MEDICINE, SURGERY, PHYSICIANS, AND SURGEONS

Osteopathy, see OSTEOPATHY AND OSTEOPATHS

Perinatal care program, ch 159, §17; ch 204, §3, 15 – 17

Personal health improvement plans development, appropriations, ch 218, §74

Pharmaceutical care, see DRUGS AND DRUG CONTROL

Pharmacy and pharmacy practitioners, see PHARMACY AND PHARMACY PRACTITIONERS

Pharmacy benefits managers, regulation of, ch 193

Physical therapy, see PHYSICAL THERAPY AND THERAPISTS

Physician assisting and assistants, see PHYSICIAN ASSISTING AND ASSISTANTS

Physicians, see PHYSICIANS AND SURGEONS

Podiatry and podiatric physicians, see PODIATRY AND PODIATRIC PHYSICIANS

Postnatal tissue and fluid banking, task force for, ch 147; ch 218, §97

Preschool program for four-year-old children, statewide, public health programs collaboration with, ch 148, §3

Prescription drug donations for indigent persons, dispensing under state program, ch 159, \$24

Primary health care initiatives

Des Moines university — osteopathic medical center, appropriations, ch 214, §2 University of Iowa college of medicine, appropriations, ch 214, §9

Promotion partnership activities, appropriations, ch 218, §74

Psychiatric medical institutions for children, see PSYCHIATRIC FACILITIES AND INSTITUTIONS

Psychology, see PSYCHOLOGY AND PSYCHOLOGISTS

Respiratory therapy and care, see RESPIRATORY CARE, THERAPY, AND THERAPISTS Rural health clinics

Appropriations, ch 218, §97

Medical assistance reimbursement rates, ch 218, §31

School curricula for health and human growth and development education, ch 98; ch 214, §6, 7, 16

Senior living services and program, see SENIOR LIVING SERVICES AND PROGRAM Smoking cessation, prevention, and control, see TOBACCO AND TOBACCO PRODUCTS, subhead Use Prevention, Cessation, and Control

Special care costs, family support subsidy program, appropriations, ch 218, §21

Speech pathology and pathologists, see SPEECH PATHOLOGY AND PATHOLOGISTS

Stem cell research and cures initiative, ch 6

Support of persons, medical support obligations, ch 218, §10, 157 – 167, 179 – 187

Surgeons, see PHYSICIANS AND SURGEONS

Tissue donors and donations, see ANATOMICAL GIFTS

Tobacco settlement agreement, see TOBACCO AND TOBACCO PRODUCTS, subhead Settlement Agreement and Moneys

Tobacco use cessation, prevention, and control, see TOBACCO AND TOBACCO PRODUCTS, subhead Use Prevention, Cessation, and Control

Transplants of organs and tissue, see TRANSPLANTS OF ORGANS AND TISSUE

University of Iowa college of public health building, appropriations, ch 205

Veterans counseling program services for veterans, ch 202, §1, 16; ch 218, §4

Victims of crimes, compensation for medical and mental health care expenses, ch 27, §8, 9 Vision care, see VISION

Volunteer health care provider program

Administration, ch 218, §97

Volunteer health care provider program — Continued

Charitable organizations participating in program, ch 159, §18

Field dental clinic participation, ch 95

Liability for claims arising from care provided, ch 218, §101

Wellness initiatives for small employers, ch 57, §6 – 8

Women

Maternal and child health program, see subhead Maternal and Child Health Program above

Perinatal care program, ch 159, §17; ch 204, §3, 15 – 17

Workers' compensation, see WORKERS' COMPENSATION

Workforce in health care, review of, ch 218, §99, 110

HEALTH INSURANCE

See INSURANCE

HEALTH MAINTENANCE ORGANIZATIONS

See also INSURANCE, subhead Health Insurance and Health Benefit Plans Pharmacy benefits managers regulation, ch 193

HEALTH SERVICE CORPORATIONS

See also INSURANCE, subhead Health Insurance and Health Benefit Plans

Combined service corporations, Code correction, ch 22, §87

Dental service corporation subscriber directors as hospital employees, officers, directors, or trustees, allowance of, ch 137, §10

Pharmacy benefits managers regulation, ch 193

Subscriber defined, Code correction, ch 22, §86

HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

Administration, ch 218, §106

Appropriations, ch 218, §15, 98, 126

Children for enrollment, identification of, ch 218, §105

Data for enrollees, match with child support recovery unit data, ch 218, §165, 187

Expansion of coverage, ch 218, §15

Payment error rate measurement (PERM) program compliance, state match cost, appropriations, ch 218, §11

HEALTHY OPPORTUNITIES FOR PARENTS TO EXPERIENCE SUCCESS (HOPES) – HEALTHY FAMILIES IOWA (HFI) PROGRAM

Appropriations, ch 218, §2, 7

Child abuse prevention targeting, appropriations, ch 218, §7

HEARING

See also DEAFNESS AND DEAF PERSONS

Audiology and audiologists, see AUDIOLOGY AND AUDIOLOGISTS

Children, audiological services and hearing aids for, appropriations, ch 218, §97

HEARING AID DISPENSING AND DISPENSERS

See also PROFESSIONS

Children, audiological services and hearing aids for, appropriations, ch 218, §97 Licensing and regulation, ch 10, §26 – 67, 73, 145, 146; ch 215, §260

HEARTS

Defibrillators, grant program for rural areas, appropriations, ch 208, §1, 7, 8 Donors and donations of body parts, see ANATOMICAL GIFTS

HEAT ENERGY AND HEATING EQUIPMENT

Boilers, see BOILERS

HEAT ENERGY AND HEATING EQUIPMENT — Continued

Comfort systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING); HYDRONIC SYSTEMS

Costs, payment assistance for low-income persons, see ENERGY, subhead Assistance for Low-Income Persons and Households

Electrical systems and electricians, see ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS

Global warming, see GLOBAL WARMING

Steam energy and steam equipment, see STEAM ENERGY AND STEAM EQUIPMENT Water heaters, see PLUMBING AND PLUMBERS

HEIRS

See PROBATE CODE, subheads Beneficiaries of Estates; Surviving Spouses

HELIUM

Medical gases, see GASES, subhead Medical Gases

HEMOPHILIA

Advisory committee, ch 31; ch 218, §97

Appropriations, see APPROPRIATIONS

Rural comprehensive care for hemophilia patients, appropriations, ch 214, §9

HEPATITIS

Prevention and treatment in correctional facilities, appropriations, ch 213, §4, 6 Veterans awareness program, consultation between public health and veterans affairs departments, ch 202, §11, 12

HERBICIDES

Exposure of veterans, investigations of effects of, ch 22, §14; ch 202, §8 – 10

HETEROSEXUALITY

See SEXUAL ORIENTATION

HEXAVALENT CHROMIUM

See METALS

HFI (HEALTHY FAMILIES IOWA) PROGRAM

See HEALTHY OPPORTUNITIES FOR PARENTS TO EXPERIENCE SUCCESS (HOPES) – HEALTHY FAMILIES IOWA (HFI) PROGRAM

HIGHER EDUCATION AND EDUCATIONAL INSTITUTIONS

See COLLEGES AND UNIVERSITIES

HIGH QUALITY JOB CREATION PROGRAM

Moneys and credits tax credits authorized by program, ch 174, §60

Research activities tax credits, Internal Revenue Code references updated, ch 12, \$1, 2, 4, 6-8

HIGH SCHOOLS

See SCHOOLS AND SCHOOL DISTRICTS

HIGH TECHNOLOGY

See BIOTECHNOLOGY, BIOSCIENCE, AND BIOLOGY; INFORMATION TECHNOLOGY

HIGHWAY PATROL (STATE PATROL)

See PUBLIC SAFETY DEPARTMENT, subhead Patrol, Division of

HIGHWAYS

See also MOTOR VEHICLES

Access Iowa highways, funding priorities and allocations, ch 200, §3, 7

HIGHWAYS — Continued

Advertising devices placed along highways, businesses in commercial or industrial developments, ch 143, §1

All-terrain vehicle operation, ch 141, §1

Appropriations, ch 216, §1, 2

Bridges, see BRIDGES

Cable service franchise authority to construct and operate communications network within public rights-of-way, ch 201, §2, 10, 15

City highways, roads, and streets, funding priorities and allocations, ch 200, §3, 5, 7

Commercial and industrial highway network, funding priorities and allocations, ch 200, §3, 5, 7

Conditions of roads and weather, information system, appropriations, ch 216, §1

Construction and maintenance revenues, funding priorities and allocations, ch 200

County roads, see subhead Secondary Roads and Road System below

Culverts, county bond issues for construction or repair, ch 109, §2

Farm-to-market roads and road system, funding priorities and allocations, ch 200, §3, 5

Implements of husbandry, permits for operation on noninterstate highways, ch 143, \$17 - 20, 32, 35

Industrial network, funding priorities and allocations, ch 200, §3, 5, 7

Inmate labor, use for county road clean up, ch 213, §7

Interstate roads and road system, funding priorities and allocations, ch 200, §3, 5

Livestock straying and trespass on public roadways, ch 64

Map production by transportation department, appropriations, ch 216, §2

Mississippi river parkway commission participation, appropriations, ch 216, §1

North America's superhighway corridor coalition membership, appropriations, ch 216, §1

Parks and parking area property, sales of, required authorization by general assembly and approval of governor, ch 131, §5, 7

Patrolling highways and roads, priority for state patrol assignments, legislative intent, ch 213, §14

Patrol, state, see PUBLIC SAFETY DEPARTMENT, subhead Patrol, Division of

Primary road fund, see PRIMARY ROAD FUND

Primary roads and road system

Funding priorities and allocations, ch 200, §3, 5, 7

Parks and parking area property, sales of, required authorization by general assembly and approval of governor, ch 131, §5, 7

Revitalize Iowa's sound economy (RISE) fund, see REVITALIZE IOWA'S SOUND ECONOMY (RISE) FUND

Road use tax fund, see ROAD USE TAX FUND

Scale maintenance projects, appropriations, ch 216, §1

Secondary roads and road system

County bond issues for construction or repair, ch 109, §2

Funding priorities and allocations, ch 200, §3, 5, 7

Inmate labor used for county road clean up, ch 213, §7

Secondary road fund, credits, allocations, and uses, ch 200, §3, 6

State highways, see subhead Primary Roads and Road System above

Telephone road and weather conditions information system, appropriations, ch 216, \{1}

TIME-21 (transportation investment moves the economy in the twenty-first century) fund, ch 200, §1 – 4, 8

Video service franchise authority to construct and operate communications network within public rights-of-way, ch 201, §2, 10, 15

HISPANIC-AMERICAN PERSONS

See LATINO PERSONS

HISTORICAL DIVISION

See CULTURAL AFFAIRS DEPARTMENT

HISTORY AND HISTORICAL RESOURCES

See also CULTURE AND CULTURAL RESOURCES; SOCIAL STUDIES

Abraham Lincoln bicentennial commission, ch 99; ch 215, §98; ch 217, §11

African-American historical museum and cultural center, appropriations, ch 206, §7, 39 Appropriations, ch 212, §1

Attendance promotion activities for state buildings and sites, ch 212, §1

Battle flag collection condition stabilization, appropriations, ch 219, §1, 2

Cultural trust, use of grant account moneys, ch 73

Division of history in state cultural affairs department, see CULTURAL AFFAIRS

DEPARTMENT, subhead Historical Division and State Historical Society

Historical site preservation grants, appropriations, ch 219, §1, 2

Historic preservation and cultural and entertainment district tax credits, see

TAXATION, subhead Historic Preservation and Cultural and Entertainment District Tax Credits

Iowa caucus project, appropriations, ch 206, §8, 39

Iowa great places, see GREAT PLACES

Landmarks

Rehabilitation tax credits for landmarks, see TAXATION, subhead Historic Preservation and Cultural and Entertainment District Tax Credits

Restoration and preservation using inmate labor, ch 213, §7

Museums, see MUSEUMS

State historical society, see CULTURAL AFFAIRS DEPARTMENT, subhead Historical Division and State Historical Society

Terrace Hill, appropriations, ch 206, §2, 20, 39; ch 217, §9

HIV (HUMAN IMMUNODEFICIENCY VIRUS)

See ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HUMAN IMMUNODEFICIENCY VIRUS (HIV)

HOGS

See PORCINE ANIMALS AND PORK

HOLDING COMPANIES

Bank holding companies from out of state, acquisition of industrial loan companies, prohibition repealed, ch 170, §8

Savings and loan associations, mutual holding companies repealed, ch 88, \$49

HOLDING FACILITIES

See JAILS AND HOLDING FACILITIES

HOME ECONOMICS

Cooperative extension service in agriculture and home economics of Iowa state university, appropriations, ch 214, §9

HOME FOOD ESTABLISHMENTS

Licensing and regulation, ch 215, §209, 214, 221

HOMELAND SECURITY AND DEFENSE

Division of homeland security and emergency management in state public defense department, see PUBLIC DEFENSE DEPARTMENT, subhead Homeland Security and Emergency Management Division

Domestic or foreign security threats, cooperation between homeland security and emergency management division and public safety department, ch 213, §13

HOMELAND SECURITY AND DEFENSE — Continued

Iowa communications network contracts relating to homeland security, executive council authorization, ch 116, §2

Local emergency management commissions, joint emergency response communications services, ch 149

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION

See PUBLIC DEFENSE DEPARTMENT

HOMELESS PERSONS

Housing services for homeless persons or persons becoming homeless, ch 204, \$13 Outreach services to persons with mental illness, requirements for, ch 204, \$13 Shelter assistance fund, allocation priorities for appropriations, ch 212, \$24

HOMES

See HOUSING

HOMESTEADING PROJECTS

Iowa homesteading program, repealed, ch 54, §11, 32, 33, 37 - 41, 45

HOMESTEADS

Conveyances, format of instruments for spouses, ch 68

Encumbrances, format of instruments for spouses, ch 68

Owner defined, ch 134, §3, 28

Tax credits, state funding for, appropriations and payment to counties, ch 215, §5, 11 Trust estate properties, beneficiary or surviving spouse's interest in homestead, ch 134, §3,

HOMICIDE

Investigations of homicides and recovery of donated organs, procedures for, ch 44, §5

HOMOSEXUALITY

See SEXUAL ORIENTATION

HONEY

Apiary regulation, appropriations, ch 211, §6, 26, 30

HONEY CREEK STATE PARK

Development activities, exemption from public contract laws, ch 215, §116

HOPES-HFI PROGRAM

See HEALTHY OPPORTUNITIES FOR PARENTS TO EXPERIENCE SUCCESS (HOPES) – HEALTHY FAMILIES IOWA (HFI) PROGRAM

HORIZONTAL PROPERTY

Declaration to submit property to horizontal property regime, Code correction, ch 22, §85

HORSES

See EQUINE ANIMALS

HORTICULTURE

Correctional facility farm operations, horticulture opportunities for inmates, ch 213, §4, 6

HOSPICE SERVICES AND PROGRAMS

Medical assistance reimbursement rates, ch 218, §31

HOSPITALIZATION PROCEEDINGS

Mental health patients, advocates for hospitalized persons, see MENTAL HEALTH AND DISABILITIES, subhead Patient Advocates for Hospitalized Persons

HOSPITALS AND HOSPITAL SERVICES

Abortions, see ABORTIONS

Anatomical gifts

Duties of hospitals under anatomical gift law, ch 44, §7, 9 – 11

Gifts made to hospitals, purposes for, ch 44, §6

Appropriations, see APPROPRIATIONS

Children's hospital of Iowa mother's milk bank, appropriations, ch 218, §2

Children with disabilities, state hospital-school for, see DISABILITIES AND DISABLED PERSONS, subhead Center for Disabilities and Development of University of Iowa

Critical access hospitals, medical assistance reimbursements, appropriations, ch 208, §1

Defibrillators, grant program for rural areas, appropriations, ch 208, §1, 7, 8

Dental service corporation subscriber directors as hospital employees, officers, directors, or trustees, allowance of, ch 137, §10

Disabilities and development, university of Iowa center for, see DISABILITIES AND DISABLED PERSONS, subhead Center for Disabilities and Development of University of Iowa

Division for regulation in state inspections and appeals department, see INSPECTIONS AND APPEALS DEPARTMENT, subhead Health Facilities Division

Inpatient hospital services, medical assistance reimbursement rates, ch 218, §31

Insurance coverage for hospital services, see INSURANCE, subhead Health Insurance and Health Benefit Plans

Liens by hospitals, see LIENS

Medical and surgical care for indigent patients, appropriations, ch 218, §73

Medical assistance services, see MEDICAL ASSISTANCE

Medical education, appropriations, ch 218, §73

Mental illness, state hospitals for, see MENTAL HEALTH AND DISABILITIES, subhead Mental Health Institutes

Mental retardation, state hospitals for, see RESOURCE CENTERS, STATE

Organ donation, duties relating to, see subhead Anatomical Gifts above

Outpatient hospital services, medical assistance reimbursement rates, ch 218, §31 Patients

Information on patients, release to organ procurement organizations, confidentiality, ch 44. §9

Voting by patients of hospitals, ch 59, §26, 28, 38

Perinatal care program participation, ch 159, §17

Practitioner orders, procedures for authentication of, ch 93, §1, 3, 4

Psychiatric hospital, state, appropriations, ch 214, §9

Teaching hospital, appropriations, ch 218, §73

Tissue donation, duties relating to, see subhead Anatomical Gifts above

University of Iowa hospitals and clinics, see UNIVERSITY OF IOWA

HOTELS AND MOTELS

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, \$1, 5-7

Frank Lloyd Wright hotel, preservation grant appropriation, ch 219, §1, 2

Licensing, regulation, and sanitation

Enforcement by municipal corporations, ch 215, §207, 213, 214

Fees for licenses, ch 215, §208

Taxes on lodging rental

Administration by state, Code correction, ch 126, §70

Elections on taxes, notice of results, ch 186, §24

Payment of delinquent liabilities, tax amnesty program, see TAX AMNESTY PROGRAM

HOUSEHOLDS AND HOUSEHOLDERS

See FAMILIES

HOUSE OF REPRESENTATIVES, STATE

See GENERAL ASSEMBLY

HOUSE OF REPRESENTATIVES, UNITED STATES

Redistricting of districts, see REDISTRICTING OF ELECTION DISTRICTS

HOUSING

Adult day services programs, see DAY SERVICES AND DAY SERVICES PROGRAMS FOR ADULTS

All Iowa opportunity foster care grant program, housing assistance for participants, ch 214, \$2, 24, 25

Appropriations, see APPROPRIATIONS

Assistance programs and moneys

Assistance fund, ch 54, §24, 27, 44, 45

Assistance payments program, ch 54, §22, 23

Military service persons, home ownership assistance program, ch 87; ch 203; ch 215, \$70, 241; ch 218, \$5, 66, 67

Assisted living programs, see ASSISTED LIVING SERVICES AND PROGRAMS

Building codes, see BUILDING CODES

City regulation and projects, see subhead Municipal Regulation and Projects below

Condominiums, declaration to submit property to, Code correction, ch 22, §85

County regulation and projects, see subhead Municipal Regulation and Projects below

Day services programs, see DAY SERVICES AND DAY SERVICES PROGRAMS FOR ADULTS

Disabled persons, home modifications, loans for, ch 206, §10, 39

Disaster victim state assistance, ch 7; ch 145

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, \$1, 5-10

Elder group homes, see ELDERLY PERSONS AND ELDER AFFAIRS, subhead Elder Group Homes

Energy assistance for low-income households, see ENERGY, subhead Assistance for Low-Income Persons and Households

Factory-built structures, regulation by state building code, Code correction, ch 22, §33 Finance authority programs, see FINANCE AUTHORITY

Foster care recipients leaving foster care, support for supervised apartment living arrangements, appropriations, ch 218, §18

Handicapped accessibility under aging programs and services, appropriations, ch 218, §1

Health care facilities, see HEALTH CARE FACILITIES

Homeless persons, see HOMELESS PERSONS

HOME program, application for appropriations, ch 212, §23

Homesteading program and projects, repealed, ch 54, §11, 32, 33, 37 – 41, 45

Homesteads, see HOMESTEADS

Housing improvement fund, appropriations, ch 217, §8

Housing trust fund

Appropriations, ch 219, §1, 2

Real estate appraiser violations, civil penalties deposited in fund, ch 72, §7

Inmates, housing of

Prohibition against private sector housing of inmates, ch 103

Restrictions on private sector nongovernmental entity agreements, ch 213, §4, 6

Iowa great places, see GREAT PLACES

Lead poisoning

Blood lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Prevention program, appropriations, ch 208, §1

Loans using dwellings as security, application fee exemption, ch 118, §2

HOUSING — Continued

Low-income persons, see ENERGY, subhead Assistance for Low-Income Persons and Households

Manufactured homes, regulation by state building code, Code correction, ch 22, §33

Medical assistance recipients receiving home and community-based services, zoning status of residences, ch 218, §130 – 132

Military service persons, home ownership assistance program, ch 87; ch 203; ch 215, §70, 241; ch 218, §5, 66, 67

Mobile homes, regulation by state building code, Code correction, ch 22, §33

Modular homes, regulation by state building code, Code correction, ch 22, §33

Mortgages, see MORTGAGES

Municipal regulation and projects

Building codes, see BUILDING CODES

Cooperation and compliance with Iowa finance authority, ch 54, §34

Paroled offenders recovering from substance abuse, transitional housing pilot project, appropriations and report, ch 213, §4, 6

Pollutant discharge control, see POLLUTION AND POLLUTION CONTROL

Program fund, replacement of, ch 54, §24, 44

Public housing, see subhead Municipal Regulation and Projects above

Rental dwellings, see RENTAL PROPERTY, RENT, AND RENTERS

Repair services for elderly persons, appropriations, ch 218, §1

Sales contracts for residential real estate, disclosures by sellers prior to execution, Code correction, ch 22, \$99

Senior living services and program, see SENIOR LIVING SERVICES AND PROGRAM

Shelter assistance fund, allocation priorities for appropriations, ch 212, §24

Weatherization programs for low-income households, appropriations, ch 204, §10, 15 – 17

Zoning of residences of medical assistance services recipients, ch 218, \$130 – 132

HPV

See HUMAN PAPILLOMA VIRUS (HPV)

HUMAN IMMUNODEFICIENCY VIRUS (HIV)

See ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HUMAN IMMUNODEFICIENCY VIRUS (HIV)

HUMANITIES AND HUMANITIES ORGANIZATIONS

Abraham Lincoln bicentennial commission, ch 99; ch 215, §98; ch 217, §11 Cultural trust, use of grant account moneys, ch 73

HUMAN PAPILLOMA VIRUS (HPV)

School education related to virus transmission and vaccine, ch 98, §2 – 4

HUMAN REPRODUCTION

Cloning prohibition, ch 6, §4, 5

Pregnancy, see PREGNANCY

HUMAN RIGHTS

Abraham Lincoln bicentennial commission, human rights agencies representation, ch 99; ch 215, §98

Darfur genocide, prohibition on state public funds investments benefiting Sudan government, ch 39

HUMAN RIGHTS DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

Abraham Lincoln bicentennial commission, ch 99; ch 215, §98; ch 217, §11

Administrative rules, ch 218, §8

Appropriations, see APPROPRIATIONS

HUMAN RIGHTS DEPARTMENT — Continued

Community action agencies division

Administrator, salary, ch 215, §13, 14

Appropriations, ch 204, §8, 10, 15 - 17

Energy assistance for low-income persons, see ENERGY, subhead Assistance for Low-Income Persons and Households

Staff sharing and administrator retention, ch 217, §11

Criminal and juvenile justice planning division

Administrator, salary, ch 215, §13, 14

Advisory council, organization of, Code correction, ch 22, §51

Appropriations, ch 217, §11

Jail and holding facility reports by division, Code correction, ch 22, §71

Juvenile justice duties, coordination, ch 217, §11

Staff sharing and administrator retention, ch 217, §11

Deaf services division

Administrator, salary, ch 215, §13, 14

Appropriations, ch 217, §11

Interpretation services fees, disbursement and use, ch 217, §11

Staff sharing and administrator retention, ch 217, §11

Director, salary, ch 215, §13, 14

Energy assistance, see ENERGY, subhead Assistance for Low-Income Persons and Households

Family development and self-sufficiency grant program administration, see FAMILIES, subhead Development and Self-Sufficiency Grant Program

Latino affairs division

Administrator, salary, ch 215, §13, 14

Appropriations, ch 217, §11

Staff sharing and administrator retention, ch 217, §11

Persons with disabilities division

Administrator, salary, ch 215, §13, 14

Appropriations, ch 217, §11

Staff sharing and administrator retention, ch 217, §11

Staff sharing and administrator retention by divisions, ch 217, §11

Status of African-Americans division

Administrator, salary, ch 215, §13, 14

Appropriations, ch 217, §11

Covenant project, appropriations, ch 217, §11

Cultural competency project, appropriations, ch 217, §11

Sensitivity training project, appropriations, ch 217, §11

Staff sharing and administrator retention, ch 217, §11

Study circle project, appropriations, ch 217, §11

Status of Iowans of Asian and Pacific Islander heritage division

Administrator, salary, ch 215, §13, 14

Appropriations, ch 217, §11

Staff sharing and administrator retention, ch 217, §11

Status of women division

Administrator, salary, ch 215, §13, 14

Appropriations, ch 217, §11

Staff sharing and administrator retention, ch 217, §11

HUMAN SERVICES DEPARTMENT

See also HUMAN SERVICES INSTITUTIONS; STATE OFFICERS AND DEPARTMENTS Administrative rules, ch 145; ch 218, §1, 8, 14, 26, 31, 34, 35, 37, 39, 88, 92, 155, 156, 186, 187; ch 219, §39, 41, 43

HUMAN SERVICES DEPARTMENT — Continued

Adoption subsidy program, see ADOPTIONS

Adult abuse protection services, see ADULT ABUSE

All Iowa opportunity foster care grant program, participation of persons under department custody, ch 214, §2, 24, 25

Alzheimer's disease task force membership and duties, ch 121

Appropriations, see APPROPRIATIONS

Brain injury services administration, see BRAIN INJURIES, subhead Services to Persons with Brain Injuries

Child abuse prevention and protection services, see CHILD ABUSE

Child advocacy board administrative review costs, application by department for federal funds, ch 217, §12

Child care services, see CHILDREN, subhead Care of Children and Facilities for Care of Children

Child placement, visitation, and interaction efforts for siblings, ch 67; ch 218, §18

Child-placing agency licensing and regulation, ch 67, §6; ch 172, §11

Children's health insurance program, see HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

Child support recovery unit

Adjustments and modifications of support by unit, ch 218, \$143 - 156, 179 - 183, 187 Appropriations, ch 218, \$10, 53, 67

Collection of delinquent support payments by income withholding, ch 22, §57; ch 218, §162, 187

Collections assigned under family investment program and incentives, deposit and use, ch 218, \$8, 52, 67

Collections fees, implementation of, ch 218, §34, 45

Establishment and notice of support debts, ch 218, §158 – 161, 187

Family investment program collections, disposition, ch 218, §8, 52, 67

Medical support determination and collection procedures, ch 218, \$10, 157 – 167, 179 – 187

Passport sanctions applied to persons owing delinquent support, procedures by unit, monetary threshold for, ch 218, \$137 – 141

Paternity establishment procedures, ch 218, §168 – 178, 187

Payment processing equipment purchases, appropriations, ch 219, §14, 15

Service of process procedures, ch 218, §142, 156

Child welfare services administration, see CHILDREN, subhead Welfare Services for Children

Chronic care consortium, appropriations, ch 208, §1

Customer service call center, location for, ch 218, §28

Day care licensing and regulation, see CHILDREN, subhead Care of Children and Facilities for Care of Children

Developmental disability services administration, see DEVELOPMENTAL DISABILITIES, subhead Services to Persons with Developmental Disabilities

Director of human services, salary, ch 215, §13, 14

Disaster victim state assistance administration, ch 7; ch 145

Employees

Child protection services, priority in filling full-time equivalent positions, ch 218, §28 Damaged personal items, reimbursement for replacement or repair of, ch 218, §37 Resource centers, state, additional positions and reclassification of vacant positions, ch 218, §24

Family development and self-sufficiency grant program, see FAMILIES, subhead Development and Self-Sufficiency Grant Program

Family investment program administration, see FAMILY INVESTMENT PROGRAM Family support subsidy program administration, ch 218, §21

HUMAN SERVICES DEPARTMENT — Continued

Family welfare services administration, see FAMILIES, subhead Welfare Services for Families

Field operations, appropriations, ch 218, §28, 61, 67

Food stamp assistance award funds, receipt and use for projects, ch 218, \$62, 67

Food stamp employment and training program, administration and appropriations, ch 218, §8

Foster care regulation and administration, see FOSTER CARE AND CARE FACILITIES

Health care plan affordability for small businesses and families, commission on, membership and duties, ch 218, \$127, 129

Health insurance premium payment program, appropriations, ch 218, §12

Healthy and well kids in Iowa (hawk-i) program administration, see HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

Hemophilia advisory committee membership and duties, ch 31, §3 – 7

Home health agencies, fixed-fee reimbursement schedule development, ch 218, §31

Inflation factor for provider reimbursements, limitation, ch 218, §31

Integrated substance abuse managed care system, appropriations, ch 218, §11

JOBS program administration, see PROMISE JOBS PROGRAM

Juvenile boot camp and highly structured programs, review of programming and effectiveness, report, ch 218, §18, 36

Juvenile home, state, see JUVENILE FACILITIES AND INSTITUTIONS, subhead State
Juvenile Home

Juvenile justice proceedings, see JUVENILE JUSTICE

Long-term living resources system team membership and duties, ch 92

Medical assistance program and Medicaid administration, see MEDICAL ASSISTANCE

Medical contracts by department, appropriations, ch 218, §13

Mental health and disability services division

Appropriations, ch 218, §29

Brain injury services, see BRAIN INJURIES, subhead Services to Persons with Brain Injuries

Developmental disability services, see DEVELOPMENTAL DISABILITIES, subhead Services to Persons with Developmental Disabilities

Mental illness services, see MENTAL HEALTH AND DISABILITIES, subhead Services to Persons with Mental Illness

Mental retardation services, see MENTAL RETARDATION, subhead Services to Persons with Mental Retardation

Mental health institutes, see MENTAL HEALTH AND DISABILITIES, subhead Mental Health Institutes

Mental health, mental retardation, developmental disabilities, and brain injury commission Administrative rules, ch 218, §35, 87 – 89, 91, 92

Brain injury services administration, see BRAIN INJURIES, subhead Services to Persons with Brain Injuries

Developmental disability services administration, see DEVELOPMENTAL DISABILITIES, subhead Services to Persons with Developmental Disabilities

Mental illness services administration, see MENTAL HEALTH AND DISABILITIES, subhead Services to Persons with Mental Illness

Mental retardation services administration, see MENTAL RETARDATION, subhead Services to Persons with Mental Retardation

Mental health services administration, see MENTAL HEALTH AND DISABILITIES, subhead Services to Persons with Mental Illness

Mental illness services administration, see MENTAL HEALTH AND DISABILITIES, subhead Services to Persons with Mental Illness

Mental retardation services administration, see MENTAL RETARDATION, subhead Services to Persons with Mental Retardation **HUMAN SERVICES DEPARTMENT — Continued**

Minority youth and family projects under child welfare redesign, appropriations, ch 218, \$20

Nursing facility construction, renovation, or replacement, requests for regulation instant relief and nondirect care limit exceptions, ch 219, §1, 2, 35 – 39, 41, 43

Pregnancy prevention programs, see PREGNANCY

Preparation for adult living program, appropriations, ch 218, §18

PROMISE JOBS program administration, see PROMISE JOBS PROGRAM

Public assistance programs administration, see PUBLIC ASSISTANCE

Resource centers, state, see RESOURCE CENTERS, STATE

Responsible fatherhood support, report, ch 218, §9, 36

School ready children grant program, appropriations, ch 181; ch 208, §3

Senior living services and program administration, see SENIOR LIVING SERVICES AND PROGRAM

Senior living trust fund administration, see SENIOR LIVING SERVICES AND PROGRAM, subhead Senior Living Trust Fund

Services provider reimbursements, appropriations, ch 208, §1

Sexually violent predators, see SEX CRIMES AND OFFENDERS, subhead Sexual Predators and Violence

Shelter care, see JUVENILE FACILITIES AND INSTITUTIONS

Social services block grant plan, development and submission, ch 204, §12

Social services providers, reimbursement rates, modification and inflation factor, ch 218, \$31

Special health care needs, persons with, options and pilot projects, ch 218, §11

Substance abuse programs administration, see SUBSTANCE ABUSE

Supplementary assistance program administration, see SUPPLEMENTARY ASSISTANCE Support enforcement and recovery administration, see subhead Child Support Recovery Unit above

Tax preparation assistance for low-income persons by Iowa-based nonprofit organization grant and appropriations, ch 218, §9

Temporary assistance for needy families (TANF) (federal welfare reform) program, see $PUBLIC\ ASSISTANCE$

Training school, state, see JUVENILE FACILITIES AND INSTITUTIONS, subhead State Training School

Volunteer services, appropriations, ch 204, §11, 15 – 17; ch 218, §30

Welfare programs administration, see PUBLIC ASSISTANCE

Young adults transitioning from foster care, preparation for a dult living program, appropriations, ch 218, \$18

HUMAN SERVICES INSTITUTIONS

See also HUMAN SERVICES DEPARTMENT; JUVENILE FACILITIES AND INSTITUTIONS, subheads State Juvenile Home; State Training School; MENTAL HEALTH AND DISABILITIES, subhead Mental Health Institutes; RESOURCE CENTERS, STATE

Appropriations, see APPROPRIATIONS, subhead Human Services Department and Human Services Institutions

Medical assistance program, see MEDICAL ASSISTANCE

Preschool program for four-year-old children, statewide, collaboration with, ch 148, §3

HUNTING

Dangerous wild animal regulation, see ANIMALS, subhead Dangerous Wild Animals Deer hunting and hunters

Antlered deer, damages for illegal taking or possessing, ch 28, §15

Control by urban hunting on private property, liability limitation for property owners, Code correction, ch 22, §84

HUNTING — Continued

Deer hunting and hunters — Continued

Illegal taking or possessing of deer, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, \$16

Licenses, see subhead Licenses and License Fees below

Remote control or internet hunting, violations and penalties for violations, ch 156

Trespass committed while hunting deer, penalties revised, ch 28, §17, 18, 20, 21

Education programs for hunter safety and ethics, requirements, ch 28, §19

Farm deer hunting, trespass regulation applicability, ch 28, §17, 18, 20, 21

Fees, see subhead Licenses and License Fees below

Firearms discharge near farm units, prohibition exception for owners, tenants, or family members, ch 28, §14

Game bird habitat development programs and funding, ch 194

Illegal taking or possessing of game, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, §16

Internet hunting, violations and penalties for violations, ch 156

Licenses and license fees

Nonresidents, deer licenses for, increased yearly allocation, ch 66

Suspension of licenses for damages to wildlife, ch 28, §16

Wildlife habitat fee increase, ch 194, §1, 2

Youth deer hunting, use in another season, ch 129

Preserves for hunting whitetail, trespass regulation applicability, ch 28, §17, 18, 20, 21

Remote control hunting, violations and penalties for violations, ch 156

Sac and Fox Indian settlement, regulatory authority of state, ch 189

Safety and ethics education requirements for hunters, ch 28, §19

Turkey hunting, illegal taking or possessing of turkeys, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, §16

Whitetail hunting

Preserve whitetail, trespass regulation applicability, ch 28, §17, 18, 20, 21

Remote control or internet hunting of whitetail, violations and penalties for violations, ch 156

HUSBANDRY

See AGRICULTURE AND AGRICULTURAL PRODUCTS

HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING)

Anamosa correctional facility boiler improvements, appropriations, ch 219, §1, 2

Costs, payment assistance for low-income persons, see ENERGY, subhead Assistance for Low-Income Persons and Households

Hoover state office building system improvements, appropriations, ch 219, \$1, 2

Professional licensing and regulation and examining board for licensing and regulation See also PROFESSIONS

General provisions, ch 198, §1 – 30, 35

Administrative rules, ch 198, §4, 35

Advertising, ch 198, §25, 35

Authority and duties of board, ch 198, §31 – 35

Continuing education, ch 198, §20, 35

Examinations, ch 198, $\S5 - 8$, 35

Fees, ch 198, §9, 35

Insurance and surety bonds, ch 198, §19, 35

Violations and penalties for violations, ch 198, §27, 29, 35

Transportation department, improvements to systems, appropriations, ch 216, §2 University of Iowa pentacrest, modernization of HVAC, appropriations, ch 205

HYDROCARBONS

Petroleum and petroleum products, see PETROLEUM AND PETROLEUM PRODUCTS

HYDROFLUOROCARBONS

Greenhouse gases, see GREENHOUSE GASES

HYDROLOGY AND HYDROLOGISTS

Groundwater professional certification and regulation, ch 171, §4 – 6, 12

HYDRONIC SYSTEMS

Costs, payment assistance for low-income persons, see ENERGY, subhead Assistance for Low-Income Persons and Households

Professional licensing and regulation and examining board for licensing and regulation See also PROFESSIONS

General provisions, ch 198, §1 – 30, 35

Administrative rules, ch 198, §4, 35

Advertising, ch 198, §25, 35

Authority and duties of board, ch 198, §31 – 35

Continuing education, ch 198, §20, 35

Examinations, ch 198, §5 – 8, 35

Fees, ch 198, §9, 35

Insurance and surety bonds, ch 198, §19, 35

Violations and penalties for violations, ch 198, §27, 29, 35

HYDROPHOBIA

Vaccination tagged dogs caught worrying domestic animals or fowl, right to kill, stricken, ch 111

HYENAS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

HVCIENE

Dental hygiene and hygienists, see DENTAL CARE AND DENTAL CARE PRACTITIONERS

HYGIENIC LABORATORY

Appropriations, ch 214, §9

Indirect costs, funding from public health department appropriation, prohibited, ch 204, §4

HY-VEE WORLD CUP TRIATHLON

Awards ceremony on state capitol grounds, alcoholic beverage use and consumption, ch 221

West capitol terrace and capitol grounds improvements, ch 222

ICN (IOWA COMMUNICATIONS NETWORK)

See TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES, subhead Iowa Communications Network (ICN)

IDENTITY AND IDENTIFICATION

See also NAMES

Anatomical gifts, donor identification, ch 44, §3, 7

Banking division complaints, release of complainant information, ch 170, §4

Beer keg identification stickers and sales regulation, ch 46

Capital investment tax credits, qualifying taxpayers, ch 186, §1, 2

Correctional facility inmates in private industry employment, restrictions against access to personal identifying information of citizens, ch 213, §4, 6

County recorders documents and websites, personally identifiable information use, restrictions, ch 123, §1

DNA profiling, see GENETIC MATERIALS AND TESTING, subhead DNA Profiling Fingerprints, see FINGERPRINTS

Gender identity, see GENDER

Nonoperator's identification cards, anatomical gift donor authorization, ch 44, §3

IDENTITY AND IDENTIFICATION — Continued

Organ donor identification, ch 44, §3, 7

Passports, sanction procedures applied to persons owing delinquent support, monetary threshold for, ch 218, §137 – 141

Students, personally identifiable information of, education about internet misuse for sexual exploitation, ch 98, \$1

Wanted persons, redissemination of names and identifying information by criminal and juvenile justice agencies, ch 38, §5

IDIOTS

Voting privilege denied to mentally incompetent persons, proposed constitutional amendment, ch 223

ILLNESSES

See DISEASES

IMMIGRANTS

Children's health insurance program expansion, coverage for legal immigrant children, ch 218, §15

Jobs receiving economic development assistance, filled by legal resident aliens, ch 212, §3 New Iowans centers, services and appropriations, ch 212, §16

IMMUNITY

See also LIABILITY

Anatomical gift law, immunity for activities related to, ch 44, §14

Bullying or harassment reporting in schools, immunity from civil or criminal liability, ch 9, \$2

Emergency aid rendered in public health disasters, immunity of renderers of aid from legal liability, ch 159, §21

IMMUNIZATIONS

See also VACCINES AND VACCINATIONS

Pneumococcal disease, immunization requirement for children enrolling in child care centers, ch 11

Public health department, purchasing of vaccines for immunizations, appropriations, ch 218, §2

IMPAIRMENTS AND IMPAIRED PERSONS

Mental impairments, see MENTAL HEALTH AND DISABILITIES
Physical impairments, see DISABILITIES AND DISABLED PERSONS

IMPLEMENTS OF HUSBANDRY

See AGRICULTURE AND AGRICULTURAL PRODUCTS

IMPLIED CONSENT LAWS

Motor vehicle operators holding commercial driver's licenses, refusal to submit to intoxication testing, penalties, ch 69

IMPROVEMENTS

See PUBLIC IMPROVEMENTS

INCAPACITATED PERSONS AND INCAPACITY

Incompetency, see COMPETENCY

INCENDIARY DEVICES AND MATERIAL

Arson, real estate broker and salesperson licensees and licensure applicants convicted of, ch 187

INCOME

Salaries and wages, see SALARIES AND WAGES Taxation, see INCOME TAXES

INCOME TAXES

Agricultural assets transfer income tax credits, ch 161, §14, 22

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM Assistive devices for employees of small businesses, tax credits, ch 161, §6, 22

Biodiesel blended fuel tax credits, ch 161, §17, 22

Businesses, investments in, tax credits, ch 161, §7, 22; ch 186, §1, 2

Business taxes on corporations

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Business and community-based seed capital fund investments, tax credits, ch 161, §7, 22; ch 186, §1, 2

Film, television, and video project promotion program tax credits and income exclusions, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Historic preservation and cultural and entertainment district tax credits, see TAXATION, subhead Historic Preservation and Cultural and Entertainment District Tax Credits Social security tax credits, ch 186, §17

Capital fund investments, tax credits, ch 161, §7, 22; ch 186, §1, 2

Checkoffs, ch 126, §68; ch 186, §14, 16

Condemned property, taxation of gains from, credits and refunds claims, ch 186, §18 Cultural and entertainment districts, rehabilitation projects in, tax credits, see TAXATION, subhead Historic Preservation and Cultural and Entertainment District Tax Credits

Debt obligations and interest on debt obligations issued by state department, agencies, and authorities, exemption from taxation, ch 133, §9

Delinquent tax liabilities, payment of, tax amnesty program, see TAX AMNESTY PROGRAM

E-85 gasoline promotion tax credits, ch 161, §16, 22

Earned income tax credits

Efforts to expand usage of credits, ch 218, §9

Increase in percentage of federal tax credit, and refundability of excess, ch 161, §1, 22

 $Economic \ development \ region \ revolving \ fund \ contribution \ tax \ credits, \ ch \ 161, \S 12, 22$

Educational savings plan trust withdrawals, ch 186, §8

Elderly persons, exemptions from taxes, Code and Iowa Acts corrections, ch 126, \$65, 112, \$65

Endow Iowa program, tax credits under, ch 161, §9, 22; ch 174, §60; ch 215, §87

Entertainment zones, businesses in, tax credits, ch 161, §5, 22

Estates of decedents

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Business and community-based seed capital fund investments, tax credits, ch 161, §7, 22; ch 186, §1, 2

Film, television, and video project promotion program tax credits, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Personal representatives of small estates, compliance with state and federal tax requirements, ch 134, §23, 24, 27, 28

Returns, ch 186, §15

Ethanol blended gasoline tax credits, ch 161, §4, 22

Ethanol promotion tax credits, ch 161, §15, 22

Fiduciaries

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

INCOME TAXES — Continued

Fiduciaries — Continued

Business and community-based seed capital fund investments, tax credits, ch 161, §7, 22; ch 186, §1, 2

Film, television, and video project promotion program tax credits and income exclusions, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Film, television, and video project promotion program, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Financial institutions, franchise taxes, see FRANCHISE TAXES

Franchise tax credit, ch 161, §2, 22

Fund of funds, investments in, tax credits, ch 161, §18, 22

Historic preservation and cultural and entertainment district tax credits, see TAXATION, subhead Historic Preservation and Cultural and Entertainment District Tax Credits Industrial new jobs tax credits, ch 161, §3, 22

Internal Revenue Code, references in Iowa Code updated, ch 12

Investment tax credits

Business and community-based seed capital funds, investments in, tax credits, ch 161, §7, 22; ch 186, §1, 2

Film, television, and video project promotion program investments, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Limited liability companies

Business and community-based seed capital fund investments, tax credits, ch 161, §7, 22; ch 186, §1, 2

Returns, ch 186, §15

Partnerships and partners

Business and community-based seed capital fund investments, tax credits, ch 161, §7, 22; ch 186, §1, 2

Publicly traded partnerships, partner income exemption from withholding, ch 186, \$16 Returns, ch 186, \$15

Renewable energy production, tax credits, ch 161, §11, 22

School tuition and textbooks, tax credits, ch 161, §21, 22

School tuition organization tax credits, ch 161, \$20, 22; ch 186, \$9 – 13, 31; ch 215, \$111

Seed capital funds, investments in, tax credits, ch 161, §7, 22; ch 186, §1, 2

Small business definitions, ch 54, §35, 36

Social security tax credits in corporate income computation, ch 186, §17

Soy-based cutting tool oil tax credits, ch 161, §10, 22

Soy-based transformer fluid tax credits, ch 161, §19, 22

Trusts

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Business and community-based seed capital fund investments, tax credits, ch 161, §7, 22; ch 186, §1, 2

Film, television, and video project promotion program tax credits, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Returns, ch 186, §15

Venture capital fund investments, tax credits, ch 161, §8, 22

Victim compensation awards and restitution payments, tax exemption, ch 27, §2, 11

Vietnam veterans bonus, tax exemption, ch 176, §1, 2, 4

Wage-benefits tax credits, ch 22, §9; ch 161, §13, 22; ch 215, §82

Wind energy production, tax credits, ch 161, §11, 22

Withholding taxes, exemptions and credits allowed, ch 185, §3; ch 186, §16

INCOMPETENCY

See COMPETENCY

INCORPORATED ENTITIES AND ORGANIZATIONS

Banks, see BANKS AND BANKING

Business corporations, see CORPORATIONS

Cooperative associations and cooperatives, see COOPERATIVE ASSOCIATIONS AND COOPERATIVES

Credit unions, see CREDIT UNIONS

Insurance companies, see INSURANCE

Nonprofit corporations, see CORPORATIONS, NONPROFIT

Savings and loan associations, see SAVINGS AND LOAN ASSOCIATIONS

INCUMBRANCES

See ENCUMBRANCES

INDEBTEDNESS

See DEBTS, DEBTORS, AND CREDITORS

INDEPENDENCE

Mental health institute, see MENTAL HEALTH AND DISABILITIES, subhead Mental Health Institutes

INDIANS AND INDIAN TRIBES

See AMERICAN INDIANS AND INDIAN TRIBES

INDICTMENTS

DNA profiles, indictments containing, limitations of actions, Code corrections, ch 126, $\$110,\,111$

Findings of indictments, limitations and confidentiality of peace officer e-mail and telephone billing records, ch 62

INDIGENT PERSONS

See LOW-INCOME PERSONS

INDIVIDUAL RETIREMENT ACCOUNTS

Beneficiary designations voided by dissolutions of marriage, annulments, or separate maintenance decrees, ch 134, §5, 28

INDUSTRIAL LOANS AND LOAN COMPANIES

See also FINANCIAL INSTITUTIONS

Acquisition of companies by out-of-state banks and bank holding companies, prohibition repealed, ch 170, §8

Credit practices, discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1, 13

Out-of-state companies, acquisitions by and branches of, prohibition repealed, ch 170, §8 Thrift certificates, sales and redemptions, ch 170, §6

INDUSTRY

See BUSINESS AND BUSINESSES

INFANTS

See CHILDREN

INFECTIOUS DISEASES

See DISEASES

INFLUENZA

Avian influenza, poultry disease control, ch 211, §5

INFORMATIONS

DNA profiles, informations containing, limitations of actions, Code corrections, ch 126, §110, 111

INFORMATIONS — Continued

Findings of informations, limitations and confidentiality of peace officer e-mail and telephone billing records, ch 62

Trial informations, destruction of records following final disposition, ch 71, §2

INFORMATION TECHNOLOGY

See also COMPUTERS AND COMPUTER SOFTWARE; TECHNOLOGY

Commercialization and development, ch 122, §3 – 7, 10

Communications network, state, see TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES, subhead Iowa Communications Network (ICN)

Correctional facilities custody classification systems development and implementation, appropriations, ch 219, $\S1,2$

Facilities located in Iowa, sales and use tax refunds, ch 199, §2

Finance authority, ch 54, §1

Integrated information for Iowa system, appropriations, ch 206, §21, 39; ch 217, §1; ch 219, §1, 2, 8

IowAccess, appropriations, ch 217, §3

Iowa communications network, see TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES, subhead Iowa Communications Network (ICN)

Mental health, mental retardation, developmental disability, and brain injury services provided by counties, needs addressed, proposal for, ch 218, §90, 92

Promotion and development of manufacturing, science, and technology businesses, state assistance programs, ch 122, §1, 4, 7, 10; ch 219, §1, 2

State agencies, ch 54, §1

Technology governance board membership, election of chair and length of terms, ch 115, §4, 5

Treasurer of state, information-related technology for, appropriations, ch 206, §23, 39

INFRASTRUCTURE

See also CAPITAL PROJECTS; PUBLIC IMPROVEMENTS

Appropriations, ch 219, $\S 1 - 3$, 6 - 26

Capitol and capitol complex, see CAPITOL AND CAPITOL COMPLEX

Collaborative safety net provider network, pharmaceutical infrastructure, ch 218, §97, 108 Community attraction and tourism projects, funding of, ch 215, §58

Iowa state university, see IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY, subhead Construction and Improvement of Buildings and Facilities

Public facilities, construction and improvements of, bid and contract requirements, see PUBLIC CONTRACTS, subhead Construction Project Bidding and Contract Procedures Public health infrastructure, local, appropriations, ch 218, §97

Rebuild Iowa infrastructure fund

Appropriations, ch 206, \$19, 39; ch 215, \$8, 70; ch 218, \$5; ch 219, \$1-3, 6-8 Capital projects receiving appropriations from fund, agency reporting requirements, ch 219, \$27, 31

Report on projects receiving appropriations, Iowa Acts correction, ch 22, §114, 116 School infrastructure, see SCHOOLS AND SCHOOL DISTRICTS, subhead Infrastructure and Infrastructure Taxes

Southern Iowa development and conservation fund, appropriations, ch 211, §26, 30 State buildings and facilities, see STATE OFFICERS AND DEPARTMENTS, subhead Buildings and Facilities of State

Technology commercialization and business development, financial assistance by and appropriations to regents universities, ch 122, §3, 5, 6, 10

University of Iowa, see UNIVERSITY OF IOWA, subhead Construction and Improvement of Buildings and Facilities

INFRASTRUCTURE — Continued

University of northern Iowa, see UNIVERSITY OF NORTHERN IOWA, subhead Construction and Improvement of Buildings and Facilities

Vertical infrastructure fund

Appropriations, ch 219, §9, 10

Capital projects receiving appropriations from fund, agency reporting requirements, ch 219, §29, 31

INHERITANCE TAXES

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Debt obligations and interest on debt obligations issued by state department, agencies, and authorities, exemption from taxation, ch 133, §9

Exemptions, ch 134, §2, 28

Failure to file timely return resulting from beneficiary's disclaimer of interest, ch 134, \$1, 28

Generation skipping transfer taxes, amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Penalty waivers for return filing and payment, ch 186, §6, 7

Qualified use inheritance taxes, amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Small estates, personal representative's compliance with state and federal tax requirements, ch 134, §23 – 25, 27, 28

INHERITED DISORDERS

See CHILDREN, subhead Birth Defects

INJUNCTIONS

Dangerous wild animal regulation, injunctive relief, ch 195, §12 Insurance regulation enforcement, injunctive relief, ch 137, §6 Real estate appraiser violations, injunctive relief, ch 72, §7

INJURIES

Anatomical gift authorization by injured persons, ch 44, §3

Athletic training, see ATHLETICS, ATHLETES, AND TRAINERS

Boat-related crimes resulting in injuries, victim compensation, ch 27, §7

Brain injuries, see BRAIN INJURIES

Care of injuries, see HEALTH, HEALTH CARE, AND WELLNESS Children

Abuse of children, see CHILD ABUSE

Injuries to children, parent's cause of action, ch 132, §1, 3

Eluding of law enforcement vessels resulting in personal injuries, criminal offenses and penalties, ch 28, §10

Military forces members injured in combat zones, grant program for, ch 22, \$112, 116; ch 142; ch 203; ch 215, \$258; ch 218, \$66, 67

Personal injury payments to debtors and debtors' dependents, exemption from execution and bankruptcy actions, ch 114

Tort claims, see TORTS AND TORT CLAIMS

Wild animals, dangerous, liability of owner for injuries caused by animals, ch 195, §4 Workers' compensation, see WORKERS' COMPENSATION

INMATES OF CORRECTIONAL FACILITIES AND INSTITUTIONS

See CORRECTIONAL FACILITIES AND INSTITUTIONS

INOCULATIONS

See IMMUNIZATIONS; VACCINES AND VACCINATIONS

INSANE PERSONS AND INSANITY

See also MENTAL HEALTH AND DISABILITIES

Voting privilege denied to mentally incompetent persons, proposed constitutional amendment, ch 223

INSECTS

Bee apiary regulation, appropriations, ch 211, §6, 26, 30

Emerald ash borer public awareness and information project, appropriations, ch 211, §8 Gypsy moth detection, surveillance, and eradication, appropriations, ch 211, §7

INSIGNIA

United States and Iowa insignia, desecration, ch 202, §13, 14

INSOLVENCY

See BANKRUPTCY

INSPECTIONS

Boilers, see BOILERS

Child-placing agencies, ch 172, §11

Department of inspections and appeals in state government, see INSPECTIONS AND APPEALS DEPARTMENT

Electrical installations, ch 197, §33 – 44, 50

Food establishments, health and sanitation, see FOOD, subheads Establishments for Provision of Food; Processing and Production Plants and Establishments

Hotels and motels, health and sanitation, see HOTELS AND MOTELS

Steam pressure vessels, see STEAM ENERGY AND STEAM EQUIPMENT, subhead Pressure Vessels for Steam

Underground storage tanks, ch 171, §1, 3, 11, 13

INSPECTIONS AND APPEALS DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

Administrative costs charged to child advocacy board, limit, ch 217, §12

Administrative hearings division

Appropriations, ch 217, §12, 14

Use tax receipts, use by division, ch 217, §14

Administrative rules, ch 93, \$1, 3, 4; ch 173, \$2, 3, 6; ch 215, \$137, 138, 162, 163, 186, 206, 212, 220

Adult day services program certification, inspection, and regulation, ch 215, §184 – 206; ch 218, §69

Alzheimer's disease task force membership and duties, ch 121

Amusement devices registration and regulation, ch 173

Appropriations, see APPROPRIATIONS

Assisted living program certification, inspection, and regulation, ch 215, \$160 – 183, 206; ch 218, \$69

Child advocacy board

Administrative review costs, federal funding application, ch 217, §12

Appropriations, ch 217, §12

Court appointed special advocate program, see COURT APPOINTED SPECIAL ADVOCATES

Inspections and appeals department administrative costs charged, limitation, ch 217, §12 Child-placing agency inspections by department, ch 172, §11

Construction contractor registration hearings, cost reimbursement to department, ch 212, \$16

Day services program certification, inspection, and regulation, ch 215, §184 – 206; ch 218, §69

INSPECTIONS AND APPEALS DEPARTMENT — Continued

Director, salary, ch 215, §13, 14

Egg handler licensing and regulation, license fees, ch 215, §218

Elder group home certification and regulation, ch 215, \$135 - 159, 206; ch 218, \$69

Employment appeal board

Appropriations, ch 217, §12

Construction contractors registration hearings, reimbursement by labor services division, ch 217, §12

Salaries for members, ch 215, §13, 14

Food establishment and processing plant licensing, regulation, and sanitation, see FOOD, subheads Establishments for Provision of Food; Processing and Production Plants and Establishments

Gambling and gaming regulation, see GAMBLING

Health care facility regulation, see HEALTH CARE FACILITIES

Health facilities division

Appropriations, ch 217, §12

Health care facility regulation, see HEALTH CARE FACILITIES

Hospital regulation, see HOSPITALS AND HOSPITAL SERVICES

Hospital regulation, see HOSPITALS AND HOSPITAL SERVICES

Hotel and motel licensing, regulation, and sanitation, see HOTELS AND MOTELS Investigations division

Appropriations, ch 217, §12

Professional and occupational practices, investigations of, ch 10, §6; ch 218, §191

Long-term living resources system team membership and duties, ch 92

Pari-mutuel wagering regulation, see GAMBLING, subhead Pari-Mutuel Wagering

Psychiatric medical institutions for children, licensing and regulation of, see PSYCHIATRIC FACILITIES AND INSTITUTIONS

Public defenders, state and local, see PUBLIC DEFENDERS, STATE AND LOCAL

Racing and gaming commission

Administrator authority, ch 48, §6, 7

Administrator salary, ch 215, §26

Appropriations, ch 217, §13

Gambling and gaming regulation, see GAMBLING

Gambling impact study, date of, ch 215, §86

Racing regulation, see RACING, subheads Dogs; Horses

Wagering by commission members, restrictions, ch 188, §4

Racing regulation, see RACING, subheads Dogs; Horses

Targeted small business certification, duties, report, and appropriations, ch 207, §6, 17, 18

INSTRUMENTS (PAYMENTS OF MONEY)

See MONEY

INSTRUMENTS (REAL ESTATE)

See REAL PROPERTY

INSURANCE

General provisions, ch 137; ch 152; ch 215, §117, 256

Actuarial opinion statement and summary requirements for property and casualty insurance companies, ch 137, \$13 - 15

Adjusters, licensing and regulation of, ch 137, §24 - 29

Advertising, trade practices regulation, ch 152, §53, 84

Alarm system contractors and installers, liability insurance for, ch 197, §6, 50

Articles of incorporation, director nomination, election, and appointment provisions, proportionate representation repealed, ch 137, §30

Beneficiaries

Disclaimer of interest in insurance proceeds resulting in failure to file timely inheritance tax return, ch 134, §1, 28

Dissolutions of marriage, annulments, or separate maintenance decrees, voiding of beneficiary designations, ch 134, §4, 28

Boilers, coverage and inspection by insurers, ch 135, §5

Casualty insurance and casualty insurance companies

Actuarial opinion statement and summary requirements, ch 137, §13 – 15

Company representatives, participation in propane education and research, ch 182, §3, 15

Foreign casualty insurance practices, statements of capital and surplus, ch 152, §53, 84 Cemetery merchandise purchase agreements funded by insurance policies, see CEMETERY

AND FUNERAL MERCHANDISE AND FUNERAL SERVICES, subhead Purchase Agreements

Children's health insurance program, see HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

Consolidation of companies, Code corrections, ch 22, §91, 92

County mutual insurance associations, investment limitations, surplus defined, ch 137, §17

Credit union account insurance, ch 174, §38

Credit unions, coverage for, ch 174, §39

Deposit insurance, credit union account insurance, ch 174, §38

Directors of insurance corporations, nomination, election, and appointment by proportionate representation, repealed, ch 137, §30

Discounts, unfair practices of, ch 152, §54, 84

Discriminatory practices based on gender identity and sexual orientation, prohibited, ch 191, §1, 13

Division of insurance in state commerce department, see COMMERCE DEPARTMENT, subhead Insurance Division

Economic development of insurance, appropriations, ch 212, §6

Employers and employees, health insurance and benefits, see subhead Health Insurance and Health Benefit Plans below

Fire insurance and fire insurance companies

Directors of companies, nomination, election, and appointment of, proportionate representation repealed, ch 137, \$30

False statements of assets as unfair trade practice, ch 152, §53, 84

Foreign insurance companies

Casualty insurance practices, statements of capital and surplus, ch 152, §53, 84

Life insurance companies, minimum capital and surplus requirements, ch 137, §9

Fraternal benefit societies, licensing of, Code correction, ch 126, §90

Funeral merchandise and services purchase agreements funded by insurance policies, see CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES, subhead Purchase Agreements

Group insurance

See also subhead Health Insurance and Health Benefit Plans below

Association group health care plans for employees of small employers, ch 57, 1 - 5, 8; ch 215, 255

Uniform health insurance application form for small employers, ch 169

Health insurance and health benefit plans

See also subhead Group Insurance above; HEALTH MAINTENANCE ORGANIZATIONS; HEALTH SERVICE CORPORATIONS

Affordable health care plans for small businesses and families, commission on, ch 218, \$99, 127, 129

AIDS/HIV health insurance premium payment program, appropriations, ch 218, §11

Health insurance and health benefit plans — Continued

Children's health insurance program, see HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

Conservation peace officer retirees, insurance premium payments for, appropriations, ${\rm ch}\ 211,\,\$17$

Coverage decisions, external review of, ch 137, §11

Denial of payment to hospitals, written statement detailing the amount health plan would have paid, ch 154, §2

Healthy and well kids in Iowa (hawk-i) program, see HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

Medical assistance program, see MEDICAL ASSISTANCE

Medicare, see MEDICARE

Payment of hospital services, ch 154, §2

Pharmacy benefits managers regulation, ch 193

Premium payment program, appropriations, ch 218, §12

Small employers, association group health care plans for employees, ch 57, 1-5, 8; ch 215, 255

Small employers, uniform health insurance application form, ch 169

State employees, see subhead State Agencies and Employees below

Support of persons, medical support obligation, ch 218, \\$10, 157 - 167, 179 - 187

Hospital services, see subhead Health Insurance and Health Benefit Plans above

HVAC professionals, liability insurance requirements, ch 198, §19, 35

Hydronic professionals, liability insurance requirements, ch 198, §19, 35

Interinsurance contracts and exchanges, assets and surplus requirements, ch 137, §20

International insurance economic development, appropriations, ch 212, §6

Invalidation of insurance other than life, conditions for, Code correction, ch 22, §88 Investments by companies

County mutual insurance associations, investment limitations, surplus defined, ch 137, \$17

Nonlife insurance companies, investment limitations, capital and surplus defined, ch 137, \$12

State-issued debt obligations, investments in, ch 133, §4

State mutual insurance associations, investment limitations, surplus defined, ch 137, §19 Life insurance and life insurance companies

Conservation peace officer retirees, premium payments for, appropriations, ch 211, §17

Directors of companies, nomination, election, and appointment of, proportionate representation repealed, ch 137, §30

Dissolutions of marriage, annulments, or separate maintenance decrees, voiding of beneficiary designations, ch 134, §4, 28

Foreign life insurance companies, minimum capital and surplus requirements, ch 137, §9 Military personnel, sales of life insurance to, ch 137, §7

Loans by insurance companies on bottomry or respondentia, repealed, ch 152, §84

Medical insurance, see subhead Health Insurance and Health Benefit Plans above

Merger of companies, Code corrections, ch 22, §91, 92

Military personnel, sales of life insurance to, ch 137, §7

Motor carrier insurance, transition from single state registration system to unified system, ch 143, §27, 28, 34, 35

Motor vehicles, see MOTOR VEHICLES

Mutual insurance and mutual insurance companies

County mutual insurance associations, investment limitations, surplus defined, ch 137, \$17

State mutual insurance associations, see subhead State Mutual Insurance Associations below

Nonlife insurance and nonlife insurance companies

General provisions, ch 152, §1 – 50, 58 – 77, 84, 85; ch 215, §256

Investment limitations, capital and surplus defined, ch 137, §12

Policy provisions and rates, ch 152, §64 – 67, 84

Surplus lines insurance, ch 152, §68, 84

Organization of domestic companies, new officers or directors, biographical affidavit required, ch 137, §8

Pharmacy benefits managers regulation, ch 193

Plumbers, liability insurance requirements, ch 198, §19, 35

Premiums

Rebates and discounts, unfair practices of, ch 152, §54, 84

Small employer wellness initiatives, suspension or modification of premium rate restrictions, ch 57, \$6-8

Taxation, see TAXATION, subhead Insurance and Insurance Companies

Producers

Continuing education requirements, ch 137, §23

Life insurance sales to military personnel, ch 137, §7

Payment of commissions or service fees, regulation of, ch 152, §83

Proof of loss by insured, terminology change, ch 152, §63

Property and casualty actuarial opinions Act, ch 137, §13 – 15

Property insurance and property insurance companies

Actuarial opinion statement and summary requirements, ch 137, §13 – 15

Company representatives, participation in propane education and research, ch 182, \$3, 15

Protected cells, use and operation, restrictions, ch 137, §22

Public adjusters, licensing and regulation of, ch 137, §24 – 29

Rebates, unfair practices of, ch 152, §54, 84

Reciprocal contracts and exchanges, assets and surplus requirements, ch 137, §20

Refrigeration professionals, liability insurance requirements, ch 198, §19, 35

Reinsurance

Code corrections, ch 22, §91, 92

Loans by insurance companies on bottomry or respondentia, repealed, ch 152, §84

Restrictions on assuming or reinsuring risks of other companies, applicability to domestic insurance companies, ch 137, §21

Sales and sellers of insurance, see subhead Producers above

School district sharing efficiencies, development, ch 130, §6

Solicitation of business by insurance companies, unlawful, Code correction, ch 126, §89 State agencies and employees

Children's health insurance program benefits, ch 218, §15

Health insurance administration fund, repeal date delayed, ch 115, §9, 18

Health insurance, administrative charge per contract, ch 217, §4

State mutual insurance associations

Contracts of insurance, loss or damage by vehicles, exclusion of automobiles or aircraft, ch 137, §18

Investment limitations, surplus defined, ch 137, §19

Steam pressure vessels, coverage and inspection by insurers, ch 135, §5

Stockholders, proportionate representation on insurance corporation boards of directors, repealed, ch 137, §30

Surety bonds, see SURETIES AND SURETY BONDS

Surplus lines insurance, ch 152, §68, 84

Targeted small business financial assistance board, industry representation, ch 207, §8, 12,

Taxation, see TAXATION, subhead Insurance and Insurance Companies

Third-party administrators, pharmacy benefits managers required certification as, ch 193, \$2,9

Trade practices regulation, ch 152, §53, 54

Unemployment insurance information, confidentiality requirements and penalty for violation, ch 77

Unfair trade practices regulation, ch 152, §53, 54

Wild animals, dangerous, owner's liability policy requirements, ch 195, §4

Workers' compensation liability insurance and insurers

Coverages and exclusions, ch 128, §1

Motor carrier owner-operators, Code corrections, ch 22, §22, 23

Rating organization licensing and regulation, Code correction, ch 22, §89, 90

Self-insured employers, security deposited with state, release of, ch 137, §1

INSURANCE DIVISION

See COMMERCE DEPARTMENT

INTELLECTUAL PROPERTY

Energy research, development, and commercialization, promotion by state, ch 168, §5, 18 Finance authority ownership powers, ch 54, §19

INTEREST

Credit union loans, ch 174, §47

Loans secured by title of motor vehicle titles (car title loans), finance charge restrictions, ch 26

Real estate loan escrow funds held by credit unions, ch 174, §46

INTERIOR DESIGN AND INTERIOR DESIGNERS

See also COMMERCE DEPARTMENT, subhead Professional Licensing and Regulation Bureau; PROFESSIONS

Licensing and regulation, ch 170, §7

INTERMEDIATE CARE FACILITIES

See HEALTH CARE FACILITIES

INTERMEDIATE CRIMINAL SANCTIONS PROGRAM

Correctional services departments programs, ch 213, §5, 6

INTERMENTS

See DEATHS AND DEAD PERSONS, subhead Burials and Interments of Dead Bodies

INTERNATIONAL RELATIONS

Insurance economic development, appropriations, ch 212, §6

Trade appropriations, ch 212, §3

INTERNET AND INTERNET SERVICES

See also COMPUTERS AND COMPUTER SOFTWARE; ELECTRONIC

COMMUNICATIONS, RECORDS, AND TRANSACTIONS; E-MAIL; TECHNOLOGY

Automated victim notification system, see VICTIMS AND VICTIM RIGHTS

Campaign finance disclosure reports and statements, posting by ethics and campaign disclosure board, ch 14, \$5; ch 80, \$1

Cemetery and funeral merchandise and funeral services sales licensees list, posting on insurance division website, ch 175, \$29

College credit transfer and articulation website for community college students transferring to state universities, ch 215, §55

Electrician licensure verification database, establishment of, ch 197, §41, 50

Farm-to-school program information, ch 215, §96

INTERNET AND INTERNET SERVICES — Continued

Film, television, and video project promotion program promotion on website, ch 162, §3, 13 Hunting of animals by remote control or internet, violations and penalties for violations, ch 156

Judicial branch reports, posting by legislative services agency, ch 210, §3

Online advanced placement academy, appropriations, ch 214, §6

Personally identifiable information, restricted use on county recorders websites, ch 123, §1 Regents board purchasing procedures, use of electronic bid notices and targeted small

business website, ch 207, §11, 18

Sales tax exemption, ch 186, §21

Sexual exploitation by means of internet, school education about prevention, ch 98, \$1 Teacher job openings list and resume posting on state website, ch 214, \$6

INTERNS AND INTERNSHIPS

Apprenticeship programs, see APPRENTICES AND APPRENTICESHIPS

College students, internships in targeted high technology industries, ch 122, §1, 7, 10

Math and science education improvement program, ch 122, §8, 10, 11

Mortuary science interns, ch 159, §5

Psychologists, placements in shortage areas, appropriations, ch 218, §97

School-to-career programs, appropriations, ch 212, §3; ch 215, §71

INTERPRETING AND INTERPRETERS

Court and administrative proceedings, interpreters appointed for parties and witnesses in, Code correction, ch 126, §103

Deaf services division service fees, disbursement and use, ch 217, §11

Hearing impaired persons, interpreting and interpreters for

Arrangements between school for deaf and Iowa western community college for interpreters, appropriations, ch 215, §30

Sign language interpreting and interpreters, see subhead Sign Language Interpreting and Interpreters below

Transliterating and transliterators, see TRANSLITERATING AND TRANSLITERATORS Sign language interpreting and interpreters

See also PROFESSIONS

Licensing and regulation, ch 10, §26 - 67, 73, 150; ch 22, §41; ch 215, §246, 260

INTERSTATE COMPACTS

See COMPACTS

INTESTATE ESTATES

See PROBATE CODE

INTESTINES

Donors and donations of body parts, see ANATOMICAL GIFTS

INTIMIDATION

Extortion, real estate broker and salesperson licensees and licensure applicants convicted of, ch 187

INTOXICATED PERSONS, INTOXICANTS, AND INTOXICATION

Boat operation by intoxicated persons, see BOATS AND VESSELS, subhead Intoxicated Operators

Motor vehicle driving by intoxicated persons, prohibited, see MOTOR VEHICLES, subhead Intoxicated Drivers (Operating while Intoxicated)

Testing for intoxicants

Employee drug and alcohol testing by employers in private sector, exception for employees due to collective bargaining agreement, ch 50

INTOXICATED PERSONS, INTOXICANTS, AND INTOXICATION — Continued Testing for intoxicants — Continued

Motor vehicle operators holding commercial driver's licenses, refusal to submit to testing, penalties, ch 69

Treatment, see SUBSTANCE ABUSE, subhead Treatment Programs and Facilities

INVENTORIES

Cigarettes and tobacco products

Sales, applicability of fire safety standards regulation, ch 166, §3 Taxation, ch 17, §7, 11, 12

INVESTIGATIONS DIVISION

See INSPECTIONS AND APPEALS DEPARTMENT

INVESTMENTS

Cemetery and funeral merchandise and funeral services trust fund investment requirements, ch 175, §10

Credit unions, investments by, ch 174, §35, 36

Fiduciaries, investments by, ch 134, §7, 28

Insurance companies, see INSURANCE

Investment securities, see UNIFORM COMMERCIAL CODE, subhead Investment Securities

State-issued debt obligations, investments in, authorized, ch 133, §4

Sudan government, investments benefiting, prohibition, ch 39

Tax credits, see INCOME TAXES, subhead Investment Tax Credits

IOWA ACTS (SESSION LAWS)

Headnotes and historical references, consideration as part of law, ch 41, §40 Nonsubstantive corrections, ch 22 Substantive corrections, ch 126

IOWACCESS

Appropriations, ch 217, §3

IOWA CITY

National guard readiness center, construction, appropriations, ch 219, §1, 2 University of Iowa, see UNIVERSITY OF IOWA

IOWA COMMUNICATIONS NETWORK

See TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES, subhead Iowa Communications Network (ICN)

IOWA GREAT PLACES

See GREAT PLACES

IOWA LEAGUE OF CITIES

See LEAGUE OF CITIES

IOWA PRISON INDUSTRIES

See CORRECTIONAL FACILITIES AND INSTITUTIONS, subhead Prison Industries

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

See PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

See also COLLEGES AND UNIVERSITIES; REGENTS, BOARD OF, AND REGENTS INSTITUTIONS

Agricultural experiment station, appropriations, ch 214, §9

Agronomy department, climate change advisory council membership and duties, ch 120, §5

IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY — Continued

All Iowa opportunity scholarship program, assistance for students, ch 214, \$2, 28; ch 215, \$33

Alzheimer's disease research in institutions of higher education, task force examination of, ch 121; ch 218, §1

Appropriations, see APPROPRIATIONS

Biofuels processing facility funding, appropriations, ch 219, §21

Biorenewable fuels research teams, appropriations contingency, ch 219, §1, 2, 7

Bonds issued for buildings and facilities of university, ch 205

Business and industrial sector research and contributions, report and appropriations, ch 212, §12

Chemistry building project, appropriations, ch 205

Construction and improvement of buildings and facilities

Biofuels processing facility funding, appropriations, ch 219, §21

Financing by borrowing and bonding, ch 205

Renewable fuels building, planning, design, and construction, appropriations contingency, ch 219, §1, 2, 7, 21, 42

Veterinary diagnostic laboratory, appropriations, ch 211, §24, 25; ch 219, §9, 10

Cooperative extension service in agriculture and home economics, appropriations, ch 214, §9

Energy center, see ENERGY, subhead Center for Energy

Faculty

George Washington Carver endowed chair, appropriations and matching funds requirement, ch 214, §10

Nurse educators, definition and forgivable loans for education, ch 214, §4, 26

Recruitment, appropriations and matching funds requirement, ch 214, §10

Financial aid for students, see COLLEGE STUDENT AID COMMISSION

Fire and environmental safety for buildings and facilities, appropriations, ch 205

Infrastructure, see subhead Construction and Improvement of Buildings and Facilities above

Instructors, see subhead Faculty above

Leopold center for sustainable agriculture, see LEOPOLD CENTER FOR SUSTAINABLE AGRICULTURE

Livestock disease research, appropriations, ch 214, §9

Maintenance and repairs, appropriations, ch 205

Operating funds deficiency reimbursements, appropriations, ch 214, §9; ch 219, §1, 2

Physical research, institute for, appropriations, ch 212, §12

Postnatal tissue and fluid banking task force membership and duties, ch 147

Registered nurse and nurse educator loan forgiveness program, establishment and appropriations, ch 214, §4, 26

Renewable fuels building, planning, design, and construction, appropriations contingency, ch 219, §1, 2, 7, 21, 42

Repayment receipts, student fees and charges exclusion from definition, ch 214, §32, 44 Research expenditures for economic stimulus and Iowa-based companies, ch 212, §12

Security for campus buildings and facilities, appropriations, ch 205

Small business development centers, appropriations, ch 212, §12

Student fees and charges, retention, ch 214, §32, 44

Students

Financial aid, see COLLEGE STUDENT AID COMMISSION

Internships in targeted high technology industries, ch 122, §1, 7, 10

Teachers, see subhead Faculty above

Technology commercialization and business development, financial assistance and appropriations to university, ch 122, $\S 3$ – 6, 10

Veterinary college project, funding by state, ch 205

IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY — Continued Veterinary diagnostic laboratory, appropriations, ch 211, §24, 25; ch 219, §9, 10 Water quality risk reduction from open feedlot effluent, research project appropriations, ch 211, §23 Work-study program appropriations, ch 214, §3

IOWA. UNIVERSITY OF

See UNIVERSITY OF IOWA

IOWA VALUES FUND

Appropriations, ch 122, §2, 4, 10

IPERS (IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM)

See PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

ITEM VETOES

Armory board, property disposal by, ch 206, §31

Community attraction and tourism fund appropriations, ch 215, §59

Community colleges, property disposal by, ch 206, §34

Corrections department, property disposal by, ch 206, §38

Fair, state, property disposal by, ch 206, §33

Gambling treatment fund appropriations transfers, ch 218, §3

Judicial branch salary increases, inclusion in annual expenditures estimate, ch 215, §28

Kimball organ located in Clermont, repairs, rebuild Iowa infrastructure fund appropriations, ch 219, §1

Lottery authority, property disposal by, ch 206, §32

Natural resources department

Infrastructure project funding from rebuild Iowa infrastructure fund, ch 219, §5

Property disposal by department, ch 206, §37

Plasma arc technology for disposal of solid waste, study of, ch 215, §42

Real estate education program, appropriations, ch 206, §26

Regents board, property disposal by, ch 206, §35

Sports authority regional districts, rebuild Iowa infrastructure fund appropriations, ch 219, $\S 4$

State officers and employees, motor vehicle use by, compensation, ch 215, §80

Substance abuse treatment expenditures and reporting requirement, ch 208, §1

Teacher compensation career level pilots, statewide implementation, rules, ch 108, §49

Telecommunications and technology commission, property disposal by, ch 206, §30

Telecommuting policy for state agencies, ch 211, \$50; ch 212, \$26; ch 213, \$20; ch 214, \$15; ch 215, \$43; ch 216, \$3; ch 217, \$25; ch 218, \$190

Transportation department

Appropriations, ch 215, §48, 49

Property disposal by department, ch 206, §36

Tuition grants for barber school and school of cosmetology arts and sciences students, ch 214, §5

University of Iowa college of medicine, extracorporeal support for donation after cardiac death, appropriations, ch 218, §97

Veterans trust fund appropriations transfer to cultural affairs department, ch 218, §4

Volunteer health care provider program, expedited registration of providers, ch 218, \$100

Voter registration file maintenance and storage, provision of state data services without charge, ch 217, §19

West capitol terrace decorative planters, rebuild Iowa infrastructure fund appropriations, ch 219. §1

World food prize, award appropriations, ceremony location, and youth institute, ch 215, \$56, 57

JACKALS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

JAILS AND HOLDING FACILITIES

See also CORRECTIONAL FACILITIES AND INSTITUTIONS; PRISONS AND PRISONERS Appropriations, see APPROPRIATIONS

Contraband prohibition, criminal offenses, penalties, and surcharge for possession, ch 89 Jailers, administrative investigations of complaints against, ch 160

Probation and probationers, see PROBATION AND PROBATIONERS

Report on confinement and detention needs by state, Code correction, ch 22, §71

Substance abuse treatment programs, ch 204, §6, 15 – 17

X-rays of persons suspected of contraband possession, authorization, ch 89, §1

JOBS AND JOBHOLDERS

See LABOR AND EMPLOYMENT

JOHNSON COUNTY

Drug court program, establishment, appropriations, ch 208, §1

JOINT ENTITIES AND UNDERTAKINGS

Agreements and agreement modifications, electronic filing, ch 158, §2, 4

Area education agency joint boards, school district reorganization decisions, appeal procedures, ch 214, §34

Compacts, see COMPACTS

Councils of governments, area fifteen regional planning commission divided, ch 76 E911 service boards, see EMERGENCY COMMUNICATIONS SYSTEMS (911 AND E911 SERVICE)

Emergency response training regional centers, see EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES, subhead Regional Emergency Response Training Centers

Emergency services agreements, budget process, ch 96

Local emergency management commissions, joint emergency response communications services, ch 149

 ${\it Local government innovation, see \ LOCAL\ GOVERNMENT\ INNOVATION\ COMMISSION\ AND\ FUND}$

Preschool program for four-year-old children, statewide, agreements for services, ch 148, \$3

Public defense/law enforcement academy shoothouse, construction, appropriations, ch 219, §1, 2

Reports of joint boards, biennial, electronic filing, ch 158, §2 – 4

School district operational sharing agreements, ch 130, §2, 4, 6

Sexually violent predator care and treatment, human services department contracts with other states, ch 218, §27

Sports authority regional districts, establishment and appropriations, ch 219, §1, 2, 32

Summaries of proceedings, publication requirements and exceptions, ch 158, §1, 4

Wild animals, dangerous, joint agreements to regulate, ch 195, §2

Workforce development department contracts with entities, salary review, ch 212, §17

JUDGES, JUSTICES, MAGISTRATES, AND REFEREES

See also COURTS AND JUDICIAL ADMINISTRATION; JUDICIAL BRANCH Appellate court judges

Court of appeals judges, see subhead Court of Appeals Judges below

Supreme court justices and chief justice salaries, appropriations, ch 210, §1 Appropriations, ch 210, §1

Chief judges, mental health patient advocate appointments by, ch 86, §3

JUDGES, JUSTICES, MAGISTRATES, AND REFEREES — Continued

Court of appeals judges

Appointments, number of nominees, ch 86, §1, 2

Salaries, ch 210, §1; ch 215, §12

District associate judges

Children's justice initiative, additional associate judges authorization, ch 210, \$1 Number needed for current and future caseloads, study and report, ch 210, \$1 Salaries, ch 210, \$1

District judges

Apportionment, case-related workload formula, ch 86, §4 – 7

Number needed for current and future caseloads, study and report, ch 210, §1 Salaries, ch 210, §1; ch 215, §12

Judicial magistrates

Members of appointing commission, prohibitions to appointments, ch 86, §8 Number needed for current and future caseloads, study and report, ch 210, §1 Salaries, ch 210, §1; ch 215, §12

Juvenile judges

Associate juvenile judges, prohibition against magistrate appointing commission members as, ch 86, §8

Salaries, ch 215, §12

Magistrates under district court, see subhead Judicial Magistrates above Probate judges

Associate probate judges, prohibition against magistrate appointing commission members as, ch 86, §8

Fiduciary service for family members' estates, compensation, ch 86, §9 Salaries, ch 215, §12

Retirement system, see JUDICIAL RETIREMENT SYSTEM

Salaries, ch 210, §1: ch 215, §12

Senior judges, salaries, ch 215, §12

Supreme court justices, salaries, ch 210, §1; ch 215, §12

JUDGMENTS AND DECREES

Antitrust judgments or settlements, deposits of damages, penalties, costs, or attorney fees to antitrust fund, ch 213, §23

Child support orders, court-issued temporary modification, ch 106

Consumer fraud judgments or settlements, deposits of penalties, costs, or attorney fees to consumer education and litigation fund, ch 213, §24

Criminal judgments, see CRIMINAL PROCEDURE AND CRIMINAL ACTIONS, subhead Judgments and Sentences

Executions of judgments, see EXECUTION (JUDGMENTS AND DECREES)

Foreign judgments, attachment of liens on real estate, ch 192, §1 – 3

Indian tribal court civil judgments

General provisions, ch 192, §4 - 11

Attachment of liens on real estate, ch 192, §1

Mortgage satisfactions, failure to file, remedies by aggrieved parties, ch 85

Tort claims, see TORTS AND TORT CLAIMS

JUDICIAL BRANCH

See also COURTS AND JUDICIAL ADMINISTRATION; JUDGES, JUSTICES, MAGISTRATES, AND REFEREES; STATE OFFICERS AND DEPARTMENTS

 ${\bf Administrator, see\ COURTS\ AND\ JUDICIAL\ ADMINISTRATION, subhead\ State\ Court\ Administrator}$

Appropriations, see APPROPRIATIONS

Budget, payroll, and accounting, use of state systems, ch 210, §1

JUDICIAL BRANCH — Continued

Court information system, collections usage report and sentencing and information sharing with criminal justice agencies, ch 210, §1, 3

Court technology and modernization fund revenues and expenditures, report, ch 210, §1, 3

Delinquent fines, penalties, court costs, fees, and surcharges, collection of, ch 210, §1, 3

Efficiency and best practices study and report, ch 210, §1, 3

Elections for judicial officers, voting by optical scan systems, ch 190, §18

Employee salaries, ch 210, §1; ch 215, §15, 16

Enhanced court collections fund revenues and expenditures, report, ch 210, §1, 3

Financial statements, submission, ch 210, §1, 3

Installment agreements for collection of delinquent court costs and penalties, allocations for processing, ch 196, §15 – 17; ch 215, §47

Judicial building, security of, appropriations, ch 215, §3

Judicial districts, see COURTS AND JUDICIAL ADMINISTRATION

Judicial magistrate appointing commissions, prohibited appointments, ch 86, §8

Judicial nominating commissions, nominees for court of appeals judge appointments, ch 86, §1, 2

Judicial officers

Number needed for current and future caseloads, study and report, ch 210, §1 Salaries, ch 210, §1; ch 215, §12

Judicial qualifications commission, appropriations, ch 210, §1

Law examiners board, appropriations, ch 210, §1

Purchases from Iowa prison industries, ch 213, §9

Reports provided to legislative services agency, posting in electronic format, ch 210, §3

Retirement of officers and employees, see JUDICIAL RETIREMENT SYSTEM

Revenues collected by judicial branch, appropriations, ch 215, §64, 65

Salaries, ch 210, §1; ch 215, §12, 15, 16, 64, 65

Sentencing information, sharing with criminal justice system departments and agencies, ch 210, \$1

Shorthand reporter licensing and regulation, see SHORTHAND REPORTING AND REPORTERS

JUDICIAL RETIREMENT SYSTEM

Actuarial valuation, report of, Code correction, ch 22, §102

Appropriations, ch 210, §2

Contributions by state, ch 210, §2

Investments benefiting Sudan government, prohibition, ch 39, §13

JUDICIAL SALES

Credit union property in receivership, ch 174, §70

JURIES AND JURORS

Compensation and mileage and parking expense reimbursement, ch 210, §4

Questionnaires, sealing to protect safety or privacy of jurors or family members, ch 210, §5

JUSTICE DEPARTMENT

See ATTORNEY GENERAL

JUSTICES

See JUDGES, JUSTICES, MAGISTRATES, AND REFEREES

JUVENILE COURT AND JUVENILE PROCEDURE

See COURTS AND JUDICIAL ADMINISTRATION

JUVENILE DELINQUENCY

See JUVENILE JUSTICE

JUVENILE FACILITIES AND INSTITUTIONS

Contraband prohibition, criminal offenses, penalties, and surcharge for possession, ch 89 Highly structured programs, state match funding, use, ch 218, §18

Juvenile detention homes and home fund

Appropriations and allocations, ch 218, §20

Deposits to fund, ch 196, §2

Psychiatric medical institutions for children, see PSYCHIATRIC FACILITIES AND INSTITUTIONS

Shelter care

Reimbursement rates for service providers, ch 218, §31

Services provider reimbursements, appropriations, ch 208, §1

State funding limits, ch 218, §18

State juvenile home

See also HUMAN SERVICES INSTITUTIONS

Adolescent pregnancy prevention, appropriations, ch 218, §17

All Iowa opportunity foster care grant program, participation of persons placed in home, ch $214, \S 2, 24, 25$

Appropriations, ch 206, §19, 39; ch 218, §17

Mental health and behavioral services staffing increase, appropriations, ch 218, §17

Powerhouse, appropriations, ch 206, §19, 39

State training school

See also HUMAN SERVICES INSTITUTIONS

Adolescent pregnancy prevention, appropriations, ch 218, §17

All Iowa opportunity foster care grant program, participation of persons placed in school, ch 214, §2, 24, 25

Appropriations, ch 218, §17

Mental health and behavioral services staffing increase, appropriations, ch 218, §17

JUVENILE JUSTICE

See also COURTS AND JUDICIAL ADMINISTRATION, subhead Juvenile Court

Appeals from court orders, Code correction, ch 126, §45

Case permanency plans

Definition, ch 172, §2, 3

Health and education records, information regarding, ch 172, §2

Visits for out-of-state placed children, ch 172, §3

Child in need of assistance proceedings, see CHILDREN

Children's justice initiative, authorization for additional court staff and appropriations, ch 210, §1

Child welfare services, see CHILDREN, subhead Welfare Services for Children

Coordination of duties of state agencies, ch 217, §11

Decategorization of juvenile justice services, ch 218, §18, 94 – 96

Division of criminal and juvenile justice planning in state human rights department, see HUMAN RIGHTS DEPARTMENT, subhead Criminal and Juvenile Justice Planning Division

Drug court programs, appropriations, ch 218, §18, 57, 67

Facilities for delinquent juveniles, see JUVENILE FACILITIES AND INSTITUTIONS

Family welfare services, see FAMILIES, subhead Welfare Services for Families

Foster care placement proceedings, see FOSTER CARE AND CARE FACILITIES

Indigent parties in juvenile proceedings, legal representation of, see LOW-INCOME

PERSONS, subhead Legal Assistance, Representation, and Services for Indigent Persons

Juvenile delinquency proceedings

Graduated sanction services, appropriations, ch 218, §18

Permanency hearings, ch 67, §3; ch 172, §5

JUVENILE JUSTICE — Continued

Juvenile delinquency proceedings — Continued

Reasonable efforts, definition, ch 172, §4

Removal of children committing delinquent acts from children's homes, ch 218, §113 School-based supervision, appropriations, ch 218, §18

Juvenile justice agencies, redissemination of arrest data of wanted persons, ch 38, §5 Parental rights termination proceedings, see PARENTS

Placements of children and placed children, see CHILDREN, subhead Placements and Placing Agencies

Runaway children county treatment plans, grants and grant renewals, appropriations, ch 218, §20

Shelter care, see JUVENILE FACILITIES AND INSTITUTIONS

JUVENILES

See CHILDREN

KEGS

Beer kegs, registration and sales regulation, ch 46

KIDNEYS

Donors and donations of body parts, see ANATOMICAL GIFTS

KIDS

See CHILDREN

KILLINGS

Investigations of homicides and recovery of donated organs, procedures for, ch 44, §5 Tagged dogs caught worrying domestic animals or fowl, right to kill, ch 111

KITCHENS

See FOOD, subhead Establishments for Provision of Food

KNIVES

See WEAPONS

LABOR AND EMPLOYMENT

Alcohol testing of private sector employees by employers, exception for employees pursuant to collective bargaining agreement, ch 50

Apprentices and apprenticeships, see APPRENTICES AND APPRENTICESHIPS

Association group health care plans for employees of small employers, ch 57, \$1 – 5, \$; ch 215, \$255

Before and after school grant program, career and vocational awareness programs, ch 208, \$5; ch 214, \$6, 19; ch 215, \$34

Beneficiary designations voided by dissolutions of marriage, annulments, or separate maintenance decrees, effect on employer's payments of benefits, ch 134, \$5, 28

Casual employees, liability of employers for workers' compensation coverage, ch 128, \$1 City employees, see CITIES, subhead Employees

Collective bargaining, see COLLECTIVE BARGAINING

Compensation, see SALARIES AND WAGES

Consider Iowa program, appropriations, ch 214, §9

Correctional facility inmates, see CORRECTIONAL FACILITIES AND INSTITUTIONS, subhead Inmates

County employees, see COUNTIES, subhead Employees

Department of workforce development in state government, see WORKFORCE DEVELOPMENT DEPARTMENT

Disabled persons with physical or mental disabilities, funding for programs enabling employment, ch 214, §6

LABOR AND EMPLOYMENT — Continued

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1 – 4 Disease control confinement, employees complying with, protection of employment status, ch 159, §25

Division of labor services in state workforce development department, see WORKFORCE DEVELOPMENT DEPARTMENT, subhead Labor Services Division

Drug testing of private sector employees by employers, exception for employees pursuant to collective bargaining agreement, ch 50

Education for careers, see CAREERS AND CAREER EDUCATION

Elderly employment, appropriations, ch 218, §1

Employment appeal board, see INSPECTIONS AND APPEALS DEPARTMENT

Entrepreneurs with disabilities program, appropriations, ch 212, §11

Former Iowa citizens and students, workforce recruitment effort, ch 212, §3

Foster care recipients leaving foster care, support for participation in training and employment activities, appropriations, ch 218, §18

Generation Iowa commission, retention and attraction of young adults, ch 45

Health insurance and health benefit plans, see INSURANCE

High quality job creation program, see HIGH QUALITY JOB CREATION PROGRAM

Industrial new jobs Act projects, tax credits, ch 161, §3, 22

Interns and internships, see INTERNS AND INTERNSHIPS

Iowa-based businesses, state purchasing and contract preferences, specifications, ch 115, \$6, 18

Job opportunities and basic skills (JOBS) program, see PROMISE JOBS PROGRAM

Jobs for America's graduates, appropriations, ch 214, §6

Job training, see subhead Training for Jobs below

Layoffs, permanent, enterprise zone distress criteria, ch 183

Mechanics' liens, see LIENS, subhead Mechanics' Liens

National guard, employers with policies supporting employees serving in, ch 115, §6, 18 New Iowans centers, services and appropriations, ch 212, §16

Non-English speaking employees, employer obligations enforcement, Code correction, ch 22, §25

Prisoners with mental illness, demonstration to maintain independence and employment (DMIE), appropriations, ch 218, §11

PROMISE JOBS program, see PROMISE JOBS PROGRAM

Public employees, see PUBLIC EMPLOYEES

Reserves of United States armed forces, employers with policies supporting employees serving in, ch 115, §6, 18

Retirement, see RETIREMENT AND RETIREMENT PLANS

Safety and health, see OCCUPATIONAL SAFETY AND HEALTH

Salaries, see SALARIES AND WAGES

School curriculum, employability skills requirements, ch 214, §6, 7, 16

School employees, see SCHOOLS AND SCHOOL DISTRICTS, subhead Employees

School-to-career programs, appropriations, ch 212, §3; ch 215, §71

Service employees, employers' liability for workers' compensation coverage, ch 128, §1 State employees, see STATE EMPLOYEES

Targeted jobs withholding tax credit for urban renewal improvements funding in pilot project cities, ch 2; ch 126, §63

Township employees, see TOWNSHIPS, subhead Employees

Training for jobs

See also subhead Workforce Development below

Apprenticeship programs, see APPRENTICES AND APPRENTICESHIPS

Job training fund, transfers of remaining moneys, ch 212, §10

Job training projects of community colleges, annual report repealed, ch 126, §115

PROMISE JOBS program, see PROMISE JOBS PROGRAM

LABOR AND EMPLOYMENT — Continued

Unemployment compensation, see UNEMPLOYMENT COMPENSATION

Unions

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1 – 4 State employee collective bargaining agreements, funding for, ch 215, §15, 17, 20

Wages, see SALARIES AND WAGES

Wellness initiatives for small employers, ch 57, §6 – 8

Workers' compensation, see WORKERS' COMPENSATION

Worker's monument construction on capitol complex, appropriations, ch 219, §1, 2

Workforce development

See also subhead Training for Jobs above

Appropriations, ch 212, $\S 2 - 20$

Department of workforce development in state government, see WORKFORCE DEVELOPMENT DEPARTMENT

Workforce training and economic development funds for community colleges, appropriations, ch 209, §1, 2, 4; ch 215, §53, 63; ch 219, §1, 2

LABORATORIES

Blood and blood testing, see BLOOD AND BLOOD TESTING

Cigarette fire safety testing, test methods, performance standards, and test reports, ch 166, §4

Criminalistics laboratory fund, ch 213, §14

Hygienic laboratory, see HYGIENIC LABORATORY

Lakeside laboratory, appropriations, ch 214, §9

Medical assistance reimbursement rates, ch 218, §31

Motor fuel and biofuel testing laboratory, ch 215, §97

State multipurpose laboratory (Ankeny), appropriations nonreversion, ch 219, §17

Stem cell research and cures initiative, ch 6

Veterinary diagnostic laboratory at Iowa state university, appropriations, ch 211, \$24, 25; ch 219, \$9, 10

LABORATORY SCHOOLS

Research and development prekindergarten through grade twelve school, creation of, study by task force, ch 215, §128, 131

LABOR SERVICES DIVISION

See WORKFORCE DEVELOPMENT DEPARTMENT

LAKES

See WATER AND WATERCOURSES

LAKESIDE LABORATORY

Appropriations, ch 214, §9

LAND

See also REAL ESTATE; REAL PROPERTY

Agricultural land, see AGRICULTURAL LAND

Conservation, see SOIL AND WATER CONSERVATION

Conveyances, see CONVEYANCES OF REAL ESTATE

Encumbrances, see ENCUMBRANCES

Erosion, see EROSION AND EROSION CONTROL

Fences for livestock, straying and trespass control, duties and responsibilities of landowners and governmental authorities, ch 64

Keepers of the land programs, appropriations, ch 211, §28, 30

Surveying, see LAND SURVEYING AND SURVEYORS

Trespass, see TRESPASS

LANDFILLS

See WASTE AND WASTE DISPOSAL

LANDLORD AND TENANT

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, \$1, 7-10, 14

Firearms discharge prohibition near farm units, exception for owners, tenants, or family members, ch 28, \$14

LANDMARKS

See HISTORY AND HISTORICAL RESOURCES

LANDSCAPING AND LANDSCAPE ARCHITECTS AND ARCHITECTURE

See also COMMERCE DEPARTMENT, subhead Professional Licensing and Regulation Bureau; PROFESSIONS

Licensing and regulation, ch 170, §7

Public facility construction and improvements, services and costs for landscape architecture contracted, ch 144, §1, 3, 4, 9

LAND SURVEYING AND SURVEYORS

See also COMMERCE DEPARTMENT, subhead Professional Licensing and Regulation Bureau; PROFESSIONS

Cemetery interment spaces, standards for, ch 175, §46

Distance measurement, standards, ch 143, §4 - 6

Licensing and regulation, ch 170, §7

LANGUAGES

Before and after school grant program, English as second language programs, ch 208, \$5; ch 214, \$6, 19; ch 215, \$34

English language, see ENGLISH LANGUAGE

Interpreting and interpreters, see INTERPRETING AND INTERPRETERS

Sign language interpreting and interpreters, see INTERPRETING AND INTERPRETERS

Spanish language, teacher training in reading recovery pilot projects, ch 214, §42, 44 Transliterating and transliterators, see TRANSLITERATING AND TRANSLITERATORS

LARNED A. WATERMAN IOWA NONPROFIT RESOURCE CENTER

Appropriations, ch 214, §9

LATINO AFFAIRS DIVISION

See HUMAN RIGHTS DEPARTMENT

LATINO PERSONS

Division of Latino affairs in state human rights department, see HUMAN RIGHTS DEPARTMENT, subhead Latino Affairs Division

Minority persons, see MINORITY PERSONS

Targeted small businesses, minority person definition inclusion and financial assistance board membership, ch 207, §5, 8, 18

LAW AND LEGAL PUBLICATIONS

State law, see CODE AND CODE SUPPLEMENT, IOWA; IOWA ACTS (SESSION LAWS)

LAW ENFORCEMENT AND LAW ENFORCEMENT OFFICERS

See also COUNTIES, subhead Sheriffs and Deputy Sheriffs; PEACE OFFICERS; POLICE PROTECTION AND SERVICES; PUBLIC SAFETY DEPARTMENT, subhead Peace Officers

Academy, see subhead Law Enforcement Academy below

LAW ENFORCEMENT AND LAW ENFORCEMENT OFFICERS — Continued

Alzheimer's disease recognition and response

Task force examination of response capacity, ch 121; ch 218, §1

Training by law enforcement academy, ch 213, §11

Anatomical gift law duties, ch 44, §7

Appropriations, see APPROPRIATIONS

Basic training course for officers at law enforcement academy, temporary fee authorization, ch 213, §18

Boat operators eluding law enforcement vessels, ch 28, §10

Boats used for law enforcement, criminal offenses and penalties for operators eluding, ch 28, \$10

Certification of officers, revocation of, Code correction, ch 22, §19

Communications for public safety, interoperable systems implementation, ch 90

Communications officers, complaints against and officers' rights regarding, ch 160

Emergency response training regional centers, see EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES, subhead Regional Emergency Response Training Centers

Law enforcement academy

Administrative rules, ch 22, §18; ch 47, §1, 2, 4

Alzheimer's disease recognition training for law enforcement personnel, ch 213, §11 Appropriations, see APPROPRIATIONS

Automobile selection from and exchange with state patrol division, ch 213, §11

Basic training course, temporary fee authorization, ch 213, §18

Cash balances, temporary negative balance authorization and restriction, ch 213, §11

Complaints against officers certified by academy, administrative investigations of, ch 160 Definitions revised, ch 47, §1

Director, salary, ch 215, §13, 14

Joint shoothouse with public defense department, construction, appropriations, ch 219, \$1,2

Training standards and certification for reserve peace officers, ch 47

Local government innovation commission member appointment, ch 117, §2, 7

Organ donation law duties, ch 44, §7

Regional emergency response training centers, see EMERGENCIES, EMERGENCY MANAGEMENT. AND EMERGENCY RESPONSES

Seized property in criminal proceedings, disposition, ch 107

Vessels used for law enforcement, criminal offenses and penalties for operators eluding, ch 28, \$10

Wild animals, dangerous, notification of escapes of and regulation exceptions, ch 195, §4, 7

LAW ENFORCEMENT INITIATIVE SURCHARGE

Contraband possession violations in criminal or juvenile facilities or institutions, assessment of surcharge, ch 89, §2

LAWYERS

See ATTORNEYS AT LAW

LEAD

See also METALS

Poisoning, prevention and testing, ch 79; ch 208, §1; ch 215, §88; ch 218, §2

LEAGUE OF CITIES

Abraham Lincoln bicentennial commission member appointment, ch 99; ch 215, §98 Local government innovation commission member appointments, ch 117, §2, 7

LEARNING AND INSTITUTIONS OF LEARNING

See EDUCATION, EDUCATORS, AND EDUCATIONAL INSTITUTIONS

LEASES

See also UNIFORM COMMERCIAL CODE, subhead Leases

Agricultural land lessees, reports by, time of filing, Code correction, ch 126, §3

Capitol complex property acquisition, continuation of existing leases, ch 219, §23

Correctional facility inmate employment by private industry, lease restrictions on employers, ch 213, §4, 6

Landlord and tenant, see LANDLORD AND TENANT

Motor vehicles, see MOTOR VEHICLES, subhead Leases, Leasing, and Leased Vehicles

Savings and loan associations, leases by, ch 88, §22

State office space, facility lease payments, appropriations, ch 219, §1, 2

LEAVES OF ABSENCE

Public employees

Military service by public employees, Code correction, ch 126, §12

National disaster medical system of United States, service by public employees, ch 218, §133 – 135

LEGISLATION

State law, see CODE AND CODE SUPPLEMENT, IOWA; IOWA ACTS (SESSION LAWS)

LEGISLATIVE BRANCH AND LEGISLATURE

See GENERAL ASSEMBLY

LENDING AND LENDERS

Money, see LOANS AND LENDERS

Property leases, see LEASES

LEOPARDS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

LEOPOLD CENTER FOR SUSTAINABLE AGRICULTURE

Appropriations, ch 214, §9

Farm-to-school council membership and duties, ch 215, §94

LESSEES AND LESSORS

See LEASES

LETTERS OF CREDIT

See also UNIFORM COMMERCIAL CODE, subhead Letters of Credit Original records of credit unions, ch 174, §54

LEVEES

See FLOODS AND FLOOD CONTROL

LIABILITY

See also IMMUNITY

County recorders documents containing personally identifiable information, liability of preparers, ch 123, §1

Motor vehicle financial liability, see MOTOR VEHICLES, subhead Financial Liability and Responsibility

No-contact orders violated by defendants, liability of arresting officer, ch 180, §8

Property payments under unclaimed property disposition law, liability of claimants and immunity of treasurer of state, ch 37, §5

Tort claims, see TORTS AND TORT CLAIMS

Wild animals, dangerous, liability of owner for deaths or injuries caused by, ch 195, §4 Workers' compensation liability insurance purchases by employers, effects on liability of employers, ch 128, §1

LIBEI

Building and loan associations, defamation of, criminal offense stricken, ch 88, \$23

LIBRARIES

Abraham Lincoln bicentennial commission, library representation, ch 99; ch 215, §98 Access and services, state aid for, ch 214, §6

Appropriations, see APPROPRIATIONS

Division in state education department, see EDUCATION DEPARTMENT, subhead Libraries and Information Services Division, Commission of Libraries, and State Library

Enrich Iowa program (state aid), ch 126, §46 – 48; ch 214, §6; ch 219, §1, 2

Memorial building and monument commissions, membership and quorum, ch 21

Property tax abatements, ch 186, §27, 30

Service areas, appropriations for state aid, ch 214, §6; ch 219, §1, 2

State library, see EDUCATION DEPARTMENT, subhead Libraries and Information Services Division, Commission of Libraries, and State Library

Teacher librarians, see SCHOOLS AND SCHOOL DISTRICTS, subhead Teacher Librarians

LICENSE PLATES

See MOTOR VEHICLES, subhead Registration and Registration Plates

LICENSES AND PERMITS

See also index heading for particular licensing entity

Accountancy and accountants, ch 170, §7

Acupuncture and acupuncturists, ch 10, §26 – 67, 73, 107; ch 215, §260

Agricultural products warehouses, Code correction, ch 22, §49

Alarm system contractors and installers, ch 197, §1 – 10, 24, 50

Alcoholic beverages, see ALCOHOLIC BEVERAGES AND ALCOHOL

All-terrain vehicles, registration and permitting of, ch 126, §56; ch 141, §28 – 40

Architecture and architects, ch 126, §20, 62, 97; ch 170, §7

Asbestos removal and encapsulation, bids for governmental projects, exception to permit requirements, ch 125, \$2

Athletic training and trainers of athletes, ch 10, \$26 - 67, 73, 131; ch 215, \$260

Audiology and audiologists, ch 10, §26 – 67, 73, 83, 84; ch 215, §260

Barbering and barbers, ch 10, §26 – 67, 73, 159; ch 215, §260

Beer, see ALCOHOLIC BEVERAGES AND ALCOHOL, subhead Licenses and Permits

Behavioral science, ch 10, §26 – 67, 73, 149; ch 215, §260

Boats, registration of, see BOATS AND VESSELS, subhead Registration of Boats and Vessels

Building permits, applicability of state building code to, ch 97

Card game tournaments, ch 119, §1

Cemetery merchandise sales, preneed sellers and sales agents, ch 175, §12, 16 – 20, 26, 29 Child-placing agencies, ch 67, §6; ch 172, §1

Chiropractic and chiropractors, ch 10, §26 – 67, 73, 74, 119 – 125; ch 126, §37; ch 215, §250, 260

Cigarette permits, see TOBACCO AND TOBACCO PRODUCTS, subhead Cigarette Permits

Construction contractors, registration of, ch 212, §16; ch 217, §12

Cosmetology and cosmetologists, ch 10, §26 – 67, 73, 157, 158; ch 215, §260

Debt management businesses, ch 126, §92 – 94; ch 170, §4

Delayed deposit services businesses, Code correction, ch 22, §94

Dental care, ch 10, \$26 – 67, 73, 74, 78, 81, 132 – 141; ch 22, \$39; ch 215, \$260; ch 218, \$191 – 205

Dietetics and dietitians, ch 10, §26 – 67, 73, 127; ch 215, §260

Drivers, see MOTOR VEHICLES, subhead Licenses and Permits for Drivers

Drug and device distributors, limited, licensing and regulation of, ch 19, §2, 3, 6

Druggists and drug stores, see PHARMACY AND PHARMACY PRACTITIONERS

LICENSES AND PERMITS — Continued

Education practitioners, see EDUCATIONAL EXAMINERS BOARD, subhead Licensing and Regulation of Education Practitioners

Egg handlers, fees, ch 215, §218

Electricians, see ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS, subhead Licensing and Regulation of Electricians and Examining Board for Licensing and Regulation

Electric power generating facilities, greenhouse gas emissions, ch 120, §2, 3

Electrology and electrologists, ch 10, §26 – 67, 73, 157, 158; ch 215, §260

Engineering and engineers, ch 126, \$14, 21, 38, 44, 52, 59, 61, 62, 75 – 77, 79, 80, 83 – 85, 95, 96, 98; ch 170, \$7

Esthetics and estheticians, ch 10, §26 – 67, 73, 157, 158; ch 215, §260

Excursion gambling boats, see GAMBLING

Fishing and fishers, license suspension for damages to wildlife, ch 28, §16

Food establishments and processing plants, see FOOD, subheads Establishments for Provision of Food; Processing and Production Plants and Establishments

Foster parents, ch 172, §12

Fraternal benefit societies, Code correction, ch 126, §90

Funeral directing and directors, ch 10, \$26 - 67, 73, 156; ch 159, \$5 - 12; ch 215, \$260

Grain dealers, Code corrections, ch 22, §47, 48

Greenhouse gas emissions, ch 120, §2, 3

Guidance counselors, see EDUCATIONAL EXAMINERS BOARD, subhead Licensing and Regulation of Education Practitioners

Hearing aid dispensing and dispensers, ch 10, \$26 - 67, 73, 145, 146; ch 215, \$246, 260

Home food establishments, fees, ch 215, §209

Hotels and motels, see HOTELS AND MOTELS

Hunting and hunters, see HUNTING

HVAC professionals, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING), subhead Professional Licensing and Regulation and Examining Board for Licensing and Regulation

Hydronic systems professionals, see HYDRONIC SYSTEMS, subhead Professional Licensing and Regulation and Examining Board for Licensing and Regulation Implements of husbandry, permits for operation on noninterstate highways, ch 143,

\$17 - 20, 32, 35

Insurance producers, see INSURANCE, subhead Producers

Interior design and interior designers, ch 170, §7

Interpreting and interpreters, ch 10, §26 - 67, 73, 150; ch 22, §41; ch 215, §246, 260

Landscape architecture and architects, ch 170, §7

Land surveying and surveyors, ch 170, §7

Liquor, see ALCOHOLIC BEVERAGES AND ALCOHOL, subhead Licenses and Permits Loans and lenders. Code correction. ch 22. §97

Manicuring and manicurists, ch 10, §26 – 67, 73, 157, 158; ch 215, §260

Marital and family therapy and therapists, ch 10, \$26 - 67, 73, 149; ch 215, \$260

Massage therapy and therapists, ch 10, §26 – 67, 73, 130; ch 215, §260

Mechanical systems professionals, see MECHANICAL SYSTEMS AND PROFESSIONALS, subhead Licensing and Regulation and Examining Board for Licensing and Regulation

Mental health counseling and counselors, ch 10, \\$26 – 67, 73, 149; ch 215, \\$260

We that it course ing and course in 5, 20 – 07, 75, 145, cir 215,

Mortgage bankers and brokers, ch 22, §95, 96; ch 170, §5

Mortuary science and morticians, ch 10, \$26 – 67, 73, 156; ch 159, \$5 – 12; ch 215, \$260

Motor fuel tax law, licenses under, grounds for cancellation, ch 143, §30

Motor vehicle dealers, ch 51; ch 143, §22, 23

Motor vehicle drivers, see MOTOR VEHICLES, subhead Licenses and Permits for Drivers

Motor vehicles, registration of, see MOTOR VEHICLES, subhead Registration and Registration Plates

Nail technology and technologists, ch 10, §26 – 67, 73, 157, 158; ch 215, §260

LICENSES AND PERMITS — Continued

National pollutant discharge elimination system (NPDES), fees for permits, ch 22, §79; ch 53

Nursing and nurses, ch 10, §26 – 67, 73, 126; ch 22, §37, 38; ch 215, §260

Nursing home administrators, ch 10, §26 – 67, 73, 151, 152; ch 215, §260

Occupational therapy and therapists, ch 10, §26 – 67, 73, 102 – 104; ch 215, §260

Optometry and optometrists, ch 10, \$26 – 67, 73, 79, 80, 142 – 144; ch 159, \$1 – 4; ch 215, \$251, 252, 260

Osteopathic medicine and surgery physicians and surgeons, ch 10, \$26 - 67, 73, 76, 77, 113 - 118; ch 215, \$249, 260

Osteopathy and osteopaths, ch 10, §26 – 67, 73, 76, 77, 112; ch 215, §260

Payday loan businesses, Code correction, ch 22, §94

Pharmacy and pharmacy practitioners, see PHARMACY AND PHARMACY PRACTITIONERS

Physical therapy and therapists, ch 10, §26 – 67, 73, 99 – 101; ch 215, §260

Physician assisting and assistants, ch 10, §26 – 67, 73, 75, 78, 105, 106; ch 215, §260; ch 218, §188, 189

Physicians, ch 10, §26 – 67, 73, 76 – 78, 82, 84, 86 – 98; ch 215, §248, 260

Plumbing professionals, see PLUMBING AND PLUMBERS

Podiatry and podiatric physicians, ch 10, \$26 - 67, 73, 78, 108 - 111; ch 215, \$260

Psychology and psychologists, ch 10, §26 – 67, 73, 74; ch 22, §40; ch 215, §260

Public adjusters, ch 137, §24 – 29

Real estate appraisals and appraisers, ch 72; ch 143, §2, 3; ch 170, §7

Real estate brokers and salespersons, ch 170, §7; ch 187

Refrigeration professionals, see REFRIGERATION AND REFRIGERATION EQUIPMENT

Respiratory care, therapy, and therapists, ch 10, \$26 - 67, 73, 128, 129; ch 215, \$260

Restaurants, see FOOD, subheads Establishments for Provision of Food; Processing and Production Plants and Establishments

Salons of cosmetology arts and sciences, ch 10, §26 – 67, 73, 157, 158; ch 215, §260

School teachers and administrators, see EDUCATIONAL EXAMINERS BOARD, subhead Licensing and Regulation of Education Practitioners

Sign language interpreting and interpreters, ch 10, §26 – 67, 73, 150; ch 22, §41; ch 215, §246, 260

Snowmobiles, registration and permitting of, ch 141, §4 – 10, 20

Social work and workers, ch 10, §26 – 67, 73, 147, 148; ch 215, §260

Spas, registration of, see SPAS

Speech pathology and pathologists, ch 10, \$26 – 67, 73, 83, 84; ch 215, \$260

Surgeons, ch 10, \$26 – 67, 73, 76 – 78, 82, 84, 86 – 98; ch 215, \$248, 260

Swimming pools, registration of, see SWIMMING POOLS

Teachers, see EDUCATIONAL EXAMINERS BOARD, subhead Licensing and Regulation of Education Practitioners

Transliterating and transliterators, ch 10, §26 – 67, 73, 150; ch 22, §41; ch 215, §260

Trapping and trappers, license suspension for damages to wildlife, ch 28, §16

Vessels, registration of, see BOATS AND VESSELS, subhead Registration of Boats and Vessels

LIE DETECTOR TESTS

Peace officers and public safety and emergency personnel, submission to tests against will, prohibited, ch 160

LIENS

Carriers' liens, ch 30, §22, 23

Commodity production contract liens, Code corrections, ch 22, §100, 101

Credit union liens

Property held for safekeeping, ch 174, §52

Safe deposit box contents, ch 174, §51

Shares and deposits of members, ch 174, §32

LIENS — Continued

Criminal restitution, liens filed for, Code correction, ch 22, §108

Debt obligations issued by state departments, agencies, and authorities, pledges and assignments of moneys for, ch 133, §8

Finance authority liens, filing powers, ch 54, §20

Harvesters' liens, services covered by, Code correction, ch 126, §99

Hospital liens

Amount limitations of liens, ch 154, §2

Definitions, ch 154, §1

Expenses of recovery actions pursuant to hospital liens, payment liability of hospitals, ch 154, §2

Notice and filing of liens, procedures for, ch 154, §2, 3

Satisfaction of liens, ch 154, §4

Judgment liens, foreign and tribal courts, attachment on real estate, ch 192, \$1 - 3, 6, 8, 11 Mechanics' liens

General provisions, ch 83

Definitions, ch 83, §1, 2

Discharges of liens by filing bonds, applicability limit stricken, ch 83, §11

Foreclosures of liens, ch 83, §14

Perfection and enforcement of liens, ch 83, §4 – 6, 16, 17

Priority and superiority determination, ch 83, §12 – 14

Records of liens, ch 83, §4, 15

Suppliers to subcontractors, entitlement to liens, ch 83, §18

Mortgages, see MORTGAGES

Real estate, attachment of foreign and tribal court judgments on, ch 192, §1 – 3, 6, 8, 11

Safe deposit box contents, credit union liens on, ch 174, §51

Tax liens filed with county recorders, exception for use of personally identifiable information, ch 123, §1

Warehouses' liens, ch 30, §12, 15, 16

LIEUTENANT GOVERNOR

Appropriations, see APPROPRIATIONS

Elections, see ELECTIONS

Energy independence office, appropriations, ch 206, §5, 39; ch 209, §3, 4

LIFE CYCLE COST ANALYSIS

State building construction and improvements, Code correction, ch 22, §17

LIFE INSURANCE

See INSURANCE

LIFE SCIENCE

See BIOTECHNOLOGY, BIOSCIENCE, AND BIOLOGY

LIFTS

See CONVEYANCES FOR PASSENGERS AND FREIGHT

LIGHT, LIGHTS, AND LIGHTING

Electrical systems, see ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS

LIMITATIONS OF ACTIONS

Credit unions, actions against, ch 174, §73

Mechanics' liens, enforcement of, ch 83, §16, 17

Mental illness, persons with, time limit for filing civil rights complaints and making tort claims, ch 110, \$1, 2, 4-6

Minors, time limit for filing civil rights complaints and making tort claims, ch 110, \$1, 2, 4-6

LIMITATIONS OF ACTIONS — Continued

Municipalities, limitations of actions of wrongful death, loss, or injury claims against, ch 110, §2, 5, 6

Real estate, interests in and claims to, preservation by filing with county recorders, ch 22, \$103; ch 101, \$5 – 7

State of Iowa, limitations of actions of wrongful death, loss, or injury claims against, ch 110, \$2, 5, 6

Tax collection by counties, ch 40

Tort claims against state and municipalities, limitations of actions, ch 110, §2, 4 - 6

LIMITED LIABILITY COMPANIES

Agricultural land lessees, reports by, time of filing, Code correction, ch 126, §3
Film, television, and video project promotion program tax credits and income exclusions, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM
Investment tax credits, see INCOME TAXES, subhead Investment Tax Credits
Real estate brokerage companies, formation of, ch 13, §1, 3 – 6

Taxation, see INCOME TAXES, subhead Business Taxes on Corporations

LINCOLN, ABRAHAM

Bicentennial commission, ch 99; ch 215, §98; ch 217, §11

LINES

Electrical systems, see ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS

LINN COUNTY

Driver's license reinstatements pursuant to installment agreements, ch 196, §1, 2, 5, 17 Drug court program, establishment, appropriations, ch 208, §1

LIONS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

LIQUEFIED GASES

Propane, see PROPANE

Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ${\it ch}\ 60$

LIQUIDS

Petroleum gas, see LIQUEFIED GASES

LIQUOR

See ALCOHOLIC BEVERAGES AND ALCOHOL

LIVERS

Donors and donations of body parts, see ANATOMICAL GIFTS

LIVESTOCK

Assets used for agricultural production, tax credits for transfer of, Code correction, ch 22, \$45

Commodity production contract liens on livestock, Code corrections, ch 22, §100, 101 Correctional facility farm operations, livestock ventures by inmates, ch 213, §4, 6 Diseases

Appropriations, see APPROPRIATIONS, subhead Livestock Diseases

Veterinary emergency preparedness and response services, appropriations, ch 211, §11

Feeders of livestock, feeding operations, and feedlots, see ANIMALS, subhead Feeding Operations and Feedlots

Iowa junior angus show, appropriations, ch 215, §41

Organic agricultural products, see ORGANIC AGRICULTURAL PRODUCTS

LIVESTOCK — Continued

Straying and trespassing animals, duties and responsibilities of governmental authorities and landowners, ${\rm ch}~64$

Veterinary care, see VETERINARY MEDICINE AND VETERINARY MEDICINE PRACTITIONERS

LIZARDS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

LOANS AND LENDERS

See also CREDIT

Building and loan associations, regulatory provisions eliminated, ch 88, §23, 35, 41 – 43, 48 Car title loans, finance charge restrictions, ch 26

College student aid by state, see COLLEGE STUDENT AID COMMISSION

Community development loan program loan repayments by cities, Code correction, ch 22, \$72

Consumer loans, see CONSUMER CREDIT CODE

Credit union loans

General provisions, ch 174, §46

Interest rates, limits, ch 174, §47

Iowa finance authority programs, loans under, ch 54, §42

Disabled persons, assistive technology purchases, loans for, ch 206, §10, 39

Industrial loans and loan companies, see INDUSTRIAL LOANS AND LOAN COMPANIES

Insurance company loans on bottomry or respondentia, repealed, ch 152, §84

Licensing and regulation, Code correction, ch 22, §97

Mortgages, see MORTGAGES

Payday loans and lenders, licensing and regulation, Code correction, ch 22, §94

Real estate appraisal assignments, improper influence upon, violations and penalties, ch 72, §5, 7

Student financial aid by state, see COLLEGE STUDENT AID COMMISSION

Targeted small business financial assistance program account loans, terms of awards and appropriations, ch 207, §6 – 8, 12, 14, 18

Tax on loan agencies, repealed, ch 185, §1, 2, 4 - 6

LOBBYING AND LOBBYISTS

Expenditures reporting by lobbyists, Code correction, ch 22, §15

Propane education and research council funds, prohibition on use for lobbying, ch 182, §7, 15

Report filing with state, Code correction, ch 126, §15

LOCAL GOVERNMENT INNOVATION COMMISSION AND FUND

General provisions, ch 117; ch 215, §54, 240

Appropriations, ch 217, §15

Grants from fund, use of moneys, ch 117, §4, 7

Tim Shields center for governing excellence in Iowa, ch 117, §6, 7; ch 215, §54

LOCAL GOVERNMENTS

See CITIES; COUNTIES; SCHOOLS AND SCHOOL DISTRICTS; TOWNSHIPS

LOCAL OPTION TAXES

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM Collection and distribution costs, appropriations, ch 217, §17

Elections for taxes

Notice of results, ch 186, §24 – 26

Opening time for polling places, ch 59, §11, 19

LOCAL OPTION TAXES — Continued

Hotel and motel taxes, see HOTELS AND MOTELS

School infrastructure taxes, see SCHOOLS AND SCHOOL DISTRICTS, subhead Infrastructure and Infrastructure Taxes

LODGING HOUSES

Hotels and motels, see HOTELS AND MOTELS

LOESS HILLS DEVELOPMENT AND CONSERVATION AUTHORITY

Appropriations for development and conservation fund, ch 211, §26, 30 Membership, ch 211, §43

LONG-TERM LIVING AND CARE

Alzheimer's disease long-term care, task force examination of, ch 121; ch 218, §1 Appropriations, see APPROPRIATIONS

Assisted living programs, see ASSISTED LIVING SERVICES AND PROGRAMS

Direct care worker study recommendations and initiatives, appropriations, ch 218, §97

Resident's advocate program, additional positions, appropriations, ch 218, §1

Senior living services and program, see SENIOR LIVING SERVICES AND PROGRAM

Single point of entry long-term living resources system, ch 92

Workforce in long-term care, review of, ch 218, §99, 110

LOSS OF SERVICES

Children, injury or death of, parent's cause of action and disposition of damages, ch 132

LOST PROPERTY

See UNCLAIMED PROPERTY

LOW-INCOME PERSONS

Appropriations, see APPROPRIATIONS

Attorneys appointed for indigent persons, see subhead Legal Assistance, Representation, and Services for Indigent Persons below

Child care assistance, see CHILDREN, subhead Care of Children and Facilities for Care of Children

Community empowerment programs, see COMMUNITY EMPOWERMENT

Community services programs, appropriations, ch 204, §8, 15 – 17

Credit unions serving low-income persons

Deposits by nonmembers, ch 174, §32

List by credit union superintendent, ch 174, §14

Dental services for indigent elderly, donated services program, appropriations, ch 218, §2

Disabled children's program, ch 204, §3, 15 - 17

Disaster victims, state assistance for needy persons, ch 7; ch 145

Early head start pilot projects, appropriations, ch 214, §6

Energy costs, payment and disconnection prevention assistance, see ENERGY, subhead Assistance for Low-Income Persons and Households

Family investment program, see FAMILY INVESTMENT PROGRAM

Health care for low-income persons, see HEALTH, HEALTH CARE, AND WELLNESS, subhead Low-Income Persons

Housing assistance, see HOUSING, subhead Assistance Programs and Moneys

Indigent defense, see subhead Legal Assistance, Representation, and Services for Indigent Persons below

JOBS program, see PROMISE JOBS PROGRAM

Legal assistance, representation, and services for indigent persons

Appropriations, ch 213, §1, 10; ch 215, §38, 64, 65

Cost claims by contract attorneys, review of, Code correction, ch 22, §7

Costs of indigent defense, responsibility, Code correction, ch 126, §100

LOW-INCOME PERSONS — Continued

Legal assistance, representation, and services for indigent persons — Continued

Court-appointed attorney fees, appropriations and reimbursement rates, ch 213, §10, 25; ch 215, §38

Legal services for persons in poverty grants, appropriations, ch 213, §1; ch 215, §40, 64, 65

Payment restrictions, Code correction, ch 22, §106

Math and science education improvement program for low-income students, ch 122, §8, 10,

Medical assistance, see MEDICAL ASSISTANCE

Medical care for low-income persons, see HEALTH, HEALTH CARE, AND WELLNESS, subhead Low-Income Persons

Nutrition, see NUTRITION

Preschool program for four-year-old children, statewide, prioritization of low-income children for program participation, ch 148, §6

Prescription drug donations for indigent persons, dispensing under state program, ch 159, \$24

PROMISE JOBS program, see PROMISE JOBS PROGRAM

Public assistance for low-income persons, see PUBLIC ASSISTANCE

Rent subsidy program, appropriations and participation limitations, ch 218, §71

Targeted small business grants to low-income persons establishing or expanding businesses, stricken, ch 207, §7, 12, 18

Tax preparation assistance by Iowa-based nonprofit organization grant and appropriations, ch 218, §9

Utility costs, payment and disconnection prevention assistance, see ENERGY, subhead Assistance for Low-Income Persons and Households

Weatherization programs, appropriations, ch 204, §10, 15 – 17

LP GAS

See LIQUEFIED GASES

LUCAS COUNTY

Council of governments, new service area, ch 76

LUNGS

Donors and donations of body parts, see ANATOMICAL GIFTS

LUSTER HEIGHTS CORRECTIONAL FACILITY

See CORRECTIONAL FACILITIES AND INSTITUTIONS

MAGISTRATES

See JUDGES, JUSTICES, MAGISTRATES, AND REFEREES, subhead Judicial Magistrates

MAII

Voting by absentee ballot, see ELECTIONS, subhead Absentee Voting and Absent Voters

MAKEUP

Film, television, and video project makeup expenditures, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

MALE PERSONS

See GENDER; MEN

MALPRACTICE

Professional malpractice, legal proceedings for, expressions of regret or sorrow and response as evidence, Code correction, ch 126, §102

MALWARE

Regulation, Code corrections, ch 126, §108; ch 215, §257

MANAGEMENT DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

Administrative rules, ch 117, §4, 7

Appropriations, see APPROPRIATIONS

Area education agency aid by state under school foundation program, reductions, ch 215, \$9, 10

Area education agency supplementary weighting, annual determination, ch 130, §4 Budget process for FY 2008-2009, estimates of expenditure requirements submitted to director, ch 215, §2

Budget reporting criteria and forms for cities and counties, dissemination of information, ch 186, §3, 4, 28

Community empowerment duties, see COMMUNITY EMPOWERMENT

Director, salary, ch 215, §13, 14

Duties, Code correction, ch 22, §2

Enterprise resource planning, appropriations, ch 217, §15; ch 219, §1, 2

LEAN process, appropriations, ch 217, §15

 ${\it Local government innovation, see LOCAL GOVERNMENT INNOVATION COMMISSION} \\ {\it AND FUND}$

Performance audits and measures development, ch 215, §44, 68; ch 217, §15

Property tax study committee membership and duties, ch 215, §127

Resource centers, state, new employee consultation, ch 218, §24

Salary model administrator

Appropriations, ch 217, §15

Duties, ch 215, §24

Targeted jobs withholding tax credit for urban renewal improvements funding in pilot project cities, city pilot project determination duties stricken, ch 2

Technology reinvestment fund, see TECHNOLOGY

Tim Shields center for governing excellence in Iowa, ch 117, §6, 7; ch 215, §54

Utility replacement tax task force, study extended, ch 150, §2

MANDATES IMPOSED ON POLITICAL SUBDIVISIONS

Building code application and enforcement, ch 97

Educational standards, ch 108

Lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Mental health, mental retardation, developmental disability, and Medicaid uniform cost report development, ch 113

Minimum wage increase, ch 1

Reserve peace officer training standards and certification, ch 47

MANICURING AND MANICURISTS

See COSMETOLOGY AND COSMETOLOGISTS

MANSLAUGHTER

Investigations of homicides and recovery of donated organs, procedures for, ch 44, §5

MANUFACTURED HOMES

Regulation by state building code, Code correction, ch 22, §33

MANUFACTURERS AND MANUFACTURING

See also BUSINESS AND BUSINESSES

Amusement device manufacturers, registration and regulation, ch 173

Cigarette manufacturers, cigarette fire safety standards regulation, ch 166

E-85 gasoline dispensing equipment compatibility requirements, manufacturer's statement stricken, ch 211, §47 – 49

Food establishments, see FOOD, subhead Processing and Production Plants and Establishments

MANUFACTURERS AND MANUFACTURING — Continued

Motor vehicle manufacturers, see MOTOR VEHICLES, subhead Manufacturers of Vehicles Pollution and pollution control, see POLLUTION AND POLLUTION CONTROL Technology center, application for appropriations, ch 212, §23

MANURE AND MANURE DISPOSAL

Animal feeding operations and feedlots, regulatory law enforcement, see ANIMALS, subhead Feeding Operations and Feedlots

MAPS

Cemetery interment spaces, standards for, ch 175, §46

Legislative and congressional redistricting, see REDISTRICTING OF ELECTION DISTRICTS

Plats, distance measurements shown on, ch 143, §5, 6

Transportation maps production, appropriations, ch 216, §2

MARGARINE

Standards for oleomargarine, Code correction, ch 22, §46

MARIJUANA

See also CONTROLLED SUBSTANCES

Regulation of naturally occurring substances and synthetic equivalents, ch 8, §4

MARINES

See MILITARY FORCES AND MILITARY AFFAIRS

MARITAL AND FAMILY THERAPY AND THERAPISTS

See also PROFESSIONS

Licensing and regulation, ch 10, §26 – 67, 73, 149; ch 215, §260

MARKETABLE RECORD TITLE

Interests in and claims to affected land, notice recording and indexing procedures, ch 101, \$7

MARKETS AND MARKETING

Commercial service airports, marketing of, appropriations, ch 219, §40

Cooperative associations and cooperatives, see COOPERATIVE ASSOCIATIONS AND COOPERATIVES

Farmers markets, see FARMERS MARKETS

Food markets, see FOOD, subhead Establishments for Provision of Food

Regional tourism marketing, disbursements of gambling receipt tax allocations for, ch 100

MARKS

Cigarette packaging, fire safety standards markings for, ch 166, §7

MARRIAGE AND SPOUSES

See also FAMILIES

Anatomical gifts, authorization by spouses to make, amend, or revoke gifts, ch 44, §4 Annulments of marriage, see DISSOLUTIONS OF MARRIAGE

Bullying and harassment of school students based on marital status prohibition and prevention, ch 9

Conveyances of homesteads, format of instruments for spouses, ch 68

Dissolutions of marriage, see DISSOLUTIONS OF MARRIAGE

Divorces, see DISSOLUTIONS OF MARRIAGE

Encumbrances of homesteads, format of instruments for spouses, ch 68

Gender restrictions, ch 191, §16

Homesteads, conveyance or encumbrance by spouse, format of instruments, ch 68

MARRIAGE AND SPOUSES — Continued

Medical assistance recovery from estates of decedents, inclusion of spouse's name in notice, ch 134, §11, 13

Military forces members and veterans, surviving spouses of

Motor vehicle special registration plates for and use by spouses, ch 178, \$2, 3; ch 184, \$4, 5, 7; ch 215, \$106, 107, 130

Vietnam veterans bonus payment to surviving spouses, ch 176, §1

Power of attorney for homestead conveyances or encumbrances, format of, ch 68

Same sex marriages prohibited, ch 191, §16

Separate maintenance, see SEPARATE MAINTENANCE

Support of persons, see SUPPORT OF PERSONS

Surviving spouses

Military forces members and veterans, surviving spouses of, see subhead Military Forces Members and Veterans, Surviving Spouses of, above

Probate law. see PROBATE CODE

Therapists for counseling, see MARITAL AND FAMILY THERAPY AND THERAPISTS

Trust settlors, spouses of, see TRUSTS AND TRUSTEES, subhead Spouses of Settlors

Veterans, surviving spouses of, see subhead Military Forces Members and Veterans, Surviving Spouses of, above

Widows and widowers

Military forces members and veterans, surviving spouses of, see subhead Military Forces Members and Veterans, Surviving Spouses of, above

Probate law, see PROBATE CODE, subhead Surviving Spouses

MARSHALL COUNTY

Juvenile drug court programs, appropriations, ch 218, §18, 57, 67

MARSHALLTOWN

Iowa valley community college emergency response training center infrastructure improvements, ch 219, §1, 2, 33

MARSHES

See WATER AND WATERCOURSES, subhead Wetlands

MASSAGE THERAPY AND THERAPISTS

See also PROFESSIONS

Licensing and regulation, ch 10, §26 – 67, 73, 130; ch 215, §260

MATERNITY AND MATERNAL PARENTS

See MOTHERS

MATHEMATICS

Before and after school grant program, approved instructional programs, ch 208, §5; ch 214, §6, 19; ch 215, §34

Core content standards and courses for all students, ch 214, §17, 37

Education in math, improvement program for low-income, female, and minority students, ch 122, §8, 10, 11

MAYORS

See CITIES

MEASUREMENT AND DEVICES FOR MEASUREMENT

See WEIGHT AND MEASUREMENT

MEAT

Animals for meat, see LIVESTOCK

Farm-to-school program, ch 211, §26, 30; ch 215, §93 – 96

MECHANICAL SYSTEMS AND PROFESSIONALS

HVAC systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING)

Hydronic systems, see HYDRONIC SYSTEMS

Licensing and regulation and examining board for licensing and regulation

See also PROFESSIONS

General provisions, ch 198, $\S1 - 30$, 35

Administrative rules, ch 198, §4, 35

Advertising, ch 198, §25, 35

Authority and duties of board, ch 198, §31 – 35

Continuing education, ch 198, §20, 35

Examinations, ch 198, $\S5 - 8$, 35

Fees, ch 198, §9, 35

Insurance and surety bonds, ch 198, §19, 35

Violations and penalties for violations, ch 198, §27, 29, 35

Refrigeration systems, see REFRIGERATION AND REFRIGERATION EQUIPMENT

MECHANICS' LIENS

See LIENS

MEDALS FOR MILITARY SERVICE

Recipients of medals, motor vehicle special registration plates for, see MOTOR VEHICLES, subhead Military Forces Members and Veterans, Special Registration Plates for

MEDIATION AND MEDIATORS

Child welfare services diversion and mediation pilot project, appropriations, ch 218, \$18 Federal child access and visitation grant moneys, use for mediation services, ch 218, \$10

MEDICAID

See MEDICAL ASSISTANCE

MEDICAL AND CLASSIFICATION CENTER AT OAKDALE

See CORRECTIONAL FACILITIES AND INSTITUTIONS

MEDICAL ASSISTANCE

Abortion services, performance restrictions on and payment for, ch 218, §11

Alzheimer's disease home and community-based resources, task force examination of, ch 121; ch 218, §1

Appropriations, ch 206, §12, 39; ch 208, §1; ch 218, §11, 18, 33, 54, 63, 67, 68, 70, 72 – 76, 98, 126

Assuring better child health and development initiative II (ABCDII) clinical panel recommendations, intent to implement, ch 218, §11

Breast cancer treatment, eligibility and appropriations, ch 208, §1

Cervical cancer treatment, eligibility and appropriations, ch 208, §1

Children for enrollment, identification and increase

Appropriations, ch 218, §98

School breakfast and lunch program applicants, ch 218, §105

Children's services, cost reimbursement from child and family services appropriations, ch 218, §18

Chronic care consortium, appropriations, ch 208, §1

Clinical assessment services, appropriations, ch 218, §11

Dental home for children, ch 218, §74

Developmental disability services under medical assistance

Reimbursement of providers, ch 218, §120, 123

Standards, ch 218, §118, 123

MEDICAL ASSISTANCE — Continued

Elderly waiver

Frail elderly case management services and reimbursement of services provided, requirements and appropriations, ch 218, §1

Reimbursement of case management services under, appropriations, ch 218, §68

Eligibility for assistance, ch 218, §41 – 43, 124, 126

Estates of decedents, recovery of assistance from, notice requirements, ch 134, §11, 13, 14, 25, 27, 28

Expansion services and population under IowaCare Act

Appropriations, ch 206, §12, 39; ch 218, §63, 67, 73 – 75

Expansion of provider network, ch 218, §107

Premium payment, ch 218, §104, 112

Habilitation services, appropriations, ch 218, §98

Home and community-based services and services waivers

Children's mental health home and community-based services waiver, waiting list reduction, appropriations, ch 218, \$11, 61, 67, 98

Increased monitoring of home and community-based services waivers, appropriations, ${\rm ch}\ 218,\ \$13$

Maximum payment levels, report, ch 218, §11, 36

Nursing facility construction, renovation, or replacement, regulation exceptions for provision of services, ch 219, §39, 41, 43

Payment for services from medical assistance income trusts, ch 136; ch 218, §98

Recipients of services under waivers, residences of, zoning status, ch 218, §130 – 132

Reimbursements, see subhead Reimbursements for Providers of Services below

Rent subsidy program of finance authority, appropriations and participation limitations, ch 218, \$71

Ineligible persons with special health care needs, options, ch 218, §11

Integrated substance abuse managed care system, appropriations and requirements, ch 218, \$11

IowaCare, see subhead Expansion Services and Population under IowaCare Act above Mental illness services under medical assistance

Payments by counties and by state, ch 218, §119, 122, 123

Reimbursement of providers, ch 218, §31, 120, 123

Standards, ch 218, §118, 123

Mental retardation services under medical assistance

Payment for services, Code correction, ch 22, §56

Reimbursement of providers, ch 218, §120, 123

Money follows the person demonstration project, appropriations, ch 218, §98

Nursing facility construction, renovation, or replacement, requests for regulation instant relief and nondirect care limit exceptions, ch 219, \\$1, 2, 35 - 39, 41, 43

Outreach efforts enhancement, appropriations, ch 218, §11

Payment error rate measurement (PERM) program compliance, state match cost, appropriations, ch 218, §11

Prisoners with mental illness, demonstration to maintain independence and employment (DMIE), appropriations, ch 218, §11

Providers of services

Reimbursements, see subhead Reimbursements for Providers of Services below Uniform cost report development for reimbursed providers, ch 113

Reimbursements for providers of services

Appropriations, ch 208, §1

Rates, ch 218, §31

Reimbursement costs, appropriations, ch 218, §11, 33, 54, 67

Uniform cost report development for providers, ch 113

Smoking cessation benefit, report, ch 218, §11, 36

MEDICAL ASSISTANCE — Continued

Trusts for assets of recipients of assistance, expenditure for services to beneficiaries of trusts, ch 136; ch 218, §98

Youths with special needs, ineligibility due to age, options, ch 218, §11

MEDICAL CARE

See HEALTH, HEALTH CARE, AND WELLNESS

MEDICAL DOCTORS

See PHYSICIANS AND SURGEONS

MEDICAL EXAMINERS, STATE AND COUNTY

Anatomical gift law duties

General provisions, ch 44, §5, 9

Public awareness advisory committee membership, state medical examiner representation, ch 44, §22

Appropriations, ch 218, §2

Cause of death certification by county medical examiners for death records, ch 159, §26 Organ donation, duties relating to, see subhead Anatomical Gift Law Duties above

MEDICARE

Medical assistance reimbursement rates for health care providers, ch 218, §31 Medicare Prescription Drug, Improvement, and Modernization Act, implementation and operational costs, appropriations, ch 218, §11

MEDICATIONS AND MEDICINES

See DRUGS AND DRUG CONTROL

MEDICINE

See DRUGS AND DRUG CONTROL; HEALTH, HEALTH CARE, AND WELLNESS; PHYSICIANS AND SURGEONS

MEETINGS

Electronic meetings, Code correction, ch 22, §11

Joint government entity boards, publication of meeting summaries, ch 158, §1, 4

Open meetings law, ch 22, §11; ch 63

Propane education and research council, ch 182, §3, 15

Security procedures and emergency preparedness information, meetings related to, closed sessions and confidentiality, ch 63

Township board of trustees meetings, public notice of, ch 139

MEMORIALS AND MEMORIAL BUILDINGS

American veterans disabled for life memorial, funding contribution appropriation, ch 219, $\S1,2$

Cemetery memorials, see CEMETERIES

Commissions, membership and quorum, ch 21

MEN

Fathers, see FATHERS

Gender identity, see GENDER

Paternity and establishment of paternity, see PATERNITY AND PATERNAL PARENTS

MENTAL COMPETENCY

See COMPETENCY

MENTAL HEALTH AND DISABILITIES

See also COMPETENCY; INSANE PERSONS AND INSANITY

Alzheimer's disease, see ALZHEIMER'S DISEASE

Appropriations, see APPROPRIATIONS, subhead Mental Health, Mental Retardation, Developmental Disability, and Brain Injury Services

MENTAL HEALTH AND DISABILITIES — Continued

Bullying and harassment of school students based on mental abilities or disabilities, prohibition and prevention, ch 9

Children's mental health home and community-based services waiver, waiting list reduction, appropriations, ch 218, \$11, 61, 67

Civil rights complaints by persons with mental illness, limitations of actions for filing, ch 110, §1, 2, 6

Commission on mental health services, state, see HUMAN SERVICES DEPARTMENT, subhead Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission

Community mental health centers, see subhead Mental Health Centers below

Community mental health services, federal and nonstate moneys and allocations, ch 204, \$2.15-17

Correctional facility inmate treatment programs for mental health issues, evidence-based practices research study, appropriations, ch 219, §1, 2

Counseling and counselors, see subhead Mental Health Counseling and Counselors below Criminal offenders

Mental health treatment at correctional facilities, appropriations, ch 213, §4, 6

Mental illness, utilization of Clarinda correctional facility for, ch 105

Division for mental health and disability services in state human services department, see HUMAN SERVICES DEPARTMENT, subhead Mental Health and Disability Services Division

Federal substance abuse and mental health services administration (SAMHSA) system of care grant, state match funding, ch 218, §20

Homeless persons who are mentally ill, outreach and housing services for, requirements, ${\rm ch}\ 204, \$13$

Hospitalized persons, advocates for, see subhead Patient Advocates for Hospitalized Persons below

Incompetency, see COMPETENCY

Intermediate care facilities for mental illness, see HEALTH CARE FACILITIES

Limitations of actions for filing civil rights complaints and making tort claims by persons with mental illness, ch 110, \$1, 2, 4-6

Medical assistance services for persons with mental illness, see MEDICAL ASSISTANCE Mental health centers

Appropriations, ch 204, §2, 15 - 17

Community block grant funds, appropriations, ch 218, §25

Improvement of services system, ch 218, §29, 93

Medical assistance reimbursement rates for community mental health centers, ch 218, §31

Mental health counseling and counselors

Licensing and regulation, ch 10, §26 – 67, 73, 149; ch 215, §260

Veterans counseling program, services for veterans, ch 202, \\$1, 16; ch 218, \\$4

Victims of crimes, compensation for counseling services, ch 27, §8, 9

Mental health institutes

See also HUMAN SERVICES INSTITUTIONS

Appropriations, ch 218, §2, 23, 27, 73; ch 219, §1 – 3

Cherokee civil commitment unit capital improvements, appropriations, ch 219, §1 – 3

Medical assistance payments to institutes and patients, debt recovery from estates of decedents, ch $134, \S11, 13, 14$

Medical assistance reimbursement rates for acute mental hospitals, ch 218, §31

Sexually violent predators, see SEX CRIMES AND OFFENDERS, subhead Sexual Predators and Violence

Patient advocates for hospitalized persons

Appointments of advocates, ch 86, §3

MENTAL HEALTH AND DISABILITIES — Continued

Patient advocates for hospitalized persons — Continued

Duties of advocates, Code corrections, ch 22, §53, 54

Study of advocates, ch 218, §85

Prisoners with mental illness, demonstration to maintain independence and employment (DMIE), appropriations, ch 218, §11

Professional providers of mental health services

Competencies development, ch 218, §111

Shortages of professionals, stipends and placements of interns, ch 218, §97, 102

Psychiatric facilities and institutions, see PSYCHIATRIC FACILITIES AND INSTITUTIONS

Psychiatry and psychiatrists, see PSYCHIATRY AND PSYCHIATRISTS

Psychology and psychologists, see PSYCHOLOGY AND PSYCHOLOGISTS

Residential care facilities, see HEALTH CARE FACILITIES

Services to persons with mental illness

Allowed growth in services, ch 206, §25, 39; ch 215, §1; ch 218, §77 – 86

Appropriations, see APPROPRIATIONS, subhead Mental Health, Mental Retardation, Developmental Disability, and Brain Injury Services

Assessment process development, appropriations, ch 218, §26

Children's mental health home and community-based services waiver, waiting list reduction, appropriations, ch 218, §11, 61, 67

Commission, state, see HUMAN SERVICES DEPARTMENT, subhead Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission

Community-based services, appropriations and allocations, ch 218, §26

County management plan, ch 218, §26

Decategorization project for funding of services, ch 218, §86, 121, 123

Funds, state allocations, ch 218, §26

Improvement of services system, ch 218, §29, 93

Information technology for data reporting by counties, proposal for addressing needs, ch 218, §90, 92

Intensive family preservation services stricken from programs provided, ch 172, §8

Local services, purchases by state, appropriations and allocations, ch 218, \$26

Medical assistance, see MEDICAL ASSISTANCE

Money allocations to counties, ch 218, §77 – 79, 82 – 84

Money transfers by counties to fund services, authorization and reporting, ch 218, §96

Patient advocates for hospitalized persons, see subhead Patient Advocates for Hospitalized Persons above

Payments to counties by state, eligibility of counties, ch 49

Professional providers, see subhead Professional Providers of Mental Health Services above

Property tax relief and relief fund, see PROPERTY TAXES, subhead Relief and Relief

Reimbursement rate increase for purchase of service providers to counties and appropriations, ch 208, §2

Reimbursements and providers that are reimbursed, uniform cost report development for, ch 113

State case services, appropriations and federal funds allocation, ch 218, §25, 60, 67

Vocational rehabilitation, see VOCATIONAL REHABILITATION

Waiting list for services, implementation by counties, ch 218, §80, 81

Workforce expansion and improvement initiatives, appropriations, ch 218, §2

Social services block grant funding, allocation to counties, ch 218, §26

Social work and workers, see SOCIAL WORK AND WORKERS

Tort claims by persons with mental illness, limitations of actions for making, ch 110, \$1, 2,

MENTAL HEALTH AND DISABILITIES — Continued

Training in accordance with Conner v. Branstad consent decree, appropriations, ch 218, \$22

Transformation pilot program, appropriations, ch 218, §74

Treatment, see subhead Services to Persons with Mental Illness above

Voting privilege denied to mentally incompetent persons, proposed constitutional amendment, ch 223

Workforce expansion and improvement initiatives for mental health treatment and services, requirements and appropriations, ch 218, §2

MENTAL HEALTH AND DISABILITY SERVICES DIVISION

See HUMAN SERVICES DEPARTMENT

MENTAL ILLNESS

See MENTAL HEALTH AND DISABILITIES

MENTAL INCAPACITY AND INCOMPETENCY

See COMPETENCY

MENTAL RETARDATION

See also DEVELOPMENTAL DISABILITIES

Appropriations, see APPROPRIATIONS, subhead Mental Health, Mental Retardation, Developmental Disability, and Brain Injury Services

Commission on mental retardation services, state, see HUMAN SERVICES DEPARTMENT, subhead Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission

Intermediate care facilities for mental retardation, see HEALTH CARE FACILITIES Medical assistance services for persons with mental retardation, see MEDICAL ASSISTANCE

Resource centers, state, see RESOURCE CENTERS, STATE

Services to persons with mental retardation

Allowed growth in services, ch 206, §25, 39; ch 215, §1; ch 218, §77 – 86

Appropriations, see APPROPRIATIONS, subhead Mental Health, Mental Retardation, Developmental Disability, and Brain Injury Services

Assessment process development, appropriations, ch 218, §26

Commission, state, see HUMAN SERVICES DEPARTMENT, subhead Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission County management plan, ch 218, §26

Decategorization project for funding of services, ch 218, §86, 121, 123

Funds, state allocations, ch 218, §26

Improvement of services system, ch 218, §29, 93

Information technology for data reporting by counties, proposal for addressing needs, ch 218, §90, 92

Intensive family preservation services stricken from programs provided, ch 172, §8 Local services, purchases by state, appropriations and allocations, ch 218, §26

Medical assistance, see MEDICAL ASSISTANCE

Money allocations to counties, ch 218, §77 – 79, 82 – 84

Money transfers by counties to fund services, authorization and reporting, ch 218, §96 Payments to counties by state, eligibility of counties, ch 49

Property tax relief and relief fund, see PROPERTY TAXES, subhead Relief and Relief Fund

Reimbursement rate increase for purchase of service providers to counties and appropriations, ch 208, §2

Reimbursements and providers that are reimbursed, uniform cost report development for, ch 113

MENTAL RETARDATION — Continued

Services to persons with mental retardation — Continued

State case services, appropriations and federal funds allocation, ch 218, §25, 60, 67

Vocational rehabilitation, see VOCATIONAL REHABILITATION

Waiting list for services, implementation by counties, ch 218, §80, 81

Social services block grant funding, allocation to counties, ch 218, §26

Training in accordance with Conner v. Branstad consent decree, appropriations, ch 218, \$22

Voting privilege denied to mentally incompetent persons, proposed constitutional amendment, ch 223

MENTORING PROGRAMS

Children's programming utilizing mentoring, appropriations, ch 208, §1

Promise and mentoring economic development program, appropriations, ch 208, §4

MERCHANDISE

Prizes of merchandise for games of skill and chance and card games, award limitations, ${
m ch}\ 119, \S 3$

MERCHANT MARINE

Service bonus compensation, ch 202, §6

Voting by absent persons, ch 59, §31 – 36, 38, 42, 43; ch 215, §243

MERCHANTS AND MERCANTILE ESTABLISHMENTS

See SALES

MERCURY

See also METALS

Motor vehicle switches with added mercury, removal, Code correction, ch 126, \$78

MERGED AREA SCHOOLS

See COMMUNITY COLLEGES AND MERGED AREAS

MERGERS

Banks, mergers of in-state banks with out-of-state banks, ch 88, §17

Cooperative associations, Code correction, ch 126, §86

Corporations, ch 140, §1, 2, 9

Credit unions, ch 174, §62, 67

Insurance companies, Code corrections, ch 22, §91, 92

Savings and loan associations, ch 88, §39, 40

School districts, see SCHOOLS AND SCHOOL DISTRICTS, subhead Reorganization of School Districts

MERIT SYSTEM FOR STATE EMPLOYEES

Exempt employees, salary increases, ch 215, §16

Finance authority title guaranty division director, exemption, ch 54, §11, 12

Grievance procedure for merit system employees, bypass, Code correction, ch 22, §3

METALS

See also LEAD; MERCURY

Casting institute, appropriations, ch 212, §14; ch 215, §73

Household batteries, heavy metal content and recycling requirements, violations and penalties for violations, ch 151, \$1, 9-11

Packaging components, heavy metal restrictions, violations and penalties for violations, ch 151, \$5 - 11

METEOROLOGY

See WEATHER

METHANE

Greenhouse gases, see GREENHOUSE GASES Natural gas, see NATURAL GAS

MEXICAN-AMERICAN PERSONS

See LATINO PERSONS

MICROFILM AND MICROFICHE

Real estate court cases, use for permanent records, ch 71, §4

MIDWESTERN HIGHER EDUCATION COMPACT

Membership fees, appropriations, ch 214, §9

MIDWEST INTERSTATE PASSENGER RAIL COMPACT

General provisions, ch 94

MILEAGE

Jurors, reimbursement of expenses, ch 210, §4

Transportation provided to election candidates, value computation method, ch 14, §1

MILITARY DIVISION

See PUBLIC DEFENSE DEPARTMENT

MILITARY FORCES AND MILITARY AFFAIRS

See also NATIONAL GUARD; VETERANS AND VETERANS AFFAIRS

Adjutant general, see PUBLIC DEFENSE DEPARTMENT, subhead Adjutant General Appropriations, see APPROPRIATIONS

Children of military forces members, motor vehicle special registration plates for, ch 178 Courts-martial, jurisdiction of, Code correction, ch 22, \$13

Division of military forces in state public defense department, see PUBLIC DEFENSE DEPARTMENT, subhead Military Division

Enduring families program, appropriations, ch 215, §70

Home ownership assistance program, ch 87; ch 203; ch 215, \$70, 241; ch 218, \$5, 66, 67 Injured in combat zones, grant program for, ch 22, \$112, 116; ch 142; ch 203; ch 215, \$258; ch 218, \$66, 67

Insurance, sales of life insurance to military personnel, ch 137, §7

Leases of motor vehicles by state military forces members, termination by members, Code correction, ch 22, §12

Leaves of absence for service by public employees, Code correction, ch 126, §12

Medal recipients, motor vehicle special registration plates for, see MOTOR

VEHICLES, subhead Military Forces Members and Veterans, Special Registration Plates for

Memorial building and monument commissions, membership and quorum, ch 21 Motor vehicles of military forces members, special registration plates for, see MOTOR VEHICLES, subhead Military Forces Members and Veterans, Special Registration Plates for

Parents of military forces members, motor vehicle special registration plates for, ch 178 Reserves of United States armed forces, employers with policies supporting employees serving in armed forces, state purchasing and contract preferences, ch 115, §6, 18

Separation or discharge records filed with county recorders, prohibition against internet accessibility, ch 123, §1

Siblings of military forces members, motor vehicle special registration plates for, ch 178 Spouses of military forces members, motor vehicle special registration plates for and use by, ch 178; ch 184, §4, 5, 7; ch 215, §106, 107, 130

Survivors of military forces members, motor vehicle special registration plates for and use by, ch 178; ch 184, §4, 5, 7

MILITARY FORCES AND MILITARY AFFAIRS — Continued

Tax exemptions and credits, see TAXATION, subhead Military Service Persons and Veterans of Military Service

Voting by absent persons, ch 59, §31 – 36, 38, 42, 43; ch 215, §237 – 239, 243

MILK

Children's hospital of Iowa mother's milk bank, appropriations, ch 218, §2 Dairy products, see DAIRYING AND DAIRY PRODUCTS

MINERALS

Coal, see COAL

Natural gas, see NATURAL GAS

Petroleum, see PETROLEUM AND PETROLEUM PRODUCTS

Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ch 60

MINIMUM WAGE

General provisions, ch 1

MINORITY PERSONS

Appropriations, see APPROPRIATIONS

Bullying and harassment of school students based on race, prohibition and prevention, ch 9 Civil rights, see CIVIL RIGHTS

Human rights department, see HUMAN RIGHTS DEPARTMENT

Math and science education improvement program for minority students, ch 122, §8, 10, 11

Muslim imam services at correctional facilities, appropriations, ch 213, §3, 6

Substance abuse treatment, provision of culturally competent treatment, ch 218, $\S 97$

Targeted small businesses, see SMALL BUSINESS, subhead Targeted Small Businesses Youth and family projects under child welfare redesign, appropriations, ch 218, §20

MINORS

See also CHILDREN

All-terrain vehicle operation by minors, ch 141, §40

Anatomical gifts by minors, ch 44, §3

Civil rights complaints by minors, limitations of actions for filing, ch 110, §1, 2, 6

Credit union members, rights of, ch 174, §40

Motorcycle operation by minors, ch 141, §40

Organ donations by minors, ch 44, §3

Safe deposit boxes and contents of boxes in credit unions, ch 174, §48

Tort claims by minors, limitations of actions for making, ch 110, §1, 2, 6

MISAPPROPRIATION OF FUNDS

Cemetery and funeral merchandise and funeral services sales licensees convicted of, ch 175, §19

MISDEMEANORS AND MISDEMEANANTS

See CRIMES AND CRIMINAL OFFENDERS

MISSING PERSONS

Runaway children, county treatment plan grant renewal, appropriations, ch 218, \$20

MISSISSIPPI RIVER

Parkway commission, participation by state transportation department, appropriations, ch 216, §1

MITCHELLVILLE

Correctional facility, see CORRECTIONAL FACILITIES AND INSTITUTIONS

MOBILE HOMES

Regulation by state building code, Code correction, ch 22, §33

MODULAR HOMES

Regulation by state building code, Code correction, ch 22, §33

MONEY

See also CHECKS

Asset-building strategies for Iowans, development of, ch 218, §9

Bank deposits and collections, see UNIFORM COMMERCIAL CODE, subhead Bank Deposits and Collections

Campaign funds, see CAMPAIGN FINANCE

Embezzlement, real estate broker and salesperson licensees and licensure applicants convicted of, ch 187

Loans, see LOANS AND LENDERS

Prizes, see PRIZES

Public funds, see PUBLIC FUNDS

Salaries and wages, see SALARIES AND WAGES

School curriculum, financial literacy requirements, ch 214, §6, 7, 16

Transfers and transmissions of money

See also UNIFORM COMMERCIAL CODE, subhead Funds Transfers

Selling and receipt of transfer instruments by credit unions, ch 118, §1, 3

Uniform money services Act, ch 188, §20

MONEY ORDERS

See also NEGOTIABLE INSTRUMENTS

Credit union authority to sell and cash money orders, ch 118, §1, 3

MONEYS AND CREDITS TAXES

Credit union taxes

General provisions, ch 174, §60, 82 – 90, 92

Film, television, and video project promotion program tax credits and income exclusions, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Investment tax credits, see INCOME TAXES, subhead Investment Tax Credits

Wage-benefits tax credits, Code correction, ch 22, §9

Loan agencies tax, repealed, ch 185, §1, 2, 4 - 6

MONKEYS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

MONOPOLIES

Enforcement of Iowa competition and fair trade laws and antitrust fund establishment, ch 213, §23

MONROE COUNTY

Council of governments, new service area, ch 76

MONUMENTS

Cemetery monuments, see CEMETERIES

Commissions, membership and quorum, ch 21

Worker's monument construction on capitol complex, appropriations, ch 219, §1, 2

MORTGAGES

Appraisals and appraisers, see REAL ESTATE, subhead Appraisals and Appraisers Bankers and brokers

Escrow analyses for serviced mortgages, ch 174, §94

Licensing and regulation, ch 22, §95, 96; ch 170, §5

Real estate appraisal assignment violations and penalties, ch 72, §5, 7

MORTGAGES — Continued

Escrow accounts, see ESCROWS AND ESCROW ACCOUNTS

Finance authority programs, see FINANCE AUTHORITY

Foreclosures of mortgages, see FORECLOSURES

Loans and lenders

Credit unions, ch 174, §46

Real estate appraisal assignment violations and penalties, ch 72, §5, 7

Mechanics' liens on mortgaged property, priority and superiority determination, ch 83, \$12-14

Residential mortgages

Interest reduction program, repealed, ch 54, §9, 21, 45

Marketing program, ch 54, §9, 26, 45

Reverse annuity mortgage program, ch 54, §25

Satisfactions and releases

Certificates of release issued by Iowa finance authority, ch 52

Failure to file satisfactions, remedies by aggrieved parties, ch 85

Savings and loan associations, insured mortgages, ch 88, §19

MORTUARY SCIENCE AND MORTICIANS

See FUNERALS, subhead Directing and Directors of Funerals

MOTELS

See HOTELS AND MOTELS

MOTHERS

See also PARENTS

Births of children, see BIRTHS

Children's hospital of Iowa mother's milk bank, appropriations, ch 218, §2

Health care for mothers, see HEALTH, HEALTH CARE, AND WELLNESS, subhead

Obstetrical care, perinatal care program, ch 159, §17; ch 204, §3, 15 – 17

Perinatal care program, ch 159, §17; ch 204, §3, 15 - 17

Pregnancy, see PREGNANCY

MOTION PICTURES

See FILMS

MOTORBOATS

See BOATS AND VESSELS

MOTOR CARRIERS

See also CARRIERS; MOTOR VEHICLES, subhead Commercial Vehicles and Drivers Registration, insurance, and bonding, transition from single state system to unified system, ch 143, §27, 28, 31, 34, 35

MOTORCYCLES

Off-road motorcycles, registration, titling, and operation, ch 141, §26, 40

MOTOR HOMES

See MOTOR VEHICLES

MOTOR VEHICLES

See also HIGHWAYS

Agricultural implements, see AGRICULTURE AND AGRICULTURAL PRODUCTS, subhead Implements, Equipment, and Machinery used in Agricultural Production All-terrain vehicles, see ALL-TERRAIN VEHICLES

Ambulances, see AMBULANCES AND AMBULANCE SERVICES

Antique vehicles

Registration fees and requirements, ch 143, §11, 12, 35

Sales, ch 143, §12, 35

Armed forces service members and veterans, special registration plates for, see subhead Military Forces Members and Veterans, Special Registration Plates for, below

Auction companies, exemption from used motor vehicle dealer education requirements, ch 51, §3

Blind department vehicles and fuel used by vehicles of department, Code correction, ch 22, \$52

Builders of vehicles

See also subhead Manufacturers of Vehicles below

Emergency vehicle builders licensed as wholesalers, authority to be licensed as used motor vehicle dealers, ch 102, §2

Carriers, see subhead Commercial Vehicles and Drivers below

Certificates of title, see subhead Titles, Titleholders, and Certificates of Title below

Commercial vehicles and drivers

See also MOTOR CARRIERS

Fuel taxes and licenses related to fuel taxes, ch 143, §29, 30

License holders operating noncommercial vehicles, penalties for operating while intoxicated violations, ch 69

Registration of vehicles, reciprocal and proportional, ch 143, §13, 24 – 26, 30

Community college vehicles, fuels used by, Code correction, ch 22, §61

Corrections department vehicles and fuel used by vehicles of department, Code correction, ch 22, \$107

Dealers of vehicles

See also subhead Sales, Sellers, and Purchasers of Vehicles below

Continuing education requirements and exemptions for used vehicle dealers, ch 51

Emergency vehicle builders licensed as wholesalers, licensing as used motor vehicle dealers, ch 102, §2

Licenses, ch 51; ch 143, §22, 23

Salvage certificates of title from another state, assignment or reassignment, ch 143, \$10

Disabled persons, vehicle modifications, loans for, ch 206, §10, 39

Drivers of motor vehicles

Commercial drivers, see subhead Commercial Vehicles and Drivers above

Drunk drivers, see subhead Intoxicated Drivers (Operating while Intoxicated) below

Education classes, availability for students participating in open enrollment, ch 214, §40

Fire fighting, vehicles used for, see FIRES AND FIRE PROTECTION, subhead Vehicles Used by Fire Fighters and Operation of Vehicles by Fire Fighters

Intoxicated drivers, see subhead Intoxicated Drivers (Operating while Intoxicated) below

Licenses and permits, see subhead Licenses and Permits for Drivers below

Nonresidents with operating privileges revoked for OWI, applications for temporary restricted licenses, ch 143, \$21

Operating record certified abstracts, fees for furnishing, use for developing electronic access to government records, ch 217, §3

Registration of vehicles, see subhead Registration and Registration Plates below Violations and violation penalties, see subhead Violations and Violators below

Drunk drivers, see subhead Intoxicated Drivers (Operating while Intoxicated) below

Emergency vehicles, see AMBULANCES AND AMBULANCE SERVICES; FIRES AND FIRE PROTECTION, subhead Vehicles Used by Fire Fighters and Operation of Vehicles by Fire Fighters; RESCUE SERVICES AND PERSONNEL

Farm implements, see AGRICULTURE AND AGRICULTURAL PRODUCTS, subhead Implements, Equipment, and Machinery used in Agricultural

Production

Financial liability and responsibility

Cards for coverage, contents of cards and maintenance in vehicles, ch 215, §105 Self-insurance by qualified associations, ch 215, §108

Fire fighting, vehicles used for, see FIRES AND FIRE PROTECTION, subhead Vehicles Used by Fire Fighters and Operation of Vehicles by Fire Fighters

Fleets, see subhead Commercial Vehicles and Drivers above

Fuels, see FUELS

Implements of husbandry, see AGRICULTURE AND AGRICULTURAL PRODUCTS
Installment agreements for repayment of delinquent court costs and penalties, ch 196, §1,

Insurance

Financial liability and responsibility, see subhead Financial Liability and Responsibility above

Motor carrier insurance, transition from single state registration system to unified system, ch 143, §27, 28, 34, 35

Intoxicated drivers (operating while intoxicated)

Commercial driver's license holders committing OWI offenses, penalties, ch 69

Driver's license revocations for OWI offenses, probation period, ch 196, §4

Drivers with revoked licenses and privileges, applications for temporary restricted licenses, ch 143, §21

Offender confinement in county facilities, appropriations for reimbursements, ch 206, \$13, 39; ch 213, \$3, 6

Law enforcement academy, selection of automobiles from and exchange with state patrol division, ch 213, §11

Leases, leasing, and leased vehicles

Termination of leases by state military forces members, Code correction, ch 22, §12 Use tax on vehicles, amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Length of vehicles, see subhead Size, Weight, and Load below

License plates, see subhead Registration and Registration Plates below

Licenses and permits for drivers

Anatomical gift donor authorization on driver's license, ch 44, §3

Commercial driver's license holders, disqualification for operating while intoxicated offenses while operating noncommercial vehicles, ch 69

Issuance costs to counties, appropriations, ch 216, §1

Nonresidents with revoked operating privileges, applications for temporary restricted licenses, ch 143, §21

Organ donor authorization on driver's license, ch 44, §3

Production costs, appropriations, ch 216, §1

Revocations and suspensions, ch 143, §7, 14, 21; ch 196, §1, 2, 4, 5, 17

Temporary restricted licenses, see subhead Temporary Restricted Licenses below

Violations and violation penalties, see subhead Violations and Violators below

Loads, see subhead Size, Weight, and Load below

Manufacturers of vehicles

See also subhead Builders of Vehicles above

Ambulance, rescue vehicle, and fire vehicle manufacturers, special plates for transporting, demonstrating, showing, or exhibiting, ch 102, §1

Motor home manufacturers, sales at club camping rallies, requirements, restrictions, and future repeal, ch 131, §3, 4, 6

Mercury reduction and removal from vehicles, Code correction, ch 126, §78

Mileage expense reimbursement, see MILEAGE

Military forces members and veterans, special registration plates for

General provisions, ch 215, §107, 130

Air force cross special plates, ch 184, §1, 5, 7

Airman's medal special plates, ch 184, §1, 5, 7

Bronze star special plates, ch 184, §1, 4, 7

Distinguished service cross special plates, ch 184, §1, 5, 7

Fees for plates, disposition, ch 178; ch 184, §1, 4, 5, 7

Gold star special plates for survivors, ch 178

Legion of merit special plates, ch 143, §9

Marine corps medal special plates, ch 184, §1, 5, 7

Medal of honor special plates, ch 184, §2, 4, 6, 7; ch 215, §106, 130

National guard special plates, ch 184, §1, 4, 7

Navy cross and navy medal special plates, ch 184, §1, 5, 7

Pearl Harbor special plates, ch 184, §1, 4, 7

Purple heart special plates, ch 184, §1, 4, 7

Retired armed forces member special plates, ch 184, §1, 4, 7

Silver star special plates, ch 184, §1, 4, 7

Soldier's medal special plates, ch 184, §1, 5, 7

Motorcycles, see MOTORCYCLES

Motor homes

Definition, ch 131, §2

Registration and titling, exception for homes purchased by nonresidents at manufacturer-sponsored rallies, ch 131, §1, 3

Sales at manufacturer-sponsored club camping rallies, ch 131, §1 – 4, 6

Nonresident operating privileges revoked for operating while intoxicated, applications for temporary restricted licenses, ch 143, §21

Odometer fraud enforcement, appropriations, ch 213, §1

Off-road vehicles, see ALL-TERRAIN VEHICLES, subhead Off-Road Vehicles

Operating while intoxicated, see subhead Intoxicated Drivers (Operating while Intoxicated) above

Oversize vehicle permits for implements of husbandry, ch 143, §17 – 20, 32, 35

OWI (operating while intoxicated), see subhead Intoxicated Drivers (Operating while Intoxicated) above

Parking, parked vehicles, and parking facilities

Jurors, reimbursement of expenses, ch 210, §4

Parking areas on primary roads, sale of by transportation department, required authorization by general assembly and approval of governor, ch 131, \$5, 7

State capitol complex parking lot repairs, appropriations, ch 219, §1, 2

Violations and violators, see subhead Violations and Violators below

Plates, see subhead Registration and Registration Plates below

Purchases and purchasers of vehicles, see subhead Sales, Sellers, and Purchasers of Vehicles below

Radar jamming device violations, forfeiture action, ch 38, §11

Recreational vehicles, see subhead Motor Homes above

Recyclers of vehicles

Mercury reduction and removal from vehicles, Code correction, ch 126, §78

Salvage certificates of title from another state, assignment or reassignment, ch 143, §10

Regents board and institution vehicles and fuel used by vehicles of board and institutions, Code correction, ch 22, \$63

Registration and registration plates

Antique vehicles, registration fees and requirements, ch 143, §11, 12, 35

Commercial vehicles, reciprocal and proportional registration, ch 143, §13, 24 – 26, 30

Registration and registration plates — Continued

Emergency medical services special plates, ch 184, §3, 7

Emergency vehicle manufacturers, special plates for transporting, demonstrating, showing, or exhibiting vehicles, ch 102, §1

International registration plan, appropriations, ch 216, §1

Issuance costs to counties, appropriations, ch 216, §1

Military forces members, special registration plates for, see subhead Military Forces Members and Veterans, Special Registration Plates for, above

Motor homes, exception for homes purchased by nonresidents at manufacturer-sponsored rallies, ch 131, §1

Operation without registration plates, time limit increase repealed, ch 143, §33, 35

Refusal of issuance, transfer, or renewal of registrations, Code corrections, ch 126, \$53-55

Veterans of military service, special registration plates for, see subhead Military Forces Members and Veterans, Special Registration Plates for, above

Rental agreements, renting, and rented vehicles

Excise tax on vehicles, amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Rental companies, exemption from used motor vehicle dealer education requirements, $\cosh 51$, §3

Repair contracts, filing requirement stricken, ch 137, §16

Rescue vehicles, see RESCUE SERVICES AND PERSONNEL

Sales, sellers, and purchasers of vehicles

See also subhead Dealers of Vehicles above

Collector's items, retail sales without dealer licenses, ch 143, §12, 35

Consumer loans for purchases, application fee exemption, ch 118, §2

Dealers, see subhead Dealers of Vehicles above

Motor homes at manufacturer-sponsored club camping rallies, requirements, restrictions, and future repeal, ch 131, §1 – 4, 6

Wholesalers, emergency vehicle builders licensed as, licensing as used vehicle dealers, ch 102, §2

Salvage vehicles, salvage certificates of title from another state, assignment or reassignment, ch 143, \$10

Scheduled violations, see subhead Violations and Violators below; SCHEDULED VIOLATIONS

School corporation and district vehicles, see SCHOOLS AND SCHOOL DISTRICTS, subhead Transportation

Security interests, title issuance for vehicles with unreleased security interests, ch 143, \$8

Service contracts, filing requirement stricken, ch 137, §16

Size, weight, and load

Implements of husbandry, exceptions to weight limits for highway operation, ch 143, \$17-20, 32, 35

Trucks, length limits and length determination, ch 143, §16, 35

Snowmobiles, see SNOWMOBILES

Speed limits for implements of husbandry, ch 143, §15

State motor vehicles

Federal corporate fuel economy standards compliance, reporting requirements, ch 115, §8

Sale and disposition of sale receipts, ch 213, §11

Vehicle dispatch fueling station relocation, appropriations, ch 219, §1, 2

Surety bonds for motor carriers, transition from single state registration system to unified system, ch 143, §27, 28, 34, 35

Taxation, see TAXATION

Temporary restricted licenses

Appointments with parole or probation officers, issuance for, ch 196, §3, 6

Drivers with licenses and privileges revoked for OWI, applications for temporary restricted licenses, ch 143, §21

Installment agreements for repayment of delinquent court costs and penalties, issuance following, ch 196, §2, 5

Tires, disposal of, violations and penalties for violations, ch 151, §2 - 4, 9 - 11

Titles, titleholders, and certificates of title

Consumer loans secured by titles (car title loans), finance charge restrictions, ch 26

Issuance costs to counties, appropriations, ch 216, §1

Issuance of title for vehicles with unreleased security interests, ch 143, §8

Motor homes sold at manufacturer-sponsored camping rallies, ch 131, §3

Refusal of issuance or transfer of titles, Code corrections, ch 126, §53, 55

Salvage certificates of title from another state, assignment or reassignment, ch 143, \$10

Towing or recovery vehicles, builders licensed as wholesalers, authority to be licensed as used motor vehicle dealers, ch 102, §2

Traffic violations and tickets, see subhead Violations and Violators below

Trailers and semitrailers

Antique vehicles, registration, ch 143, §12, 35

Commercial vehicles, see subhead Commercial Vehicles and Drivers above

Transportation department vehicles and fuel used by vehicles of department, Code correction, ch 22, §68

Transporters of vehicles, manufacturers of emergency vehicles, special plates to transport vehicles, ch 102, §1

Trucks

Commercial vehicles, see subhead Commercial Vehicles and Drivers above

Length allowance and length determination, ch 143, §16, 35

Truck tractors

Antique vehicles, see subhead Antique Vehicles above

Commercial vehicles, see subhead Commercial Vehicles and Drivers above

Used vehicles, dealer licensure and license renewal, education requirements and exemptions, ch 51

Use taxes, see SALES, SERVICES, AND USE TAXES, subhead Motor Vehicles

Veterans, special registration plates for, see subhead Military Forces Members and Veterans, Special Registration Plates for, above

Violations and violators

See also SCHEDULED VIOLATIONS

Antique vehicles, registration violations, ch 143, §12, 35

Computerized traffic citations and complaints, electronic signatures and dates, ch 33, §3; ch 215, §259

Intoxicated driving violations (OWI), see subhead Intoxicated Drivers (Operating while Intoxicated) above

Motor home sales during camping rallies at Clay county fairgrounds, ch 131, \(\) 6

Moving traffic violations following license revocations, effect on probation period, ch 196, §4

Parking citations and complaints, destruction following final disposition, ch 71, §2

Radar jamming device violations, forfeiture action, ch 38, §11

Suspensions of licenses for delinquent court costs and penalties, installment agreements for reinstatement, ch 196, §1, 2, 5, 17

Weight, see subhead Size, Weight, and Load above

Wholesalers of vehicles, emergency vehicle builders licensed as, licensing as used vehicle dealers, ch 102, §2

Wrecked vehicles, salvage certificates of title from another state, assignment or reassignment, ch 143, §10

MOUNT PLEASANT

Correctional facility, see CORRECTIONAL FACILITIES AND INSTITUTIONS
Mental health institute, see MENTAL HEALTH AND DISABILITIES, subhead Mental
Health Institutes

MOVIES

See FILMS

MOVING WALKS

See CONVEYANCES FOR PASSENGERS AND FREIGHT

MUNICIPALITIES AND MUNICIPAL GOVERNMENTS

See CITIES; COUNTIES; SCHOOLS AND SCHOOL DISTRICTS; TOWNSHIPS

MUNICIPAL JAILS AND HOLDING FACILITIES

See JAILS AND HOLDING FACILITIES

MURDER

Investigations of homicides and recovery of donated organs, procedures for, ch 44, §5

MUSEUMS

Abraham Lincoln bicentennial commission, museum representation, ch 99; ch 215, §98 African-American historical museum and cultural center, appropriations, ch 206, §7, 39 Gold star museum at Camp Dodge, infrastructure improvements, appropriations, ch 219, §1, 2, 6

Iowa caucus project, appropriations, ch 206, §8, 39

MUSIC AND MUSICAL INSTRUMENTS

Film, television, and video project expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

University of Iowa music building, renovation, appropriations, ch 205

MUSSELS

Illegal taking or possessing of mussels, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, §16

MUTILATION

Corpse mutilation with intent to conceal crimes, criminal offenses and penalties, ch 91, \$2 Flag or insignia mutilation, ch 202, \$13 - 15

MUTUAL INSURANCE

See INSURANCE

NAILS

Manicuring, pedicuring, and nail technology practice, see COSMETOLOGY AND COSMETOLOGISTS

NAMES

See also IDENTITY AND IDENTIFICATION

Changes of names, recordkeeping requirement by clerk of court repealed, ch 71, §6 Credit unions, ch 174, §29

Federal savings associations, ch 88, §37

NAMES — Continued

Medical assistance recovery from estates of decedents, inclusion of spouse's name in notice, ch 134, §11, 13

Savings and loan associations, ch 88, §37

Signatures, see SIGNATURES

NARCOTICS

Abuse and addiction, see SUBSTANCE ABUSE

Division of narcotics enforcement in state public safety department, see PUBLIC SAFETY DEPARTMENT, subhead Narcotics Enforcement, Division of

Pharmaceuticals, see CONTROLLED SUBSTANCES

NATIONAL GOVERNMENT

See FEDERAL GOVERNMENT

NATIONAL GOVERNORS ASSOCIATION

Appropriations, ch 217, §9

NATIONAL GUARD

See also MILITARY FORCES AND MILITARY AFFAIRS; PUBLIC DEFENSE

DEPARTMENT, subhead Military Division

Appropriations, see APPROPRIATIONS

Armories, readiness centers, and facilities

Appropriations, ch 219, §1, 2

Authority of armory board, Code correction, ch 126, §13

Construction and design services, armory board authorization to enter into design-build contracts, ch 74, §2

Camp Dodge facilities, see CAMP DODGE

Civil relief law for members, vehicle lease termination, Code correction, ch 22, §12

Educational assistance program for members, appropriations, ch 214, §2

Employers with policies supporting employees serving in national guard, state purchasing and contract preferences, ch 115, §6, 18

Facilities, see subhead Armories, Readiness Centers, and Facilities above

Information technology, appropriations, ch 219, §14, 15

Motor vehicles of members, special registration plates for, see MOTOR VEHICLES, subhead Military Forces Members and Veterans, Special Registration Plates for

Readiness centers, see subhead Armories, Readiness Centers, and Facilities above

Tax exemptions and credits, see TAXATION, subhead Military Service Persons and Veterans of Military Service

NATIVE AMERICAN PERSONS

See also AMERICAN INDIANS AND INDIAN TRIBES

Minority persons, see MINORITY PERSONS

Targeted small business financial assistance board, representation, ch 207, §8, 12, 18

NATURAL DISASTERS

See DISASTERS

NATURAL GAS

See also ENERGY

HVAC systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING)

Plumbing systems, see PLUMBING AND PLUMBERS

Propane, see PROPANE

Replacement taxes, see TAXATION, subhead Replacement Taxes on Electricity and Natural Gas Providers

Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ch 60 Utilities. see UTILITIES

NATURAL RESOURCE COMMISSION

See NATURAL RESOURCES DEPARTMENT

NATURAL RESOURCES

Appropriations, ch 211, §16 - 22, 26 - 30; ch 219, §1, 2

Business opportunities, resource conservation and development, appropriations, ch 211, \$28, 30

Department of natural resources in state government, see NATURAL RESOURCES DEPARTMENT

Energy resources, see ENERGY

Environment first fund, see ENVIRONMENTAL PROTECTION

Lakes and lake facilities, see WATER AND WATERCOURSES

Parks and park facilities, see PARKS

Resources enhancement and protection (REAP), see RESOURCES ENHANCEMENT AND PROTECTION (REAP)

Rivers, see WATER AND WATERCOURSES

Southern Iowa development and conservation fund, appropriations, ch 211, \$26, 30

Water and watercourses, see WATER AND WATERCOURSES

NATURAL RESOURCES DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

Administrative rules, ch 141, §3, 8, 32, 45; ch 157; ch 171, §10

All-terrain vehicle regulation, see ALL-TERRAIN VEHICLES

Animal feeding operations and feedlot regulatory law enforcement, see ANIMALS, subhead Feeding Operations and Feedlots

Appropriations, see APPROPRIATIONS

Asbestos regulation, implementation and enforcement of federal national emission standards, ch 125, §3

Boat and vessel regulation, see BOATS AND VESSELS

Climate change advisory council, see GREENHOUSE GASES

Conservation peace officers

See also PEACE OFFICERS

Law enforcement academy basic training course, temporary fee authorization, ch 213, \$18

Retirees, health and life insurance premium payments for, appropriations, ch 211, §17 Director, salary, ch 215, §13, 14

E-85 gasoline dispensing equipment, inspection records availability and notification of leaks, ch 211, \$47-49

Emergency response commission duties, ch 211, §32

Energy city designation program, designation qualifications and award criteria, ch 157

Energy independence plan preparation, ch 168, §4, 15, 18

Environmental protection commission

Administrative rules, ch 215, §115

Solid waste disposal violations, enforcement, ch 151, §11

Underground storage tank regulation, see TANKS

Environmental protection enforcement, see ENVIRONMENTAL PROTECTION

Environment first fund, see ENVIRONMENTAL PROTECTION

Federal total maximum daily load program implementation, appropriations, ch 211, §22

Firearms and ammunition seized in criminal proceedings, disposition of unclaimed property, ch 107

Fish and game protection fund

Appropriations, expenditures, and restrictions, ch 211, §17, 20

Deposits in fund, ch 28, §11; ch 156

NATURAL RESOURCES DEPARTMENT — Continued

Fishing licensing and regulation, see FISHING

Floodplain permit backlog reduction, appropriations, ch 211, §22

Game bird habitat development programs and funding, ch 194

Greenhouse gas inventory and registry, see GREENHOUSE GASES

Groundwater and groundwater protection, see WATER AND WATERCOURSES

Honey creek park development activities, exemption from public contract laws, ch 215, \$116

Hunting licensing and regulation, see HUNTING

Interoperable communications system board, membership and duties, ch 90

Lake and lake facility regulation and administration, see WATER AND WATERCOURSES Marine fuel tax fund, ch 211, §44, 45

National pollutant discharge elimination system, see POLLUTION AND POLLUTION CONTROL, subhead National Pollutant Discharge Elimination System (NPDES) Natural resource commission

Boat and vessel regulation, see BOATS AND VESSELS, subhead Registration of Boats and Vessels

Hunting and fishing regulatory authority on Sac and Fox Indian settlement, ch 189

Park and park facility regulation and administration, see PARKS

Peace officers, see subhead Conservation Peace Officers above

Pharmaceutical collection and disposal pilot project, appropriations, ch 155

Pollution control, see POLLUTION AND POLLUTION CONTROL

Power fund board membership and duties, ch 168, §6, 18

Recreational boating program, appropriations, ch 211, §44, 45

Resources enhancement and protection, see RESOURCES ENHANCEMENT AND PROTECTION (REAP)

Snowmobile regulation, see SNOWMOBILES

Stormwater discharge permit fees, appropriations, ch 211, §22

Tank regulation, see TANKS

Total maximum daily load program implementation, appropriations, ch 211, §22

Underground storage tank regulation, see TANKS

Vessel regulation, see BOATS AND VESSELS

Water and watercourses, regulation and administration, see WATER AND WATERCOURSES

Water patrol officers, pursuing eluding vessels, ch 28, §10

Water quality protection and regulation, see WATER AND WATERCOURSES, subhead Quality Protection and Regulation

Wildlife protection and regulation, see WILDLIFE

NAVAL FORCES

See MILITARY FORCES AND MILITARY AFFAIRS

NECROPHILIA

Criminal offenses and penalties, ch 91, §2

NEEDY PERSONS

See LOW-INCOME PERSONS

NEGLECT AND NEGLIGENCE

Tort claims, see TORTS AND TORT CLAIMS

NEGOTIABLE INSTRUMENTS

See also CHECKS; MONEY ORDERS; UNIFORM COMMERCIAL CODE, subhead Negotiable Instruments

Credit unions, original records of, ch 174, §54

NEWBORNS

See CHILDREN

NEWCASTLE DISEASE

Testing and monitoring of avian influenza, appropriations, ch 211, §5

NEWSPAPERS

Advertising, see ADVERTISING

Joint government entity boards, publication of meeting summaries, ch 158, §1, 4 Owners, publishers, or editors, political candidacies of, promotion restrictions, ch 61, §2

NEWTON

Correctional facility, see CORRECTIONAL FACILITIES AND INSTITUTIONS National guard readiness center, construction, appropriations, ch 219, §1, 2

NITROGEN

Medical gases, see GASES, subhead Medical Gases

NITROUS OXIDE

Greenhouse gases, see GREENHOUSE GASES Medical gases, see GASES, subhead Medical Gases

NOISE

All-terrain vehicles, sound level, ch 141, §35

NOMINATION OF ELECTION CANDIDATES

See ELECTIONS

NONPROFIT ENTITIES

Child access provisions of court orders, federal funds for neutral visitation sites and mediation services, ch 218, §10

Civil rights complaints, legal assistance to civil rights commission, ch 213, §15

Construction materials, supplies, and equipment used in projects, sales tax exemption, ch 186, §22

Cooperative associations and cooperatives, see COOPERATIVE ASSOCIATIONS AND COOPERATIVES

Corporations, see CORPORATIONS, NONPROFIT

Political contributions, see CAMPAIGN FINANCE, subhead Contributions

Services to nonprofit organizations by administrative services department, ch 115, §3

Tax preparation assistance for low-income persons by Iowa-based nonprofit organization grant and appropriations, ch 218, §9

NONPUBLIC SCHOOLS

See SCHOOLS AND SCHOOL DISTRICTS

NONRESIDENTS

Aliens, see IMMIGRANTS

All-terrain vehicle operation permits, ch 141, §30

Hunting licenses

Deer hunting licenses, increased yearly allocation, ch 66

Wildlife habitat, fee increase, ch 194, §2

Immigrants, see IMMIGRANTS

Injured veterans grant program eligibility, ch 142

Motor home purchases at manufacturer-sponsored club camping rallies, ch 131, §1 – 4, 6 Motor vehicle operating privileges revoked for OWI, applications for temporary restricted licenses, ch 143, §21

Snowmobile operation permits, ch 141, §3, 6

Tort actions against nonresidents, Code correction, ch 126, §101

NORTH CENTRAL CORRECTIONAL FACILITY AT ROCKWELL CITY

See CORRECTIONAL FACILITIES AND INSTITUTIONS

NORTHERN IOWA, UNIVERSITY OF

See UNIVERSITY OF NORTHERN IOWA

NOTES (DEBT OBLIGATIONS)

Regents board and regents institutions, see BONDS

State departments, agencies, and authorities, debt obligations issued by, see DEBTS, DEBTORS, AND CREDITORS, subhead State-Issued Obligations, Uniform Finance Procedures

NOTICES

Medical assistance recovery from estates of decedents, notice requirements, ch 134, \$11, 13, 14, 25, 27, 28

Seized property in criminal proceedings, notice to owners for disposition, ch 107

Small estate administration, notice to interested parties, ch 134, §24, 25, 27, 28

State agency purchases from vendors, notice to targeted small businesses, ch 207, §2, 18

Township board of trustees meetings, public notice of, ch 139

Workers' compensation, notice of contested case proceedings on disputed health services provider fees, debt collection moratorium, ch 128, \$2-4

NUCLEAR ATTACKS AND ACCIDENTS

Disasters, see DISASTERS

NURSERY SCHOOLS

See CHILDREN, subhead Care of Children and Facilities for Care of Children

NURSING AND NURSES

See also PROFESSIONS

Advanced registered nurse practitioners, blood lead testing of children, reimbursement for blood analysis, ch 79, §3

Death pronouncements by nurses, ch 159, §29, 30

Dental screenings of children for school enrollment, ch 146

Education programs, access to child abuse information, Code correction, ch 22, §55

HIV exposure while providing health care, notification procedure, ch 70, §9

Hospital orders, procedures for authentication of, ch 93, §1, 3, 4

Insurance coverage of services, see INSURANCE, subhead Health Insurance and Health Benefit Plans

Licensing and regulation, ch 10, \$26 - 67, 73, 126; ch 22, \$37, 38; ch 215, \$260

Nurse educators and nurses, forgivable loans for education, ch 214, §4, 26

Patient information, release to organ procurement organizations, confidentiality, ch 44, §9

Registered nurse and nurse educator loan forgiveness program, establishment and appropriations, ch 214, §4, 26

School nurses, see SCHOOLS AND SCHOOL DISTRICTS, subhead Nurses for Schools

NURSING FACILITIES AND NURSING HOMES

See HEALTH CARE FACILITIES

NUTRITION

See also FOOD

Appropriations, see APPROPRIATIONS

Before and after school grant program, approved instructional programs, ch 208, \$5; ch 214, \$6, 19; ch 215, \$34

Dietetics and dietitians, see DIETETICS AND DIETITIANS

Farmers market programs, ch 84; ch 211, §10

Preventive health services, appropriations, ch 204, §4, 15 – 17

OAKDALE

Correctional facility, see CORRECTIONAL FACILITIES AND INSTITUTIONS Oakdale campus, appropriations, ch 214, §9

OATHS

Insurance commissioner investigations, oath administration powers, ch 137, §6 Voters registering on election day, oaths for identification of, ch 35, §1, 2, 7; ch 215, §242

OATS

See GRAIN

OBESITY

Children, prevention of obesity in, appropriations, ch 218, §97

OBSCENITY

Film, television, and video project promotion program assistance, ineligibility for, ch 162, §3, 13

OBSTRUCTIONS

Railroad track close clearance, warning device installation, ch 164; ch 219, §1, 2

OCCUPATIONAL DISEASE COMPENSATION

See also WORKERS' COMPENSATION

Health service provider fees disputed by workers' compensation insurance carriers or employers, ch 128, $\S2-4$

State employee workers' compensation claims and services, appropriations, ch 217, §1

OCCUPATIONAL HEARING LOSS COMPENSATION

See also WORKERS' COMPENSATION

Health service provider fees disputed by workers' compensation insurance carriers or employers, ch 128, $\S 2 - 4$

State employee workers' compensation claims and services, appropriations, ch 217, §1

OCCUPATIONAL SAFETY AND HEALTH

Fire fighter clothing and equipment, standards established by labor commissioner, stricken, ch 36

Inspectors, appropriations, ch 212, §16

Railroad employees, close-clearance warning devices for protection of, ch 164; ch 219, \$1, 2

OCCUPATIONAL THERAPY AND THERAPISTS

See also PROFESSIONS

Licensing and regulation, ch 10, \$26 - 67, 73, 102 - 104; ch 215, \$260

OCELOTS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

ODOMETERS

Fraud enforcement, appropriations, ch 213, §1

OILS

Cutting tool soy-based oil, use of, tax credits, ch 161, §10, 22

Petroleum, see PETROLEUM AND PETROLEUM PRODUCTS

Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ch 60

OLD AGE AND OLDER PERSONS

See ELDERLY PERSONS AND ELDER AFFAIRS

OLEOMARGARINE

Standards for oleomargarine, Code correction, ch 22, §46

OPEN MEETINGS LAW

General provisions, ch 22, §11; ch 63

OPEN RECORDS LAW

General provisions, ch 37, §1; ch 62; ch 126, §11; ch 175, §4

OPERATING MOTOR VEHICLE WHILE INTOXICATED (OWI)

See MOTOR VEHICLES, subhead Intoxicated Drivers (Operating while Intoxicated)

OPIATES

See also CONTROLLED SUBSTANCES
Regulation, ch 8, \$2, 3, 8

OPTOMETRY AND OPTOMETRISTS

See also PROFESSIONS

Children, vision health initiatives for, appropriations, ch 218, §97

HIV exposure while providing health care, notification procedure, ch 70, §9

Licensing and regulation, ch 10, \$26 - 67, 73, 79, 80, 142 - 144; ch 159, \$1 - 4; ch 215, \$251, 252, 260

ORAL HEALTH AND HEALTH PRACTITIONERS

See DENTAL CARE AND DENTAL CARE PRACTITIONERS

ORES

Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ch 60

ORGANIC AGRICULTURAL PRODUCTS

Appropriations, ch 211, §12

Correctional facility farm operations, organic produce gardening by inmates, ch 213, §4, 6

ORGANS AND TISSUE (BODY PARTS)

Donations of organs and tissue, see ANATOMICAL GIFTS

Postnatal tissue and fluid, banking for research and medical treatment use, task force for, ch 147; ch 218, §97

ORPHANS

Veterans, orphan children of, educational assistance, appropriations, ch 218, §4

OSTEOPATHIC MEDICAL CENTER (DES MOINES UNIVERSITY)

See DES MOINES UNIVERSITY — OSTEOPATHIC MEDICAL CENTER

OSTEOPATHIC MEDICINE, SURGERY, PHYSICIANS, AND SURGEONS

See also PROFESSIONS

Anatomical gift law duties of physicians and surgeons, ch 44, §5, 9, 10

Blood lead testing of children, reimbursement for blood analysis, ch 79, §3

Cloning use for human reproduction, prohibition, ch 6, §4, 5

HIV exposure while providing health care, notification procedure, ch 70, §9

Hospital orders, procedures for authentication of, ch 93, §1, 3, 4

Licensing and regulation, ch 10, \$26 - 67, 73, 76, 77, 113 - 118; ch 215, \$249, 260

Organ donation law duties of physicians and surgeons, ch 44, §5, 9, 10

Patient information, release to organ procurement organizations, confidentiality, ch 44, §9

Residency programs for family practice, appropriations, ch 214, §9

Stem cell research and cures initiative, ch 6

University of osteopathic medicine and health sciences, see DES MOINES

UNIVERSITY — OSTEOPATHIC MEDICAL CENTER

OSTEOPATHY AND OSTEOPATHS

See also PROFESSIONS

Blood lead testing of children, reimbursement for blood analysis, ch 79, §3

Cloning use for human reproduction, prohibition, ch 6, §4, 5

HIV exposure while providing health care, notification procedure, ch 70, §9

OSTEOPATHY AND OSTEOPATHS — Continued

Hospital orders, procedures for authentication of, ch 93, $\S1, 3, 4$

Licensing and regulation, ch 10, §26 – 67, 73, 76, 77, 112; ch 215, §260

Stem cell research and cures initiative, ch 6

OTTUMWA

National guard armory, construction, appropriations, ch 219, §1, 2

OVINE ANIMALS

Feeding operations and feedlots, see ANIMALS, subhead Feeding Operations and Feedlots Livestock, see LIVESTOCK

OWI (OPERATING MOTOR VEHICLE WHILE INTOXICATED)

See MOTOR VEHICLES, subhead Intoxicated Drivers (Operating while Intoxicated)

OXYGEN

Medical gases, see GASES, subhead Medical Gases

PACIFIC ISLANDER PERSONS

Division on status of Iowans of Asian and Pacific Islander heritage in state human rights department, see HUMAN RIGHTS DEPARTMENT, subhead Status of Iowans of Asian and Pacific Islander Heritage Division

Minority persons, see MINORITY PERSONS

Targeted small business financial assistance board, representation, ch 207, §8, 12, 18

PACKAGES AND PACKAGING

See CONTAINERS

PAINTS

Lead poisoning prevention and testing, ch 79; ch 208, \$1; ch 215, \$88; ch 218, \$2

PANCREASES

Donors and donations of body parts, see ANATOMICAL GIFTS

PANDAS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

PARAMEDICS

See EMERGENCY MEDICAL CARE AND SERVICES

PARENTS

See also CHILDREN; FAMILIES; FATHERS; MOTHERS; PATERNITY AND PATERNAL PARENTS

Abuse of children, see CHILDREN, subhead Abuse of Children and Abused Children Adoptions, see ADOPTIONS

Anatomical gifts, authorization by parents to make, amend, or revoke gifts, ch 44, §3, 4 Appropriations, see APPROPRIATIONS, subhead Families

Births of children, see BIRTHS

Blood lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Community empowerment programs, see COMMUNITY EMPOWERMENT

Crime victims, parents of, compensation, see VICTIMS AND VICTIM RIGHTS, subhead Compensation for Victims

Custodians and custody of children, see CHILDREN, subhead Custodians and Custody of Children

Education data warehouse, use of, appropriations, ch 214, §6; ch 219, §14, 15

Family investment program, see FAMILY INVESTMENT PROGRAM

Foster care, see FOSTER CARE AND CARE FACILITIES

Guardians and guardianships, see GUARDIANS AND GUARDIANSHIPS

PARENTS — Continued

Lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Leave from employment or training under family investment agreements in the event of childbirth or adoption, ch 124, §5

Military forces members killed on active duty, parents of, motor vehicle gold star special registration plates, ch 178

Parental rights termination proceedings

Adoptions of children, see ADOPTIONS

Testimony or written statements provided by caretakers, ch 172, §13

Pregnant women and pregnancies, see PREGNANCY

Support of children, see SUPPORT OF PERSONS

Veterans, parents of, Vietnam veterans bonus payment to surviving parents, ch 176, §1 Visitation of children and visitation rights, determination or modification in paternity proceedings, attorney fee payment, ch 24

PARI-MUTUEL WAGERING

See GAMBLING

PARKING AND PARKING FACILITIES

Motor vehicles, see MOTOR VEHICLES

PARKS

All-terrain vehicles, unlawful operation in parks, ch 141, §36

Appropriations, see APPROPRIATIONS

Honey creek park development activities, exemption from public contract laws, ch 215, \$116

Roadside parks on primary roads, sale by transportation department, required authorization by general assembly and approval by governor, ch 131, §5, 7 State park maintenance and infrastructure appropriations, ch 211, §28, 30; ch 219, §1, 2

PARKWAYS

Mississippi river parkway commission, participation by state transportation department, appropriations, ch 216, §1

PAROLE AND PAROLEES

Appropriations, see APPROPRIATIONS

Board of parole, see PAROLE BOARD

Electronic monitoring devices for offenders, appropriations and report, ch 213, §5, 6, 8 Fees for program participation, report on moneys collected, ch 213, §4, 6

Parole officers, administrative investigations of complaints against and officers' rights regarding, ch 160

Temporary restricted driver's license issuance for appointments with parole officer, ch 196, §3, 6

Transitional housing pilot project for paroled offenders recovering from substance abuse, appropriations and report, ch 213, §4, 6

Violators

Confinement by counties, reimbursement appropriations, ch 206, \$13, 39; ch 213, \$3, 6 Treatment by correctional services departments, appropriations, ch 213, \$5, 6; ch 215, \$75

PAROLE BOARD

Appropriations, see APPROPRIATIONS Salaries for members, ch 215, §13, 14

PARTITION FENCES

Livestock straying and trespass control, duties and responsibilities of landowners and governmental authorities, ch 64

PARTNERSHIPS

Film, television, and video project promotion program tax credits and income exclusions, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM
Investment tax credits, see INCOME TAXES, subhead Investment Tax Credits
Motor vehicle dealers, license application requirements, ch 143, §22, 23
Taxation, see INCOME TAXES

PASSENGERS

Carriers of passengers, see CARRIERS

Elevators for passengers, see CONVEYANCES FOR PASSENGERS AND FREIGHT

PASSPORTS

Sanction procedures applied to persons owing delinquent support, monetary threshold for, ch 218, \$137 - 141

PATENTS

Finance authority ownership powers, ch 54, §19

PATERNITY AND PATERNAL PARENTS

See also FATHERS; PARENTS

Establishment of paternity, administrative procedures for, ch 218, §168 – 178, 187 Modification of paternity orders, attorney fees for, payment, ch 24 Support of children, *see SUPPORT OF PERSONS*

PATHOLOGY AND PATHOLOGISTS

Anatomical gift law duties, ch 44, §5

PATROL, DIVISION OF (STATE HIGHWAY PATROL)

See PUBLIC SAFETY DEPARTMENT, subhead Patrol, Division of

PAYDAY LOANS AND LENDERS (CHECK CASHING SERVICES)

Licensing and regulation, Code correction, ch 22, §94

PEACE OFFICERS

See also COUNTIES, subhead Sheriffs and Deputy Sheriffs; LAW ENFORCEMENT AND LAW ENFORCEMENT OFFICERS; NATURAL RESOURCES DEPARTMENT, subhead Conservation Peace Officers; POLICE PROTECTION AND SERVICES; PUBLIC SAFETY DEPARTMENT, subhead Peace Officers

Complaints against peace officers, administrative investigations of, ch 160

Computerized citation and complaint issuance, electronic signatures and dates, ch 33, §3; ch 215, §259

Driver's license suspension or revocation notice service, authority of peace officers, ch 143, §7

HIV exposure while providing health care, notification procedure, ch 70, §9

Intoxication testing of commercial drivers operating noncommercial vehicles, peace officer's statement on penalties for refusal, ch 69

No-contact orders violated by defendants, liability of arresting officer, ch 180, §8

Ongoing investigation e-mail and telephone records, confidentiality and limitations of actions, ch 62

Parole board, see PAROLE BOARD

Reserve peace officers

Organizations, annual game nights conducted by, ch 119, §3

Training standards and certification, ch 47

Retirement systems, see FIRE AND POLICE RETIREMENT SYSTEM; PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS); PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM (PORS)

PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM (PORS)

See PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM (PORS)

PEDICURING AND PEDICURISTS

See COSMETOLOGY AND COSMETOLOGISTS

PENAL INSTITUTIONS

See PRISONS AND PRISONERS

PENALTIES

Contraband possession violations in criminal or juvenile facilities or institutions, law enforcement initiative surcharge assessment, ch 89, §2

Delinquent penalties

Criminal and civil penalties, collection by judicial branch, ch 210, §1, 3

Repayment and collection, ch 196, §1, 2, 5, 7 - 11, 15 - 17; ch 215, §47

Felonies, see CRIMES AND CRIMINAL OFFENDERS, subhead Felonies and Felons Fines, see FINES

Livestock habitual trespass, penalties assessed to landowners, ch 64, §2

Misdemeanors, see CRIMES AND CRIMINAL OFFENDERS, subhead Misdemeanors and Misdemeanants

Scheduled violations, see SCHEDULED VIOLATIONS

Surcharges on criminal penalties, see SURCHARGES

PENITENTIARIES, STATE

See CORRECTIONAL FACILITIES AND INSTITUTIONS

PENSIONS

See RETIREMENT AND RETIREMENT PLANS

PEOSTA

Northeast Iowa community college national education center for agricultural safety training, equipment purchases, ch 219, §1, 2

PER DIEM PAYMENTS

Public safety department peace officers, meal allowance, ch 215, §22

PERFLUOROCARBONS

Greenhouse gases, see GREENHOUSE GASES

PERINATAL CARE

State program, ch 159, §17; ch 204, §3, 15 - 17

PERMITS

See LICENSES AND PERMITS

PERSONAL INJURIES

See INJURIES

PERSONAL PROPERTY

See also PROPERTY

Disaster aid individual assistance grant fund, replacement assistance, ch 145

Human services department employee damaged personal items, reimbursement for replacement or repair of, ch 218, §37

Inheritance tax exemptions, estate tangible personal property distributed in kind, ch 134, §2, 28

Victims of crimes, compensation for replacement residential and security items, ch 27, §9

PERSONAL RECOGNIZANCE

Eligibility of released persons arrested for new criminal offenses, repealed, ch 215, \$134

PERSONAL REPRESENTATIVES

See also ADMINISTRATORS, subhead Estate Administrators; EXECUTORS; FIDUCIARIES; PROBATE CODE, subhead Personal Representatives

Inheritance taxes, failure to file timely return resulting from beneficiary's disclaimer of interest, ch 134, §1, 28

Substitute decision makers and decision-making services, state and local offices, appropriations, ch 218, §1

PERSONS WITH DISABILITIES DIVISION

See HUMAN RIGHTS DEPARTMENT

PESTS

Emerald ash borer public awareness and information project, appropriations, ch 211, §8 Gypsy moth detection, surveillance, and eradication, appropriations, ch 211, §7

PETITIONS TO GOVERNMENTAL AUTHORITIES

Election candidate nominations, see ELECTIONS, subhead Nomination of Candidates

PETIT JURIES

See JURIES AND JURORS

PETROLEUM AND PETROLEUM PRODUCTS

Diminution environmental protection charge, amnesty program for payment of delinquent liabilities, see TAX AMNESTY PROGRAM

Fuels, see FUELS

Gases, liquefied, see LIOUEFIED GASES

Liquefied gases, see LIQUEFIED GASES

Natural gas, see NATURAL GAS

Propane, see PROPANE

Storage tanks, see TANKS, subhead Underground Storage Tanks

Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ch 60

PETS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals Tagged dogs caught worrying domestic animals or fowl, right to kill, stricken, ch 111

PHARMACEUTICALS

See DRUGS AND DRUG CONTROL

PHARMACY AND PHARMACY PRACTITIONERS

See also PROFESSIONS

Colleges of pharmacy, accreditation standards, ch 19, §1, 4

Controlled substance regulation, see CONTROLLED SUBSTANCES

Dispensing fees, medical assistance reimbursement rates, ch 218, §31

Drake university college of pharmacy, health care data research advisory council membership and duties, ch 218, §128, 129

Licensing and regulation and board for licensing and regulation

General provisions, ch 10, §26 – 73, 78, 153 – 155; ch 20; ch 22, §42; ch 215, §247, 260

Administrative rules, ch 8, §17, 20; ch 19, §6; ch 20

Anabolic steroids, designation by board, ch 8, §20

Controlled substances, rules for electronic and facsimile prescriptions for emergencies, ch 8, 817

Limited drug and device distributor licensing and regulation, ch 19, §2, 3, 6

PHARMACY AND PHARMACY PRACTITIONERS — Continued

Licensing and regulation and board for licensing and regulation — Continued

Registration of pharmacy technicians, ch 20

Secretary of board renamed as executive director, ch 10, §68, 70 – 72; ch 215, §247, 260

Limited drug and device distributor licensing and regulation, applicability to pharmacies, ch 19, §2

Pharmacy benefits managers, regulation of, ch 193

Pharmacy network providers, pharmacy benefits managers duties to, ch 193, §7, 9

Pharmacy technicians, registration of, ch 20

Prescribing and dispensing of drugs, see DRUGS AND DRUG CONTROL

Schools of pharmacy, accreditation standards, ch 19, §1, 4

PHENYLBUTAZONE

Horse racing, use in, ch 48, §3, 4, 7

PHENYLKETONURIA (PKU)

Assistance to patients with phenylketonuria, appropriations, ch 208, \$1; ch 218, \$2

PHONE SERVICE AND PHONE COMPANIES

See TELEPHONE SERVICE AND TELEPHONE COMPANIES

PHOTOGRAPHS, PHOTOGRAPHY, AND PHOTOGRAPHIC EQUIPMENT

Banking division records, preservation and reproduction of, ch 170, §1

Digital camera use in state patrol vehicles, public safety department study and report, ch 213, §19

Film, television, and video project promotion program tax credits, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Peace officers and public safety and emergency personnel official photos, prohibition against release without permission, ch 160

PHYSICAL DISABILITIES AND PERSONS WITH PHYSICAL DISABILITIES

See DISABILITIES AND DISABLED PERSONS

PHYSICAL EDUCATION, EXERCISE, AND FITNESS

Therapy, see PHYSICAL THERAPY AND THERAPISTS

PHYSICAL RESEARCH AND TECHNOLOGY, INSTITUTE FOR

Appropriations, ch 212, §12

PHYSICAL THERAPY AND THERAPISTS

See also PROFESSIONS

Licensing and regulation, ch 10, §26 – 67, 73, 99 – 101; ch 215, §260

PHYSICIAN ASSISTING AND ASSISTANTS

See also PROFESSIONS

Blood lead testing of children, reimbursement for blood analysis, ch 79, §3

Dental screenings of children for school enrollment, ch 146

HIV exposure while providing health care, notification procedure, ch 70, §9

Hospital orders, procedures for authentication of, ch 93, §1, 3, 4

Licensing and regulation, ch 10, \$26 – 67, 73, 75, 78, 105, 106; ch 215, \$260; ch 218, \$88, 89 Patient information, release to organ procurement organizations, confidentiality, ch 44, \$9

PHYSICIANS AND SURGEONS

See also PROFESSIONS

Anatomical gift law duties, ch 44, §5, 9, 10

Audiologists, see AUDIOLOGY AND AUDIOLOGISTS

Blood lead testing of children, reimbursement for blood analysis, ch 79, §3

PHYSICIANS AND SURGEONS — Continued

Chiropractors, see CHIROPRACTIC AND CHIROPRACTORS

Cloning use for human reproduction, prohibition, ch 6, §4, 5

Dental screenings of children for school enrollment, ch 146

Dentists, see DENTAL CARE AND DENTAL CARE PRACTITIONERS

Drug dispensing and prescription, see DRUGS AND DRUG CONTROL, subhead Prescribing and Dispensing of Drugs

Family practice program of university of Iowa college of medicine, appropriations, ch 214, 89

HIV exposure while providing health care, notification procedure, ch 70, §9

Hospital orders, procedures for authentication of, ch 93, §1, 3, 4

Human reproductive cloning prohibitions, ch 6, §4, 5

Insurance coverage of services, see INSURANCE, subhead Health Insurance and Health Benefit Plans

Lead testing of children, reimbursement for blood analysis, ch 79, §3

Licensing and regulation, ch 10, \$26 - 67, 73, 76 - 78, 82, 84, 86 - 98; ch 215, \$248, 260

Optometrists, see OPTOMETRY AND OPTOMETRISTS

Organ donation law duties, ch 44, §5, 9, 10

Osteopathic physicians and surgeons, see OSTEOPATHIC MEDICINE, SURGERY, PHYSICIANS, AND SURGEONS

Osteopaths, see OSTEOPATHY AND OSTEOPATHS

Patient information, release to organ procurement organizations, confidentiality, ch 44, §9

Pharmacists, see PHARMACY AND PHARMACY PRACTITIONERS

Physician assistants, see PHYSICIAN ASSISTING AND ASSISTANTS

Podiatric physicians, see PODIATRY AND PODIATRIC PHYSICIANS

Prescription drug prescription and dispensing, see DRUGS AND DRUG CONTROL, subhead Prescribing and Dispensing of Drugs

Psychologists, see PSYCHOLOGY AND PSYCHOLOGISTS

Residency programs for family practice, appropriations, ch 214, §9

Speech pathologists, see SPEECH PATHOLOGY AND PATHOLOGISTS

Stem cell research and cures initiative, ch 6

Volunteer health care provider program, see HEALTH, HEALTH CARE, AND WELLNESS, subhead Volunteer Health Care Provider Program

PICTURES

Motion pictures, see FILMS

Photographs and photography, see PHOTOGRAPHS, PHOTOGRAPHY, AND PHOTOGRAPHIC EQUIPMENT

PIGS

See PORCINE ANIMALS AND PORK

PINBALL MACHINES

See GAMBLING

PIPING SYSTEMS AND EQUIPMENT

Mechanical systems, see MECHANICAL SYSTEMS AND PROFESSIONALS

Medical facility gas, vacuum, and suction piping system installers and repairers, certification of, ch 198, §2, 10, 35

Plumbing, see PLUMBING AND PLUMBERS

PKU (PHENYLKETONURIA)

Assistance to patients with phenylketonuria, appropriations, ch 208, §1; ch 218, §2

PLANNING AND PLANNING COMMISSIONS

Capitol planning, see CAPITOL AND CAPITOL COMPLEX

Councils of government, see COUNCILS, subhead Government, Councils of

PLANTS AND PLANT LIFE

Biomass materials, energy produced from, see ENERGY, subhead Biobased Energy and Energy Production

Capitol grounds and west capitol terrace improvements, acknowledgements of private contributors, ch 222

Fruit, see FRUIT

Ginseng harvesting, illegal, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, \$16

Trees, see TREES

Vegetables, see VEGETABLES

PLAQUES

West capitol terrace and capitol grounds improvements, acknowledgements of private contributors, ch 222

PLATS

Distance measurements shown on plats, ch 143, §5, 6

PLUMBING AND PLUMBERS

See also PROFESSIONS

Licensing and regulation and examining board for licensing and regulation

General provisions, ch 198, $\S1 - 30$, 35

Administrative rules, ch 198, §4, 35

Advertising, ch 198, §25, 35

Authority and duties of board, ch 198, §31 – 35

Continuing education, ch 198, §20, 35

Examinations, ch 198, §5 – 8, 35

Fees, ch 198, §9, 35

Insurance and surety bonds, ch 198, §19, 35

Violations and penalties for violations, ch 198, §27, 29, 35

PMICs

See PSYCHIATRIC FACILITIES AND INSTITUTIONS, subhead Psychiatric Medical Institutions for Children (PMIC)

PNEUMOCOCCAL DISEASE

Immunization requirement for children in child care centers, ch 11

PODIATRY AND PODIATRIC PHYSICIANS

See also PROFESSIONS

Colleges and schools of podiatry, Code correction, ch 126, §36

HIV exposure while providing health care, notification procedure, ch 70, §9

Hospital orders, procedures for authentication of, ch 93, §1, 3, 4

Licensing and regulation, ch 10, §26 – 67, 73, 78, 108 – 111; ch 215, §260

POISONS AND POISONINGS

Agent Orange exposure of veterans, investigations of effects of, ch 22, \$14; ch 202, \$8 – 10 Lead poisoning prevention and testing, ch 79; ch 208, \$1; ch 215, \$88; ch 218, \$2 State poison control center, appropriations, ch 208, \$1

POKER

See GAMBLING

POLICE PROTECTION AND SERVICES

See also LAW ENFORCEMENT AND LAW ENFORCEMENT OFFICERS; PEACE OFFICERS

City police departments and officers

Civil service, see CIVIL SERVICE

POLICE PROTECTION AND SERVICES — Continued

City police departments and officers — Continued

Communications for public safety, interoperable systems implementation, ch 90 Workers' compensation coverage, employer liability, ch 128, §1

Communications for public safety, interoperable systems implementation, ch 90

Law enforcement academy basic training course, temporary fee authorization, ch 213, §18 Retirement systems, see FIRE AND POLICE RETIREMENT SYSTEM; PUBLIC

EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Victim assistance, automated victim notification system, see VICTIMS AND VICTIM RIGHTS, subhead Automated Victim Notification System

POLITICAL ACTIVITIES AND ORGANIZATIONS

See also CAMPAIGN FINANCE; ELECTIONS; POLITICAL PARTIES

Bullying and harassment of school students based on political preferences and beliefs, prohibition and prevention, ch 9

Contributions, see CAMPAIGN FINANCE

Correctional facility inmates, prohibition against private industry employment for partisan political purposes, ch 213, §4, 6

Elections, see ELECTIONS

Finances and funds, see CAMPAIGN FINANCE

Peace officers and public safety and emergency personnel, right to engage in or refrain from political activity, ch 160

POLITICAL PARTIES

See also POLITICAL ACTIVITIES AND ORGANIZATIONS

Committees

Campaign finance, see CAMPAIGN FINANCE, subhead Committees

Reports and statements, see CAMPAIGN FINANCE, subhead Disclosure Reports and Statements

Use of ethics and campaign disclosure board reports and statements information, ch 5, \$3

Contributions to political parties, see CAMPAIGN FINANCE

Election precinct boards, party affiliation consideration for membership, ch 138 Finances and funds, see CAMPAIGN FINANCE

POLITICAL SUBDIVISIONS

See CITIES; COUNTIES; TOWNSHIPS

POLK COUNTY

Driver's license reinstatements pursuant to installment agreements, ch 196, §1, 2, 5, 17 Juvenile drug court programs, appropriations, ch 218, §18, 57, 67

POLLING PLACES

See ELECTIONS, subhead Precincts and Precinct Boards

POLLUTION AND POLLUTION CONTROL

See also WASTE AND WASTE DISPOSAL

Air pollution abatement, control, and prevention, appropriations, ch 211, §28, 30 Animal feeding operations and feedlots, regulatory law enforcement, see ANIMALS,

subhead Feeding Operations and Feedlots

Appropriations, see APPROPRIATIONS, subhead Pollution Control

Greenhouse gases, see GREENHOUSE GASES

Lake restoration, ch 219, §1, 2, 26

National pollutant discharge elimination system (NPDES)

Fees for permits, ch 53

Name designation, Code correction, ch 22, §79

Permit fund, appropriations, ch 211, §19

POLLUTION AND POLLUTION CONTROL — Continued

Total maximum daily load program implementation, appropriations, ch 211, $\S 22$

Underground storage tank regulation, see TANKS

Water quality protection and regulation, see WATER AND WATERCOURSES, subhead Quality Protection and Regulation

POLYGRAPH EXAMINATIONS

Peace officers and public safety and emergency personnel, submission to tests against will, prohibited, ch 160

POOLS (SWIMMING)

See SWIMMING POOLS

POOR PERSONS

See LOW-INCOME PERSONS

POOR RELIEF

See PUBLIC ASSISTANCE

POPULAR NAMES

28E agreements, see JOINT ENTITIES AND UNDERTAKINGS

ABCDII (assuring better child health and development initiative II) clinical panel recommendations, intent to implement, ch 218, \$11

ADC (aid to dependent children), see FAMILY INVESTMENT PROGRAM

Agent Orange exposure, ch 22, §14; ch 202, §8 - 10

AIDS, ch 70: ch 218, §11

All Iowa opportunity assistance program, see COLLEGE STUDENT AID COMMISSION

Allowable growth for schools, ch 3

Anatomical gift Act, ch 44

Beer keg registration and tracking, ch 46

Bill of rights for peace officers and public safety and emergency personnel, ch 160

Bird flu control, ch 211, §5

Blue sky law, ch 126, §87; ch 137, §3 – 5

Bullying in schools, prohibition, policy, and prevention, ch 9, §2

Cable franchise law, ch 201

CADE (center for acute disease epidemiology), bureau chief position, appropriations, ch 218. \$2

Car title loans, finance charge restrictions, ch 26

Cemetery Act, see CEMETERIES

Cemetery and funeral merchandise and funeral services Act, see CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES

CHIP (children's health insurance program), see HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

CIETC, ch 22, §113, 116; ch 126, §2

Cigarette fire safety standards, ch 166

Cigarette tax increase, ch 17, §3, 12

Civil rights protection, see CIVIL RIGHTS

Cloning prohibitions, ch 6, §4, 5

Construction bidding procedures Act, ch 144, §1 – 10

Consumer credit code, see CONSUMER CREDIT CODE

Credit union Act, ch 174

Crime victim compensation, see VICTIMS AND VICTIM RIGHTS

Dangerous wild animal possession and ownership prohibitions, ch 195; ch 215, §118 – 123

D.A.R.E. (drug abuse resistance education) program, appropriations, ch 217, §10

Darfur genocide, prohibition on state investments benefiting Sudan government, ch 39

POPULAR NAMES — Continued

Dental screenings of school children, ch 146; ch 218, §97

DMIE (demonstration to maintain independence and employment), appropriations, ch 218, \$11

DNA profiling, ch 38, §4; ch 126, §110, 111

Documents of title law, ch 30; ch 41, §43, 44; ch 215, §262

Drunk driving, see MOTOR VEHICLES, subhead Intoxicated Drivers (Operating while Intoxicated)

Drunken boating, see BOATS AND VESSELS, subhead Intoxicated Operators

EFT (electronic fund transfers), authority of credit unions to sell and cash, ch 118, §1, 3 Elevator code, ch 16

Emerald ash borer public awareness and information, ch 211, §8

Energy city designation program, ch 157

Energy independence, see ENERGY, subhead Independence Programs and Office of Energy Independence

Enrich Iowa program (state aid to libraries), ch 126, §46 - 48; ch 214, §6; ch 219, §1, 2

Fair trade laws, ch 17, §1, 2, 12; ch 186, §32; ch 213, §23

FIP, see FAMILY INVESTMENT PROGRAM

Gender identity discrimination prohibited, ch 191

Generation Iowa commission, ch 45

Global warming, see GLOBAL WARMING

Good Samaritan laws, ch 159, §21

Google server facility, tax incentives for, ch 199

Greenhouse gases, see GREENHOUSE GASES

Harassment in schools, prohibition, policy, and prevention, ch 9, §2

Hawk-i program, see HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM HIV, ch 70; ch 218, §11

HOPES-HFI, see HEALTHY OPPORTUNITIES FOR PARENTS TO EXPERIENCE SUCCESS (HOPES) – HEALTHY FAMILIES IOWA (HFI) PROGRAM

HPV, ch $98, \S 2 - 4$

HVAC, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING)

ICN, see TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES, subhead Iowa Communications Network (ICN)

Implied consent laws, ch 69

Internet hunting ban, ch 156

IowaCare, see MEDICAL ASSISTANCE, subhead Expansion Services and Population under IowaCare Act

IowAccess, appropriations, ch 217, §3

Iowa great places, see GREAT PLACES

IPERS, see PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

JOBS program, see PROMISE JOBS PROGRAM

Lead testing of children, ch 79; ch 215, §88; ch 218, §2

Marketable record title law, ch 101, §7

Medicaid, see MEDICAL ASSISTANCE

Medicare, see MEDICARE

Midwestern higher education compact, membership fee appropriations, ch 214, §9

Midwest interstate passenger rail compact, ch 94

Minimum wage increase, ch 1

Necrophilia, ch 91

NPDES (national pollutant discharge elimination system), ch 22, §79; ch 53; ch 211, §19

ODCP (office of drug control policy), see DRUGS AND DRUG CONTROL, subhead Drug Control Policy Office and Drug Policy Coordinator

Open meetings law, ch 22, §11; ch 63

Open records law, ch 37, §1; ch 62; ch 126, §11; ch 175, §4

Optical scan voting systems, see ELECTIONS

POPULAR NAMES — Continued

Organ donors and donations, ch 44

OWI, see MOTOR VEHICLES, subhead Intoxicated Drivers (Operating while Intoxicated)

Pachislo skill-stop machine, gambling device definition inclusion, ch 38, §10

PALS (preparation for adult living services) program, appropriations, ch 218, §18

PBM (pharmacy benefits managers) regulation, ch 193

PERM (payment error rate measurement) program compliance, state match cost, appropriations, ch 218, §11

PKU (phenylketonuria), assistance to patients with, appropriations, ch 208, §1; ch 218, §2 Plumber licensing, ch 198

PORS, see PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM (PORS)

Power fund, see POWER FUND AND POWER FUND BOARD

Predatory lending bill, ch 26

Preschool program, ch 148; ch 215, §100

PROMISE JOBS program, see PROMISE JOBS PROGRAM

Propane education and research, ch 182

Property tax relief, see PROPERTY TAXES, subhead Relief and Relief Fund

Prudent investments, ch 134, §7, 28

Rainy day funds, appropriations, ch 215, §7

REAP (resources enhancement and protection), see RESOURCES ENHANCEMENT AND PROTECTION (REAP)

RISE (revitalize Iowa's sound economy) fund, see REVITALIZE IOWA'S SOUND ECONOMY (RISE) FUND

RUTF (road use tax fund), see ROAD USE TAX FUND

SCHIP (state children's health insurance program), see HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

School foundation program aid, see SCHOOLS AND SCHOOL DISTRICTS, subhead Budgets

Sex education instruction in schools, ch 98

Sexual orientation discrimination prohibited, ch 191

Sibling visitation law, ch 67; ch 218, §18

Small business health insurance pools, ch 57; ch 215, §255

Small estates, ch 134, §21 – 28

Statute of frauds, ch 41, §42, 59

Statutes of limitations, see LIMITATIONS OF ACTIONS

Stem cell research, ch 6

Streamlined sales and use tax agreement, ch 22, §74, 75; ch 119, §6; ch 179

Sudan divestment, ch 39

TANF (temporary assistance for needy families), see PUBLIC ASSISTANCE

Tax amnesty program, ch 177

TIF (tax increment financing), ch 2; ch 126, §63; ch 186, §3, 4, 28

TIME-21 (transportation investment moves the economy in the twenty-first century) fund, ch 200, \$1-4, 8

Tort claims Act, ch 110, §4 – 6

Unified motor carrier registration system, ch 143, §27, 28, 31, 34, 35

Uniform commercial code, ch 30; ch 41

Uniform consumer credit code, see CONSUMER CREDIT CODE

Uniform controlled substances Act, ch 8, \$1 - 19; ch 126, \$24 - 34

Uniform disposition of unclaimed property Act, ch 37, §2 – 6; ch 60

Uniform electronic transactions Act, ch 41, §42

Uniform enforcement of foreign judgments Act, ch 192, §2

Uniform foreign money-judgments recognition Act, ch 192, §3

Uniform money services Act, ch 188, §20

POPULAR NAMES — Continued

Uniform securities Act, ch 126, §87; ch 137, §3 – 5

Voter registration on election day, ch 35; ch 215, §242

Wage payment collection law, ch 29

POPULATION

Alzheimer's disease population trends, task force examination of, ch 121; ch 218, §1

Mental health and developmental disabilities community services funding allocation based on population factors, ch 218, §26

Redistricting of legislative and congressional districts based on population, see REDISTRICTING OF ELECTION DISTRICTS

Retention or growth, promotion by film, television, and video project promotion program, ch 162, §3, 13

PORCINE ANIMALS AND PORK

Brucellosis control, Code correction, ch 22, §44

Feeding operations and feedlots, $see\ ANIMALS$, $subhead\ Feeding\ Operations\ and\ Feedlots\ Livestock$, $see\ LIVESTOCK$

Tuberculosis control, Code correction, ch 22, §44

Wild boar, see ANIMALS, subhead Dangerous Wild Animals

PORS (PEACE OFFICERS' RETIREMENT SYSTEM)

See PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM (PORS)

POST MORTEMS

Investigations of death and recovery of donated organs, procedures, ch 44, §5

POSTNATAL TISSUE AND FLUID BANKING

Task force established, ch 147; ch 218, §97

POSTSECONDARY EDUCATION AND EDUCATIONAL INSTITUTIONS

See COLLEGES AND UNIVERSITIES

POULTRY

See BIRDS

POVERTY

See LOW-INCOME PERSONS

POWER AND POWER SYSTEMS

See ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS

POWER FUND AND POWER FUND BOARD

General provisions, ch 168, §1 – 9, 18; ch 209, §1; ch 215, §63

Administrative rules, ch 168, §11, 13, 14, 18

Appropriations, ch 209, §1, 2, 4; ch 215, §53, 63

Conflicts of interest, ch 168, §8, 18

Due diligence committee, ch 168, §7, 18

Research, development, and commercialization programs, ch 168, §10 – 14, 18

POWER OF ATTORNEY

See ATTORNEYS IN FACT

POWER PLANTS

See UTILITIES

PRECINCTS

See ELECTIONS

PREFERENCE LAWS

State purchasing and contract preferences for Iowa-based businesses, specifications, ch 115, §6, 18

PREGNANCY

See also BIRTHS

Abortions, see ABORTIONS

Appropriations, see APPROPRIATIONS

Children's health insurance program coverage, expansion for pregnant women, ch 218, §15 Cloning for human reproduction, prohibition, ch 6, §4, 5

HIV testing for pregnant women, ch 70, §5

Prevention and planning of pregnancy

Adolescent pregnancy prevention at juvenile institutions, appropriations, ch 218, §17 Appropriations, ch 218, §7, 17

Iowa family planning network agencies, appropriations, ch 218, §97

Substance abuse prevention and treatment for pregnant women, appropriations, ch 204, \$1, 15-17

PREMIUMS

Insurance, see INSURANCE

PRESCHOOLS

Day care facilities, see CHILDREN, subhead Care of Children and Facilities for Care of Children

Statewide program for four-year-old children, see SCHOOLS AND SCHOOL DISTRICTS, subhead Preschool Program for Four-Year-Old Children, Statewide

PRESCRIPTIONS

See DRUGS AND DRUG CONTROL

PRESERVES

All-terrain vehicles, unlawful operation in preserves, ch 141, §36

Hunting preserves

Remote control or internet hunting of animals, violations and penalties for violations, ${
m ch}\ 156$

Trespass committed while hunting deer, penalties revised, ch 28, §17, 18, 20, 21

PRESIDENT OF THE UNITED STATES

Precinct caucuses, historical museum project on, appropriations, ch 206, §8, 39

PRESS

Newspaper owners, publishers, or editors, political candidacies of, ch 61, §2

PRESSURE VESSELS FOR STEAM

See STEAM ENERGY AND STEAM EQUIPMENT

PRETRIAL RELEASE

Eligibility of released persons arrested for new offenses, repealed, ch 215, \$134

PREVENTION OF DISABILITIES POLICY COUNCIL

Appropriations, ch 218, §29

PRIMARY ELECTIONS

See ELECTIONS

PRIMARY ROAD FUND

Appropriations, ch 215, §18; ch 216, §2

Deposits and funding priorities and restrictions, ch 200, §3, 7

PRIMATES

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

PRINCIPALS AND SURETIES

See SURETIES AND SURETY BONDS

PRINTING AND PRINTERS

Film, television, and video project expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

PRISON INDUSTRIES

See CORRECTIONAL FACILITIES AND INSTITUTIONS

PRISONS AND PRISONERS

See also CORRECTIONAL FACILITIES AND INSTITUTIONS; CORRECTIONAL SERVICES DEPARTMENTS; DETENTION FACILITIES; JAILS AND HOLDING FACILITIES

Federal prison and out-of-state placement reimbursements, appropriations, ch 213, §3, 6 Mentally ill prisoners, demonstration to maintain independence and employment (DMIE), appropriations, ch 218, §11

Parole and parolees, see PAROLE AND PAROLEES

Probation and probationers, see PROBATION AND PROBATIONERS

Work release violators, confinement by counties, reimbursement appropriations, ch 206, \$13, 39; ch 213, \$3, 6

PRIVACY

See also CONFIDENTIAL COMMUNICATIONS AND RECORDS

Juror questionnaires, court sealing to protect privacy of jurors or family members, ch 210, \$5

PRIVATE EDUCATION

See EDUCATION, EDUCATORS, AND EDUCATIONAL INSTITUTIONS; SCHOOLS AND SCHOOL DISTRICTS, subhead Nonpublic Schools

PRIVATE ENTERPRISE

See BUSINESS AND BUSINESSES

PRIVILEGED COMMUNICATIONS

See CONFIDENTIAL COMMUNICATIONS AND RECORDS

PRIZES

Amusement device cash prize violations, penalties, ch 173, §2, 6

Games of skill and chance and card games, cash or merchandise prizes for, award limitations, ch 119, §3

PROBATE CODE

Administrators of estates

See also subheads Fiduciaries; Personal Representatives below; ADMINISTRATORS, subhead Estate Administrators

Medical assistance recovery from estates of decedents, notice requirements, ch 134, §11, 13, 14, 25, 27, 28

Beneficiaries of estates

See also subheads Interested Parties in Small Estates; Surviving Spouses below

Lost or unknown beneficiaries or heirs, personal representative's allowable expenses for location of, ch 134, §10, 28

Small estate petitions for administration, contents regarding, ch 134, §22, 28

Bequests of tangible personal property distributed in kind, inheritance tax exemptions, ch 134, §2, 28

PROBATE CODE — Continued

Claims against estates

Medical assistance debt recovery from estates of decedents, notice requirements, ch 134, \$11, 13, 14, 25, 27, 28

Small estates, claimants of, see subhead Interested Parties in Small Estates below Conservators and conservatorships

See also subhead Fiduciaries below; CONSERVATORS AND CONSERVATORSHIPS Annual report deadline, ch 134, §17, 28

Establishment proceedings, payment of costs and fees, ch 134, §15, 28

Fiduciary service by court officers for family members, compensation, ch 86, §9

Court, see COURTS AND JUDICIAL ADMINISTRATION, subhead Probate Court Creditors of small estates, notice to, ch 134, §24, 25, 27, 28

Estates of decedents

See also ESTATES OF DECEDENTS

Administrators, see subhead Administrators of Estates above

Beneficiary revocations by decrees of dissolution, annulment, or separate maintenance, payment to estate if no alternate designation, ch 134, §4, 5, 28

Bequests of tangible personal property distributed in kind, inheritance tax exemptions, ch 134, \$2, 28

Executors, see subhead Personal Representatives below

Fiduciary service by court officers for family members, compensation, ch 86, §9

Inheritance taxes, see INHERITANCE TAXES

Intestate estates, see subhead Intestate Estates below

Investments of estate, standards for prudent investment by fiduciaries, ch 134, §7, 28

Medical assistance recovery from estates of decedents, notice requirements, ch 134, \$11, 13, 14, 25, 27, 28

Personal representatives, see subhead Personal Representatives below

Small estate administration, see subhead Small Estate Administration below

Wrongful death damages for deaths of children, disposition of, ch 132, §2, 3

Executors of estates, see subhead Administrators of Estates above; Personal Representatives below

Fiduciaries

See also subheads Administrators of Estates; Conservators and Conservatorships above; Guardians and Guardianships; Personal Representatives below: FIDUCIARIES

Certification in lieu of swearing oath of office, ch 134, §8, 9, 28

Court officers, service as fiduciaries for family members' estates, compensation, ch 86, §9 Investments in state-issued debt obligations, ch 133, §4

Prudent investment standards, ch 134, §7, 28

Small estate administration, see subhead Small Estate Administration below Guardians and guardianships

See also subhead Fiduciaries above; GUARDIANS AND GUARDIANSHIPS

Annual report deadline, ch 134, §16, 28

Establishment proceedings, payment of costs and fees, ch 134, §15, 28

Fiduciary service by court officers for family members, compensation, ch 86, §9

Heirs, see subheads Beneficiaries of Estates above; Surviving Spouses below

Inheritance taxes, see INHERITANCE TAXES

Interested parties in small estates

See also subheads Beneficiaries of Estates above; Surviving Spouses below

Conversions of small estate proceedings from or to regular estates, rights of parties, ch 134, \$23, 27, 28

Notice requirements, ch 134, §24, 25, 27, 28

Objections to fees, parties' right to hearing, ch 134, §24, 27, 28

Intestate estates

Medical assistance claims against estate, notice requirements, ch 134, §11, 14, 25, 27, 28

PROBATE CODE — Continued

Intestate estates — Continued

Partial intestacy, surviving spouse's share, ch 134, §12, 28

Small estate administration, see subhead Small Estate Administration below

Personal property distributed in kind, inheritance tax exemptions, ch 134, §2, 28

Personal representatives

See also subheads Administrators of Estates; Fiduciaries above; PERSONAL REPRESENTATIVES

Expenses and fees allowed, ch 134, §10, 24, 27, 28

Small estates, appointment and duties, ch 134, §21 – 24, 27, 28

Small estate administration

General provisions, ch 134, §6, 21 – 28

Applicability, gross value of estate, ch 134, §21, 23, 27, 28

Interested parties, see subhead Interested Parties in Small Estates above

Notice requirements, ch 134, §24, 25, 27, 28

Personal representatives, appointment and duties, ch 134, §21 – 24, 27, 28

Petitions for administration, requirements, ch 134, §22, 28

Surviving spouses

See also subheads Beneficiaries of Estates; Interested Parties in Small Estates above Medical assistance recovery from estates of decedents, inclusion of spouse's name in notice, ch 134, §11, 13

Partial intestacy, distribution of share to, ch 134, §12, 28

Trusts and trustees

See also subhead Fiduciaries above; TRUSTS AND TRUSTEES

Annual report of trustee, deadline, ch 134, §18, 28

Fiduciary service by court officers for family members, compensation, ch 86, §9

Wards, see subheads Conservators and Conservatorships; Guardians and Guardianships above

Widows and widowers, see subhead Surviving Spouses above

Wills

See also WILLS

Medical assistance claims against estate, notice requirements, ch 134, §13, 14, 25, 27, 28 Partial intestacy, surviving spouse's share, ch 134, §12, 28

Small estate administration, see subhead Small Estate Administration above

Wrongful death damages for deaths of children, disposition of, ch 132, §2, 3

PROBATION AND PROBATIONERS

Fees for program participation, report on moneys collected, ch 213, §4, 6

Probation officers, administrative investigations of complaints against and officers' rights regarding, ch 160

Revocation, fines and fees, ch 180, §2, 12

Temporary restricted driver's license issuance for appointments with probation officer, ch 196, §3, 6

Violators, treatment by correctional services departments, appropriations, ch 213, §5, 6; ch 215, §75

PROCESS

Child support recovery unit, service of process procedures used by, ch 218, §142, 156 Exemptions, see EXEMPTIONS FROM LEGAL PROCESS (EXEMPTION LAWS)

PROCUREMENT

See PURCHASING

PRODUCTION CREDIT ASSOCIATIONS

See FINANCIAL INSTITUTIONS

PROFESSIONAL CORPORATIONS

See also CORPORATIONS

Real estate brokerage corporations, formation of, ch 13, §2 – 6

PROFESSIONAL LICENSING AND REGULATION BUREAU

See COMMERCE DEPARTMENT

PROFESSIONAL LIMITED LIABILITY COMPANIES

See LIMITED LIABILITY COMPANIES

PROFESSIONS

See also index heading for specific profession licensed and regulated

Bureau for licensing and regulation in state commerce department, see COMMERCE DEPARTMENT, subhead Professional Licensing and Regulation Bureau

Commerce-related examining boards, powers for licensing and regulation, ch 170, §7

Continuing education, see CONTINUING EDUCATION

Health-related examining boards, renamed as licensing boards, ch 10; ch 215, \$260; ch 218, \$191-205

Malpractice, legal proceedings for, expressions of regret or sorrow and response as evidence, Code correction, ch 126, \$102

PROMISE JOBS PROGRAM

See also FAMILY INVESTMENT PROGRAM

Appropriations, ch 212, §23; ch 218, §7 – 9

Contracts to provide program services, authorization, ch 218, §40

Funding, citations to federal law providing funding updated, ch 124, §2

PROMISSORY NOTES

Original records of credit unions, ch 174, §54

PROPANE

Education and research

General provisions, ch 182

Administrative rules, ch 182, §3, 15

Assessment on propane sales, ch 182, §4, 15

Council, establishment and termination, ch 182, §3, 5, 15

Definitions, ch 182, §2, 15

Funding, ch 182, §4, 6, 15

Reports, ch 182, §11, 15

HVAC systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING)

Plumbing systems, see PLUMBING AND PLUMBERS

PROPERTY

See also PERSONAL PROPERTY; REAL PROPERTY

Abandoned property, see UNCLAIMED PROPERTY

Arson, real estate broker and salesperson licensees and licensure applicants convicted of, ch 187

Asset-building strategies for Iowans, development of, ch 218, §9

Disclaimer of interest in property by beneficiary resulting in failure to file timely inheritance tax return, ch 134, §1, 28

Dissolutions of marriage, property divisions in, interests in inherited or gifted property, ch 163

Forfeitures and forfeited property, see FORFEITURES OF PROPERTY

Insurance, see INSURANCE

Rental property, see RENTAL PROPERTY, RENT, AND RENTERS

PROPERTY — Continued

Seizures and seized property, see SEIZURES OF PROPERTY

Taxes, see PROPERTY TAXES

Theft, see THEFT

Titles, see TITLES (PROPERTY)

Trespass, see TRESPASS

Unclaimed property, see UNCLAIMED PROPERTY

PROPERTY TAXES

Abatement of taxes on exempt property acquired by purchase, ch 186, §27, 30

Agricultural land tax credits, state funding for, appropriations and payment to counties, ch 215, §5, 11

Appraisal manual, preparation and issuance, ch 217, §17

Assessments, see ASSESSMENTS AND ASSESSORS

Credits, state funding for, appropriations and payment to counties, ch 215, §5, 11

Credit unions, ch 174, §60

Delinquent taxes, limitations of actions, ch 40

Disabled persons tax credits, state funding for, appropriations and payment to counties, ch 215, §5, 11

Elderly persons tax credits, state funding for, appropriations and payment to counties, ch 215, §5, 11

Electricity providers, statewide property tax on, reporting and valuation of property for, ch 150, \$3, 4

Family farm tax credits, state funding for, appropriations and payment to counties, ch 215, §5, 11

Homestead tax credits, state funding for, appropriations and payment to counties, ch 215, \$5, 11

Incremental taxes, use for financing, see TAX INCREMENT FINANCING

Livestock habitual trespass control, fence erection and maintenance costs levied to landowners, ch 64, §2

Mental health, mental retardation, and developmental disability services by counties, see subhead Relief and Relief Fund below

Military service tax credits, state funding for, appropriations and payment to counties, ch 215, §5, 11

Natural gas providers, statewide property tax on, reporting and valuation of property for, ch 150, \$3,4

Refunds, ch 186, §29

Relief and relief fund

Appropriations, ch 206, §24, 25, 39; ch 208, §2; ch 218, §18, 62, 67, 83, 84, 98

Mental health, mental retardation, and developmental disability services funding, ch 218, \$82, 89, 92

Rent constituting taxes paid, tax credits, funding by state, appropriations and payment to counties, ch 215, §5, 11

Sales for delinquent taxes, see TAX SALES

School district taxes, uniform levy for reorganized districts, continuation, ch 130, §1 Study committee, legislative, ch 215, §127

Urban renewal financing by incremental taxes, see TAX INCREMENT FINANCING

Web search portal businesses, computers, equipment, and power-generation systems, exemptions, ch 199, §3, 4

PROSECUTING ATTORNEYS

See ATTORNEYS AT LAW

PRUDENT PERSON (INVESTMENT) RULE

Fiduciaries, standards for prudent investments by, ch 134, §7, 28

PSYCHIATRIC FACILITIES AND INSTITUTIONS

Psychiatric medical institutions for children (PMIC)

Medical assistance reimbursement rates, ch 218, §31

Multidimensional treatment level foster care program, ch 218, §18, 46, 47

Personal needs allowances for residents under medical assistance, ch 218, §11, 44

State mental health institutes, see MENTAL HEALTH AND DISABILITIES, subhead Mental Health Institutes

State psychiatric hospital, appropriations, ch 214, §9

PSYCHIATRY AND PSYCHIATRISTS

Medical assistance reimbursement rates, ch 218, §31

Shortages of mental health professionals, stipends and placements of interns, ch 218, §97, 102

Victims of crimes, compensation for counseling services, ch 27, §8, 9

PSYCHOLOGY AND PSYCHOLOGISTS

See also PROFESSIONS

Hospital orders, procedures for authentication of, ch 93, §1, 3, 4

Licensing and regulation, ch 10, \$26 - 67, 73, 74; ch 22, \$40; ch 215, \$260

Medical assistance reimbursement rates, ch 218, §31

Shortages of mental health professionals, placements of interns, appropriations, ch 218, \$97

Victims of crimes, compensation for counseling services, ch 27, §8, 9

PUBLIC ACCOMMODATIONS

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1, 5, 6

PUBLIC ADJUSTERS

Licensing and regulation, ch 137, §24 - 29

PUBLIC ASSISTANCE

Child welfare services, see CHILDREN, subhead Welfare Services for Children

Family investment program, see FAMILY INVESTMENT PROGRAM

Family support subsidy program, appropriations and allocations, ch 218, §21

Federal welfare reform, see subhead Temporary Assistance For Needy Families (TANF) (Federal Welfare Reform) Program below

Food stamp employment and training program, appropriations, ch 218, §8

Funding plan for state and local programs and services, ch 204, §12

Medicaid, see MEDICAL ASSISTANCE

Medical assistance, see MEDICAL ASSISTANCE

PROMISE JOBS program, see PROMISE JOBS PROGRAM

Social services provider reimbursement rates, ch 218, §31

Supplementary assistance, see SUPPLEMENTARY ASSISTANCE

Temporary assistance for needy families (TANF) (federal welfare reform) program

Appropriations, ch 218, §7, 9, 18, 51, 67

Child welfare services, see CHILDREN, subhead Welfare Services for Children

Compliance with federal block grant requirements, human rights department duties and coordination with human services department, ch 218, §8, 9

Family assistance program funding, federal law citation updated, ch 124, §2

Reporting, tracking, and case management technology needs, appropriations, ch 218, §7

PUBLIC BIDDING

See BIDDING AND BIDDERS

PUBLIC BONDS

See BONDS

PUBLIC BROADCASTING DIVISION

See EDUCATION DEPARTMENT

PUBLIC BUILDINGS AND PROPERTY

Building codes, see BUILDING CODES

Capitol and capitol complex, see CAPITOL AND CAPITOL COMPLEX

City buildings, see CITIES

Construction and improvement, bid and contract requirements, see PUBLIC CONTRACTS, subhead Construction Project Bidding and Contract Procedures

County buildings, see COUNTIES

State buildings, see STATE OFFICERS AND DEPARTMENTS, subhead Buildings and Facilities of State

PUBLIC CONTRACTS

Cities

Asbestos removal and encapsulation projects, bid acceptance requirements, ch 125, §2

Construction projects, see subhead Construction Project Bidding and Contract Procedures below

Terminology corrections for letting of contracts, ch 144, §16 – 20

Construction project bidding and contract procedures

General provisions, ch 144, §1 – 10

Bond used for bid security, terminology correction, ch 144, §5

Competitive quotations, obtaining and contract award based on, procedures, ch 144, \$9, 10

Delegated authority for bid receipt, opening, reporting by delegated person, ch 144, §7

Emergency repairs by counties, letting procedures, ch 144, §13

Labor and materials, payment for, ch 144, §8

Landscape architecture services and costs contracted, ch 144, §1, 3, 4, 9

Late bids, disposition of, ch 144, §6

Notice to bidders, publication requirements, ch 144, §3

Records of receipt of bids, ch 144, §6

Repair or maintenance work, ch 144, §2

Terminology corrections for letting by cities, ch 144, §16 – 20

Threshold costs for vertical infrastructure project bids and competitive quotations, ch 144, §11, 12

Counties

Asbestos removal and encapsulation projects, bid acceptance requirements, ch 125, §2 Construction projects, see subhead Construction Project Bidding and Contract Procedures above

Letting procedures for emergency repairs, ch 144, §13

Finance authority, competitive bidding exemption, ch 54, §19, 45

Iowa communications network, purchases of equipment and services, limitations and authorizations, ch 116, §2

Joint undertakings, see JOINT ENTITIES AND UNDERTAKINGS

Purchasing and procurement, see PURCHASING

School districts

Asbestos removal and encapsulation projects, bid acceptance requirements, ch 125, §2 Construction projects, see subhead Construction Project Bidding and Contract Procedures above

State government

Asbestos removal and encapsulation projects, bid acceptance requirements, ch 125, §2 Preference for Iowa products and labor, specifications, ch 115, §6, 18 Purchasing and procurement contracts, see PURCHASING

PUBLIC CONTRACTS — Continued

State government — Continued

Services for state agencies, oversight and accountability of entities contracting with state, ch 22, §113, 116; ch 126, §2

Workforce development department contracts, audit and accountability measures, ch 212, §17

Townships

Asbestos removal and encapsulation projects, bid acceptance requirements, ch 125, §2

Construction projects, see subhead Construction Project Bidding and Contract Procedures above

PUBLIC DEFENDERS, STATE AND LOCAL

Appropriations, ch 213, §10; ch 215, §38, 64, 65

Indigent defense duties, see LOW-INCOME PERSONS, subhead Legal Assistance, Representation, and Services for Indigent Persons

Property of public defenders, control and regulation, Code correction, ch 126, §113 Salary of state public defender, ch 215, §13, 14

PUBLIC DEFENSE DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

Adjutant general

Armory board duties, see NATIONAL GUARD, subhead Armories, Readiness Centers, and Facilities

Authorization to accept and expend non-appropriated funds, ch 74, §1

Appropriations, see APPROPRIATIONS

Armories, see NATIONAL GUARD, subhead Armories, Readiness Centers, and Facilities

Camp Dodge facilities, see CAMP DODGE

Civil air patrol, appropriations, ch 213, §13

Emergency communications systems (911 and E911) administration, see EMERGENCY COMMUNICATIONS SYSTEMS (911 AND E911 SERVICE)

Enduring families program, appropriations, ch 215, §70

Homeland security and emergency management division

Administrator, salary, ch 215, §13, 14

Appropriations, ch 213, §13, 16, 17

Civil air patrol, appropriations, ch 213, §13

Disaster aid individual assistance grant fund report, ch 145

Emergency communications systems (911 and E911) administration, see EMERGENCY COMMUNICATIONS SYSTEMS (911 AND E911 SERVICE)

Interoperable communications system board, membership and duties, ch 90

Joint E911 service boards, see EMERGENCY COMMUNICATIONS SYSTEMS (911 AND E911 SERVICE)

Local government innovation commission member appointment, ch 117, §2, 7

Regional emergency response training centers, see EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES

Security threats, domestic or foreign, cooperation with public safety department, ch 213, \$13

Joint shoothouse with law enforcement academy, construction, appropriations, ch 219, §1,

Military division

See also NATIONAL GUARD

Appropriations, ch 213, §13

Cash balances, temporary negative balance authorization and restriction, ch 213, §13 National guard. see NATIONAL GUARD

PUBLIC EMPLOYEES

See also CITIES, subhead Employees; COUNTIES, subhead Employees; STATE EMPLOYEES; TOWNSHIPS, subhead Employees

Collective bargaining, see COLLECTIVE BARGAINING

Generation Iowa commission, public employee membership representation, ch 45

Interchange of public employees, time period limitations for, excepted agencies, ch 215, §83, 129

Leaves of absence, see LEAVES OF ABSENCE

Retirement systems, see FIRE AND POLICE RETIREMENT SYSTEM; JUDICIAL RETIREMENT SYSTEM; PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS); PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM (PORS)

Social security benefits, administration of, Code correction, ch 22, §31

Solicitation by public employees of absentee voting, ch 59, §24, 38

Unemployment compensation information confidentiality, penalty for violations by public officials, ch 77

PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Administration duties, funding of, Code corrections, ch 22, §30, 31

Appropriations, ch 217, §23

Conservation peace officer retirees, health and life insurance premium payments for, appropriations, ch 211, §17

Investments benefiting Sudan government, prohibition, ch 39, §10

PUBLIC EMPLOYMENT RELATIONS BOARD

Appropriations, ch 212, §20

Salaries for members, ch 215, §13, 14, 25

PUBLIC FUNDS

Appropriations, see APPROPRIATIONS

Credit unions, deposits in

Dissolved credit unions, payment of claims for public funds, ch 174, §65

Power to receive public funds, ch 174, §32, 77 - 81

State funds, investments benefiting Sudan government, prohibition, ch 39

State government agency service contracts, oversight and accountability of entities contracting with state, ch 22, §113, 116; ch 126, §2

PUBLIC HEALTH DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

211 system, appropriations, ch 215, §36; ch 218, §2

Administrative rules, ch 70, §9; ch 79, §2, 3; ch 95; ch 146; ch 159, §10, 22, 27, 28

AIDS and HIV prevention and intervention program administration, ch 70

Air conditioning professional licensing and regulation, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING)

Alzheimer's disease task force membership and duties, ch 121

Anatomical gift public awareness, ch 44, §20 – 23

Antiviral stockpile management, appropriations, ch 218, §2

Appropriations, see APPROPRIATIONS

Blood lead testing of children, requirements for, implementation, ch 79; ch 215, §88; ch 218, §2

Brain injury services program administration, ch 126, §35; ch 215, §1

Center for acute disease epidemiology (CADE), bureau chief position, appropriations, ch 218, §2

Child death review team, membership, ch 159, §19, 20

Child protection center grant program, appropriations, ch 218, §18

Defibrillator grant program for rural areas, ch 208, §1, 7, 8

PUBLIC HEALTH DEPARTMENT — Continued

Dental health programs, see DENTAL CARE AND DENTAL CARE PRACTITIONERS, subhead State Programs for Dental and Oral Health

Director of public health, salary, ch 215, §13, 14

Disease investigation and control, see DISEASES

Emergency medical services regulation, see EMERGENCY MEDICAL CARE AND SERVICES

Examining boards for professions, see subhead Professional Licensing and Regulation below

Family-to-family health information center, ch 218, §125, 126

Gambling treatment program and fund, see GAMBLING

Health care plan affordability for small businesses and families, commission on, membership and duties, ch 218, \$127, 129

Health programs, see HEALTH, HEALTH CARE, AND WELLNESS

Health workforce review by department, ch 218, §110

Healthy Iowans 2010 plan, appropriations, ch 208, §1

Healthy opportunities for parents to experience success (HOPES), see HEALTHY OPPORTUNITIES FOR PARENTS TO EXPERIENCE SUCCESS (HOPES) – HEALTHY FAMILIES IOWA (HFI) PROGRAM

Heating professional licensing and regulation, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING)

Hemophilia advisory committee establishment, membership, and duties, ch 31, \$3-7 Hepatitis awareness program for veterans, consultation with veterans affairs department, ch 202, \$11, 12

Hydronic professional licensing and regulation, see HYDRONIC SYSTEMS

Interoperable communications system board, membership and duties, ch 90

Long-term living and care regulation and administration, see LONG-TERM LIVING AND CARE

Long-term living resources system team membership and duties, ch 92

Mechanical professional licensing and regulation, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING); HYDRONIC SYSTEMS; REFRIGERATION AND REFRIGERATION EQUIPMENT

Oral health programs, see DENTAL CARE AND DENTAL CARE PRACTITIONERS, subhead State Programs for Dental and Oral Health

Perinatal care program, ch 159, §17; ch 204, §3, 15 - 17

Plumber licensing and regulation, see PLUMBING AND PLUMBERS

Postnatal tissue and fluid banking task force established, ch 147; ch 218, §97

Pregnancy prevention programs, see PREGNANCY, subhead Prevention and Planning of Pregnancy

Professional licensing and regulation

See also index heading for specific profession licensed and regulated

Renaming of examining and licensing boards, ch 10; ch 218, §191 – 205

School ready children grant program, appropriations, ch 181; ch 208, §3

Sexual violence prevention program, appropriations, ch 218, §2

Spa registration and regulation, see SPAS

Substance abuse prevention and treatment programs, administration of, see SUBSTANCE ABUSE

Swimming pool registration and regulation, see SWIMMING POOLS

Tobacco law, regulation, and ordinance enforcement, appropriations, ch 208, §1

Tobacco-related programs, administration of, appropriations, ch 218, §2

Vaccines for immunizations, purchasing of, appropriations, ch 218, §2

Ventilation professional licensing and regulation, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING)

Veterans counseling program, assistance in coordination of, ch 202, \$1; ch 218, \$4

PUBLIC HEALTH DEPARTMENT — Continued

Vital statistics and records administration, see VITAL STATISTICS AND RECORDS
Volunteer health care provider program, see HEALTH, HEALTH CARE, AND WELLNESS, subhead Volunteer Health Care Provider Program

PUBLIC IMPROVEMENTS

See also CAPITAL PROJECTS; INFRASTRUCTURE

Construction projects, bid and contract requirements, see PUBLIC CONTRACTS, subhead Construction Project Bidding and Contract Procedures

Contracts, see PUBLIC CONTRACTS

Joint entities and undertakings, see JOINT ENTITIES AND UNDERTAKINGS

Life cycle cost analysis, Code correction, ch 22, §17

Special assessments, see SPECIAL ASSESSMENTS

PUBLIC INFRASTRUCTURE

See INFRASTRUCTURE

PUBLIC LIBRARIES

See LIBRARIES

PUBLIC MEASURES

Elections on public measures, ballot forms, ch 59, §9, 16, 19; ch 190, §23, 24, 32

PUBLIC MEETINGS

See MEETINGS

PUBLIC OFFENSES

See CRIMES AND CRIMINAL OFFENDERS

PUBLIC OFFICERS

See PUBLIC EMPLOYEES

PUBLIC PURCHASING AND PROCUREMENT

See PURCHASING

PUBLIC RECORDS

Abandoned property, records of, maintenance and confidentiality, ch 37, \$1, 6
Actuarial opinion statements for property and casualty insurance companies, ch 137, \$15
Cemetery merchandise sales, preneed seller and sales agent reporting information, ch 175, \$1, 11, 18

Charitable donations to foundations, confidentiality, Code correction, ch 126, §11 Confidential public records, see CONFIDENTIAL COMMUNICATIONS AND RECORDS County recorders documents and websites, personally identifiable information use, restrictions, ch 123, §1

Court records, see COURTS AND JUDICIAL ADMINISTRATION, subhead Records Electronic access to government records, appropriations, ch 217, §3

Funeral merchandise and services sales, preneed seller and sales agent reporting information, ch 175, \$1, 11, 18

Governors records, archiving of, appropriations, ch 212, §1

Joint government entity boards, publication and filing requirements, ch 158

Open records law, ch 37, §1; ch 62; ch 126, §11; ch 175, §4

Peace officer ongoing investigation e-mail and telephone billing records, confidentiality, ch 62

Propane education and research council, ch 182, §3, 15

Tim Shields center for governing excellence in Iowa, applicability to records of, ch 117, §6,

Unclaimed property, records of, maintenance and confidentiality, ch 37, §1, 6

PUBLIC SAFETY DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

Administrative rules, ch 166, §3; ch 167

Alarm system contractor and installer certification administration, see ALARM SYSTEMS, CONTRACTORS, AND INSTALLERS

Appropriations, see APPROPRIATIONS

Building code administration, see BUILDING CODES

Cigarette fire safety standards regulation and establishment of fund, ch 166

Commissioner of public safety, salary, ch 215, §13, 14

Complaints against officers, administrative investigations of and officers' rights regarding, ch 160

Criminal history, intelligence, and surveillance data collection and dissemination, see CRIMINAL HISTORY, INTELLIGENCE, AND SURVEILLANCE DATA

Criminal investigation, division of

See also subhead Peace Officers below

Appropriations, ch 206, §15, 39; ch 213, §14

Criminal history, intelligence, and surveillance data collection and dissemination, see CRIMINAL HISTORY, INTELLIGENCE, AND SURVEILLANCE DATA

Gambling and gaming enforcement, see GAMBLING

School district teacher criminal history background and fingerprint checks conducted by division, ch 108, §11; ch 215, §102

Criminalistics laboratory fund, ch 213, §14

Criminal justice information system, appropriations, ch 213, §14; ch 219, §14, 15

Digital camera use in patrol vehicles, study and report, ch 213, §19

Electrician and electrical system licensing, regulation, and inspection, see ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS

Emergency response training

Facility for state, appropriations, ch 219, §1, 2

Regional centers, see EMERGENCIES, EMERGENCY MANAGEMENT, AND

EMERGENCY RESPONSES, subhead Regional Emergency Response Training Centers

Equipment purchases, appropriations, ch 206, §18, 20, 39

Fingerprint identification system, lease payments for, appropriations, ch 219, §14, 15

Fingerprint submission for foster parent licensure, ch 172, §12

Firearms and ammunition seized in criminal proceedings, disposition of unclaimed property, ch 107

Fire fighters in cities, applicant candidate physical ability tests, rules for, ch 167 Fire marshal, division of

Administrative rules, ch 197, §3, 4, 6, 9, 50

Alarm system contractor and installer certification administration, see ALARM SYSTEMS, CONTRACTORS, AND INSTALLERS

Appropriations, ch 206, §16, 39; ch 213, §14

Cigarette packaging, inspection of markings for, ch 166, §6

E-85 gasoline dispensing equipment compatibility, state fire marshal duties, ch 211, \$47-49

Electrician and electrical system licensing, regulation, and inspection, see ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS

Propane education and research council, membership and duties, ch 182, §3, 15

Fire service and emergency response council, appropriations, ch 213, §14

Gambling and gaming enforcement, see GAMBLING

Information technology, appropriations, ch 219, §14, 15

Interoperable communications systems implementation, ch 90

Joint E911 service boards, see EMERGENCY COMMUNICATIONS SYSTEMS (911 AND E911 SERVICE)

PUBLIC SAFETY DEPARTMENT — Continued

Narcotics enforcement, division of

Appropriations, ch 213, §14

Undercover purchases, appropriations, ch 213, §14

Patrol, division of

See also subhead Peace Officers below

Appropriations, ch 206, §17, 22, 39; ch 213, §14; ch 219, §1, 2

Assignments, legislative intent, ch 213, §14

Automobile exchange and sale, ch 213, §11

Post in district 8, appropriations, ch 206, §22, 39

Vehicle conversion to use of digital cameras, study and report, ch 213, §19

Peace officers

See also subheads Criminal Investigation, Division of; Patrol, Division of, above; LAW ENFORCEMENT AND LAW ENFORCEMENT OFFICERS; PEACE OFFICERS

Complaints against officers, administrative investigations of and officers' rights regarding, ch 160

Duties and powers, Code corrections, ch 38, §1 – 3; ch 126, §19

Overtime, ch 215, §23

Per diem meal allowance, ch 215, §22

Property purchases, appropriations, ch 206, §20, 39

Radio equipment purchases and installations, appropriations, ch 206, §20, 39

Reallocation of appropriations and funds, notice requirement, ch 213, §14

Regional emergency response training centers, see EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES

Retirement system for peace officers of department, see PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM (PORS)

Security threats, domestic or foreign, cooperation with homeland security and emergency management division, ch 213, §13

Sick leave benefits fund, appropriations, ch 213, §14

State patrol, division of, see subhead Patrol, Division of, above

Telephone road and weather conditions information system, operation appropriations, ch 216, §1

Vehicle conversion to use of digital cameras, study and report, ch 213, §19

Workers' compensation costs, payment of, appropriations, ch 206, §17, 39; ch 213, §14

PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM (PORS)

Contribution by state for public safety department employees, appropriations, ch 206, \$15 – 17, 39; ch 213, \$14

Gaming enforcement officers for gambling structure gambling enforcement, membership in system, ch 188, §1, 2

Investments benefiting Sudan government, prohibition, ch 39, §9

PUBLIC SCHOOLS

See SCHOOLS AND SCHOOL DISTRICTS

PUBLIC TELEVISION

See EDUCATION DEPARTMENT, subhead Public Broadcasting Division

PUBLIC TRANSPORTATION AND TRANSIT SERVICES AND SYSTEMS

Capitol complex shuttle service for downtown Des Moines, appropriations and operation, ch 215, §29

Regional transit districts, taxes for, collection and payment, ch 143, §36

PUBLIC UTILITIES

See UTILITIES

PUERTO RICO

Sales and use tax law, addition to, ch 179, §1

PURCHASING

Finance authority contracts, competitive bidding exemption, ch 54, §19, 45

Iowa communications network purchasing of equipment and services, contract limitations and authorizations, ch 116, §2

Public improvement construction projects, bid and contract requirements, see PUBLIC CONTRACTS, subhead Construction Project Bidding and Contract Procedures

State purchasing

Direct purchases from vendors, maximum dollar threshold, ch 207, §1, 18

Iowa prison industries, state agency purchases from, ch 213, §9

Office furniture purchases, bidding requirement threshold, ch 213, §9

Preference for Iowa products and labor, specifications, ch 115, §6, 18

Service contracts, oversight and accountability of entities contracting with state, ch 22, \$113, 116; ch 126, \$2

Targeted small businesses, purchasing and procurement from, ch 207, §1, 2, 6, 9, 10, 15, 16, 18

Vendor liability limitations by contract, ch 215, §79

PHESTIIT

Boat operators eluding pursuing law enforcement vessels, criminal offenses and penalties, ch 28, §10

PYTHONS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

QUAD-CITIES GRADUATE STUDIES CENTER

Appropriations, ch 214, §9

QUALIFIED USE INHERITANCE TAXES

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

RABIES

Vaccination tagged dogs caught worrying domestic animals or fowl, right to kill, stricken, ch 111

RACING

Commission on racing and gaming, see INSPECTIONS AND APPEALS DEPARTMENT, subhead Racing and Gaming Commission

Dogs

Appropriations for regulation, ch 211, §3; ch 217, §13

Iowa horse and dog breeders fund, qualifications for, ch 211, §35

Horses

Appropriations for regulation, ch 211, §3; ch 217, §13

Bleeder, defined, ch 48, §2, 7

Drug testing and procurement of blood and urine test samples, ch 48, §1, 7

Furosemide use regulation, ch 48, §2, 5, 7

Phenylbutazone use regulation and penalty assessment affecting placing in race, ch 48, \$3, 4, 7

Pari-mutuel wagering, see GAMBLING, subhead Pari-Mutuel Wagering

RACING AND GAMING COMMISSION

See INSPECTIONS AND APPEALS DEPARTMENT

RADAR

Jamming devices in motor vehicles, violations subject to forfeiture action, ch 38, §11

RADIO COMMUNICATIONS AND EQUIPMENT

See also TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES

Public safety department equipment purchases and installations, appropriations, ch 206, \$20, 39

RAILROADS

See also CARRIERS

Close-clearance warning devices along tracks, installation and penalties for violations, ch 164; ch 219, §1, 2

Midwest interstate passenger rail compact, ch 94

Revolving loan and grant fund, appropriations, ch 219, §1, 2

RAINY DAY FUNDS

Appropriations, ch 215, §7

RALLIES

Motor home owners camping rallies, sales of motor homes at, ch 131, §1 – 4, 6

RAPF

See SEXUAL ABUSE

RATTLESNAKES

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

READING

Before and after school grant program, approved instructional programs, ch 208, \$5; ch 214, \$6, 19; ch 215, \$34

Core content standards and courses for all students, ch 214, §17, 37

Instruction pilot project grant program, repeal and reallocations of appropriations, ch 214, \$42-44

Skill improvement by school students, early intervention block grant program, appropriations and extension, ch 215, §60, 61, 67

Spanish language, teacher training in reading recovery pilot projects, ch 214, §42, 44

REAL ESTATE

See also LAND; REAL PROPERTY

Appraisals and appraisers

See also COMMERCE DEPARTMENT, subhead Professional Licensing and Regulation Bureau; PROFESSIONS

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1, 15 Licensing and regulation, ch 72; ch 143, §2, 3; ch 170, §7

Brokers and salespersons

See also COMMERCE DEPARTMENT, subhead Professional Licensing and Regulation Bureau; PROFESSIONS

Appraisal assignments, improper influence upon, violations and penalties, ch 72, §5, 7 Criminal offenses, licensees and licensure applicants convicted of, ch 187

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, \$1, 7-10, 14

Education programs, appropriations, ch 206, §27 – 29, 39; ch 215, §261

Licensing and regulation, ch 170, §7; ch 187

Marketing plans and arrangements, prohibited practices, ch 153, §1

Professional corporations for real estate brokerage, formation of, ch 13, §2 – 6

Professional limited liability companies for real estate brokerage, formation of, ch 13, \$1, 3-6

Prohibited business practices, ch 153

Referral business practices, disclosure requirements, ch 153, §2

REAL ESTATE — Continued

Capitol complex property acquisition, restrictions and appropriations, ch 219, §1, 2, 23

Commission for real estate, state

Administrative rules, ch 206, §27, 29, 39; ch 215, §261

Appropriations, ch 206, §27, 29, 39; ch 215, §261

Court petitions affecting real estate, indexing requirements, ch 71, §4

Salespersons, see subhead Brokers and Salespersons above

REAL PROPERTY

See also BUILDINGS; LAND; PROPERTY; REAL ESTATE

Agricultural property, see AGRICULTURAL LAND

Appraisals and appraisers, see REAL ESTATE, subhead Appraisals and Appraisers

Campaign signs on private property, restrictions, ch 14, §7; ch 215, §244

Construction, see CONSTRUCTION WORK, CONTRACTORS, AND EQUIPMENT

Conveyances, see CONVEYANCES OF REAL ESTATE

Deeds, see CONVEYANCES OF REAL ESTATE

Encumbrances, see ENCUMBRANCES

Foreclosures, see FORECLOSURES

Historic preservation and rehabilitation tax credits, see TAXATION, subhead Historic Preservation and Cultural and Entertainment District Tax Credits

Homesteads, see HOMESTEADS

Housing, see HOUSING

Interests in and claims to real estate, preservation by filing with county recorders, ch 22, \$103; ch 101, \$5 – 7

Liens, attachment of foreign and tribal court judgments on real estate, ch 192, §1 – 3, 6, 8,

11

Mechanics' liens, see LIENS, subhead Mechanics' Liens

Mortgages, see MORTGAGES

Rental property, see RENTAL PROPERTY, RENT, AND RENTERS

Residential property, see HOUSING

Taxation, see PROPERTY TAXES

Titles, see TITLES (PROPERTY)

REAP (RESOURCES ENHANCEMENT AND PROTECTION)

See RESOURCES ENHANCEMENT AND PROTECTION (REAP)

REAPPORTIONMENT

See REDISTRICTING OF ELECTION DISTRICTS

REBUILD IOWA INFRASTRUCTURE FUND

See INFRASTRUCTURE

RECEIVERS AND RECEIVERSHIPS

Banks in receivership, debt payment priority, Code correction, ch 22, §104

Building and loan associations, receivers and receiverships for, stricken, ch 88, §35

Cemeteries, receivers and receiverships for, ch 175, §38 – 40

Cemetery and funeral merchandise and funeral services sellers, receiverships for, establishment, ch 175, §30, 31

Credit unions, receivers and receiverships of, ch 174, §66, 70, 71

Savings and loan associations, receivers and receiverships for, ch 88, §34, 35

Trust companies in receivership, debt payment priority, Code correction, ch 22, §104

RECIPROCITY

Credit unions from out of state, ch 174, §15

RECOGNIZANCES

Eligibility of released persons arrested for new criminal offenses, repealed, ch 215, \$134

RECORDERS, COUNTY

See COUNTIES

RECORDING ACTS

Real property documents and information, ch 101

RECORDS

Adoptions, see ADOPTIONS

Anatomical gift authorization, ch 44, §3, 4

Beer keg registration and sales regulation, ch 46

Card game tournaments conducted by veterans organizations, recordkeeping requirements, ch 119, §1

Cigarette permit holder sales records, maintenance requirements, ch 186, §36

Confidential records, see CONFIDENTIAL COMMUNICATIONS AND RECORDS

Corporation records, see CORPORATIONS

County recorder documents and websites, accessibility restrictions and redaction, ch 123, §1

Court records, see COURTS AND JUDICIAL ADMINISTRATION, subhead Records

Credit union records, ch 126, §91; ch 174, §8, 53 – 56

Criminal history records, see CRIMINAL HISTORY, INTELLIGENCE, AND SURVEILLANCE DATA

Death records, see VITAL STATISTICS AND RECORDS

E-85 gasoline dispensing equipment inspection records, ch 211, §47 – 49

Electronic records, see ELECTRONIC COMMUNICATIONS, RECORDS, AND TRANSACTIONS

Governors records, archiving of, appropriations, ch 212, §1

Health and education records included in foster care case permanency plans, ch 172, §2

Insurance commissioner investigations, records production powers, ch 137, §6

Name changes, recording requirement by clerk of court repealed, ch 71, §6

Organ donation authorization, ch 44, §3, 4

Public records, see PUBLIC RECORDS

Tax records, electronic format for maintenance, ch 186, §23

Vital records, see VITAL STATISTICS AND RECORDS

RECREATION

All-terrain vehicles, see ALL-TERRAIN VEHICLES

Before and after school grant program, approved instructional programs, ch 208, \$5; ch 214, \$6, 19; ch 215, \$34

Boats and boating, see BOATS AND VESSELS

Hunting, see HUNTING

Memorial building and monument commissions, membership and quorum, ch 21

Mines of Spain state recreation area, EB Lyons nature and interpretive center infrastructure improvements, appropriations, ch 219, \$1, 2

Parks, see PARKS

Private property available for public recreation, liability limitation for property owners, Code correction, ch 22, §84

Snowmobiles, see SNOWMOBILES

State river recreation area infrastructure improvements, appropriations, ch 219, \\$1, 2

Tourism, see TOURISM

Trails, see TRAILS

RECREATIONAL VEHICLES

See MOTOR VEHICLES, subhead Motor Homes

RECYCLING AND RECYCLED PRODUCTS

See also WASTE AND WASTE DISPOSAL

Energy city designation program, recycling qualifications, ch 157

Household batteries, heavy metal content and recycling requirements, violations and penalties for violations, ch 151, \$1, 9-11

Motor vehicle recyclers, see MOTOR VEHICLES, subhead Recyclers of Vehicles Recycling and reuse center of university of northern Iowa, appropriations, ch 214, §9

REDISTRICTING OF ELECTION DISTRICTS

Legislative and congressional redistricting

Advisory commission for redistricting, duties of, ch 78, §8, 9

Public information on plans, ch 78, §1, 8

Standards for redistricting, ch 78, §6, 7

Timetable for preparation and submission of plans, ch 78, §2 – 5

REFEREES (COURT OFFICERS)

See JUDGES, JUSTICES, MAGISTRATES, AND REFEREES

REFORMATORY, STATE (ANAMOSA STATE PENITENTIARY)

See CORRECTIONAL FACILITIES AND INSTITUTIONS

REFRIGERATION AND REFRIGERATION EQUIPMENT

Professional licensing and regulation and examining board for licensing and regulation

See also PROFESSIONS

General provisions, ch 198, §1 – 30, 35

Administrative rules, ch 198, §4, 35

Advertising, ch 198, §25, 35

Authority and duties of board, ch 198, §31 – 35

Continuing education, ch 198, §20, 35

Examinations, ch 198, §5 - 8, 35

Fees, ch 198, §9, 35

Insurance and surety bonds, ch 198, §19, 35

Violations and penalties for violations, ch 198, §27, 29, 35

REFUGES

Game refuges, unlawful operation of all-terrain vehicles in, ch 141, §36

REFUNDING BONDS

See BONDS

REFUSE

See WASTE AND WASTE DISPOSAL

REGENTS, BOARD OF, AND REGENTS INSTITUTIONS

See also BLINDNESS AND BLIND PERSONS, subhead Braille and Sight Saving School; COLLEGES AND UNIVERSITIES; DEAFNESS AND DEAF PERSONS, subhead School for Deaf, State; IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY; UNIVERSITY OF IOWA; UNIVERSITY OF NORTHERN IOWA

Abraham Lincoln bicentennial commission, representation, ch 99; ch 215, §98

Agricultural experiment station, appropriations, ch 214, §9

Appropriations, see APPROPRIATIONS

Bids for board purchases, targeted small business procurement, electronic bid notices, ch 207, §1, 2, 6, 9 – 11, 18

Bond issue authority for building and facility construction at state universities, ch 205 Bonds and notes, $see\ BONDS$

REGENTS, BOARD OF, AND REGENTS INSTITUTIONS — Continued

Consider Iowa program, ch 214, §9

Cooperative extension service in agriculture and home economics, appropriations, ch 214, §9

Credit transfer and articulation internet website for community college students, ch 215, \$55

Educational assistance for children of deceased veterans, appropriations, ch 218, §4

Employees, salaries, ch 215, §15, 17, 20

Energy center, see ENERGY, subhead Center for Energy

Energy cost savings, project financing authorized, ch 214, §11

Executive director of board, salary, ch 215, §13, 14

Financial reports, ch 214, §9

Fire safety improvements at institutions, appropriations, ch 219, §9, 10

Hygienic laboratory, see HYGIENIC LABORATORY

Infrastructure improvements, appropriations, ch 219, §1, 2, 9, 10, 14, 15

Investments benefiting Sudan government, prohibition, ch 39, §11

Lakeside laboratory, appropriations, ch 214, §9

Leopold center for sustainable agriculture, see LEOPOLD CENTER FOR SUSTAINABLE AGRICULTURE

Midwestern higher education compact membership fees, appropriations, ch 214, §9

Oakdale campus, appropriations, ch 214, §9

Operational functions shared with school districts, ch 130, §4, 6

Power fund board and due diligence committee appointments, ch 168, §6, 7, 18

Prison industries, purchases from, ch 213, §9

Psychiatric hospital, state, appropriations, ch 214, §9

Purchasing, see PURCHASING, subhead State Purchasing

Quad-cities graduate studies center, appropriations, ch 214, §9

Repayment receipts, student fees and charges exclusion from definition, ch 214, §32, 44

Research and development prekindergarten through grade twelve school, creation of, study by task force, ch 215, \$128, 131

Safety and security on campuses and review of policy on arming officers, study and report, ch 214, §9

Southwest Iowa graduate studies center, appropriations, ch 214, §9

Strategic plan for technology transfer and economic development, regents institutions progress, report, ch 212, §15

Student fees and charges, authorization of retention by institutions, ch 214, §32, 44

Technology improvements, appropriations, ch 219, §14, 15

Tristate graduate center, appropriations, ch 214, §9; ch 219, §14, 15

Tuition replacement rate determination, ch 214, §9

Vehicles and fuel used by vehicles of board and institutions, Code correction, ch 22, §63

REGIONAL DISTRICTS AND ENTITIES

Emergency response training centers, see EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES, subhead Regional Emergency Response Training Centers

Sports authority districts, ch 219, §1, 2, 32

Transit districts, taxes for, collection and payment, ch 143, §36

REGISTERED NURSE AND NURSE EDUCATOR LOAN FORGIVENESS PROGRAM AND FUND

General provisions, ch 214, §4, 26

REHABILITATION OF PROPERTY

Historic preservation and cultural and entertainment district tax credits, see TAXATION, subhead Historic Preservation and Cultural and Entertainment District Tax Credits

REINSURANCE

See INSURANCE

RELATIVES

See FAMILIES

RELIGIONS AND RELIGIOUS ORGANIZATIONS

Blood lead testing of children, requirements for, exemption based on religious beliefs, ch 79. §2

Bullying and harassment of school students based on religion, prohibition and prevention, ch 9

Dental screenings of children for school enrollment, exemption based on religious beliefs,

Education, discrimination prohibitions and exceptions, ch 191, §12

Employment practices, discrimination prohibitions and exceptions, ch 191, §4

Faith-based schools, see SCHOOLS AND SCHOOL DISTRICTS, subhead Nonpublic Schools

Muslim imam services at correctional facilities, appropriations, ch 213, §3, 6

Property tax abatements, ch 186, §27, 30

Public accommodations, discrimination prohibitions and exceptions, ch 191, §6

Schools operated by religious entities, see SCHOOLS AND SCHOOL DISTRICTS, subhead Nonpublic Schools

Substance abuse prevention and treatment services, federal block grant implementation, ch 204, \$1

RENEWABLE ENERGY

See ENERGY

RENEWABLE FUELS

See FUELS

RENTAL PROPERTY, RENT, AND RENTERS

Correctional facility farmlands, rental restrictions, ch 213, §4, 6

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, \$1, 7-10, 14

Eviction prevention, rental payments for, requirements for federal and local match moneys, ${
m ch}\ 204, \13

Landlord and tenant, see LANDLORD AND TENANT

Motor vehicles, see MOTOR VEHICLES, subhead Rental Agreements, Renting, and Rented Vehicles

Property taxes paid as rent, tax credit reimbursements and appropriations, ch 215, \$5, 11 Subsidy and reimbursement program, appropriations and participation limitations, ch 218, \$71

REPRESENTATIVES, STATE

See GENERAL ASSEMBLY

REPRESENTATIVES, UNITED STATES

Redistricting of election districts, see REDISTRICTING OF ELECTION DISTRICTS

REPRODUCTION OF HUMANS

See HUMAN REPRODUCTION

REPTILES

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

Illegal taking or possessing of reptiles, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, \$16

RESCUE SERVICES AND PERSONNEL

See also EMERGENCY MEDICAL CARE AND SERVICES; EMERGENCY VESSELS

Builders of rescue vehicles licensed as wholesalers, authority to be licensed as used motor vehicle dealers, ch 102, \$2

Manufacturers of rescue vehicles, special plates for transporting, demonstrating, showing, or exhibiting vehicles, ch 102, §1

RESEARCH

Advanced research and commercialization projects, financial assistance appropriations, ch 212, §3

Alzheimer's disease task force established, ch 121; ch 218, §1

Anatomical gifts for purposes of research, ch 44, §6

Dangerous wild animal regulation exception, ch 195, §1, 7

Drug development and research park at university of Iowa, appropriations, ch 212, \$13 Energy research, development, and commercialization, promotion by state, ch 168, \$5, 10 – 14, 18

Film, television, and video project expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Human reproductive cloning prohibition, ch 6, §4, 5

Physical research and technology institute, appropriations, ch 212, §12

Postnatal tissue and fluid banking, task force for, ch 147; ch 218, §97

Propane education and research, see PROPANE, subhead Education and Research

Regents university research for business commercialization and economic development, ch 212, §12 – 14; ch 215, §73

Stem cell research and cures initiative, ch 6

Tax credit for research activities, Internal Revenue Code references in Iowa Code updated, ch $12, \S 1, 2, 4, 6 - 8$

Technology commercialization and business development, financial assistance by and appropriations to regents universities, ch 122, §3 – 6, 10

RESERVE PEACE OFFICERS

See PEACE OFFICERS

RESERVOIRS

See WATER AND WATERCOURSES

RESIDENCES AND RESIDENTIAL PROPERTY

See HOUSING

RESIDENCY AND RESIDENTS

Vietnam veterans bonus, residency requirements, ch 176, §1

RESIDENCY PROGRAMS FOR PHYSICIANS AND RESIDENT PHYSICIANS

Family practice program of university of Iowa, appropriations, ch 214, §9

RESIDENT ADVOCATE COMMITTEES

Appropriations, ch 218, §1

Health care facilities, complaints against, guidelines, ch 93, §2

RESIDENTIAL CARE FACILITIES

See HEALTH CARE FACILITIES

RESOURCE CENTERS, STATE

See also HUMAN SERVICES INSTITUTIONS Appropriations, ch 218, \$24, 59, 67 Billings for services, ch 218, \$24

RESOURCE CENTERS, STATE — Continued

Capacity limitations reached in operating units, authorization to open new facilities, ch 218, \$24

Electronic medical records system, procurement and installation of, appropriations, ch 218, \$59, 67

Employees, additional positions and reclassification of vacant positions, ch 218, §24 Time limited assessment and respite services expansion, ch 218, §24

RESOURCES ENHANCEMENT AND PROTECTION (REAP)

Appropriations, ch 211, §29, 30

Congress on resources enhancement and protection, scheduling, ch 28, §1

RESPIRATORY CARE, THERAPY, AND THERAPISTS

See also PROFESSIONS

Licensing and regulation, ch 10, §26 – 67, 73, 128, 129; ch 215, §260

RESPITE CARE SERVICES AND SERVICE PROVIDERS

Alzheimer's disease respite care services, task force examination of, ch 121

Appropriations, see APPROPRIATIONS

Services expansion through home and community-based waivers under medical assistance program, appropriations, ch 208, §1

RESPONDENTIA

Insurance company loans, repealed, ch 152, §84

RESTAURANTS

See FOOD, subhead Establishments for Provision of Food

RESTITUTION

Criminal offenders, restitution by

Liens for restitution, filing of, Code correction, ch 22, §108

Proceeds of crimes, payment to victims, Code corrections, ch 22, §109, 110

Environmental crimes, judgment awards to attorney general, deposit and expenditure, ch 213, §22

Victims of crimes, income tax exemption for payments received from offenders, ch 27, §2,

RETAILERS AND RETAIL SALES

See SALES

RETIREMENT AND RETIREMENT PLANS

Annuities, see ANNUITIES

Beneficiaries of retirement plans

Disclaimer of interest in pensions or benefit plans resulting in failure to file timely inheritance tax return, ch 134, §1, 28

Dissolutions of marriage, annulments, or separate maintenance decrees, voiding of beneficiary designations, ch 134, §5, 28

Fire fighters in cities, see FIRE AND POLICE RETIREMENT SYSTEM

Individual retirement accounts, beneficiary designations voided by dissolutions of marriage, annulments, or separate maintenance decrees, ch 134, §5, 28

Judicial officers, see JUDICIAL RETIREMENT SYSTEM

Natural resources department conservation peace officer retirees, health and life insurance premium payments for, appropriations, ch 211, §17

Police officers in cities, see FIRE AND POLICE RETIREMENT SYSTEM

Public employees (IPERS), see PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Public safety department peace officers, see PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM (PORS)

RETIREMENT AND RETIREMENT PLANS — Continued

Retired and senior volunteer program, appropriations, ch 218, §1

Social security, see SOCIAL SECURITY

REVENUE DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

Administrative rules, ch 162, §3, 13; ch 177, §4, 8; ch 186, §39, 49

Appraisal manual for assessors, preparation and issuance, ch 217, §17

Appropriations, see APPROPRIATIONS

Checkoffs, inclusion on income tax form, determination of, ch 186, §16

Cigarette and tobacco product tax administration, see TAXATION, subhead Cigarettes and Tobacco Products

Cigarette fire safety standards regulation, ch 166, §5, 6, 8

Cigarette sales fair trade law administration, ch 17, §1, 2, 12

Computer assisted collection system upgrade, authorization, ch 217, §17

Director of revenue, salary, ch 215, §13, 14

Driver's license reinstatement installment agreements in default, collection, ch 196, §11

Electricity replacement tax administration, see TAXATION, subhead Replacement Taxes on Electricity and Natural Gas Providers

Local option tax administration, see LOCAL OPTION TAXES

Natural gas replacement tax administration, see TAXATION, subhead Replacement Taxes on Electricity and Natural Gas Providers

Powers, Code correction, ch 126, §64

Property assessment appeal board, compensation of members, ch 215, §27

Property tax administration, see PROPERTY TAXES

Property tax study committee membership and duties, ch 215, §127

Report, annual, ch 186, §19

Sales, services, and use tax administration, see SALES, SERVICES, AND USE TAXES

Tax amnesty program, see TAX AMNESTY PROGRAM

Tax credit tracking system development, report, ch 217, §17

Use tax administration, see SALES, SERVICES, AND USE TAXES

REVITALIZE IOWA'S SOUND ECONOMY (RISE) FUND

Allocations from and uses, ch 200, §7

Credits from road use tax fund, ch 200, §6

RHINOCEROSES

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

RIFLES

See WEAPONS

RIGHTS-OF-WAY

Cable or video service franchise authority to construct and operate communications network within public rights-of-way, ch 201, §2, 10, 15

RISE (REVITALIZE IOWA'S SOUND ECONOMY) FUND

See RÈVITALIZE IOWA'S SOUND ECONOMY (RÍSE) FUND

RISK

State risk management coordinator, designation of, Code correction, ch 22, §2

RIVERBOAT GAMBLING

See GAMBLING, subhead Excursion Gambling Boats

RIVERS

See WATER AND WATERCOURSES

ROADS

See HIGHWAYS

ROAD USE TAX FUND

Allocations, ch 200, §6

Alternative funding sources evaluation and report, ch 200, §5

Appropriations, ch 206, §23, 39; ch 215, §18; ch 216, §1; ch 217, §16, 22

Distribution of funds, enterprise resource management costs, appropriations, ch 217, §22 Midwest interstate passenger rail compact participation, use of fund moneys prohibited, legislative intent, ch 94, §2, 3

Motor vehicle special registration plate fees, disposition, ch 178, \$2, 3; ch 184, \$3 – 5, 7 Revenue levels review and report, ch 200, \$5

ROCK

Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ch 60

ROCKWELL CITY

Correctional facility, see CORRECTIONAL FACILITIES AND INSTITUTIONS

RURRISH

See WASTE AND WASTE DISPOSAL, subhead Solid Waste Disposal

RUNAWAY PERSONS

County runaway treatment plan grant renewal, appropriations, ch 218, §20

RURAL AREAS AND SERVICES

Defibrillator grant program for rural areas, appropriations, ch 208, §1, 7, 8 Generation Iowa commission, rural membership representation, ch 45

Health clinics, see HEALTH, HEALTH CARE, AND WELLNESS

Nursing facility construction, renovation, or replacement, regulation exceptions for provision of services to rural areas, ch 219, §39, 41, 43

Rural community 2000 fund, appropriations, ch 212, §5

Rural mainstreet programs, appropriations, ch 212, §3; ch 215, §71

Southern Iowa development and conservation fund, appropriations, ch 211, §26, 30

Water districts and associations, see WATER AND WATERCOURSES, subhead Rural Water Districts and Associations

SAC AND FOX INDIAN SETTLEMENT

Hunting and fishing regulatory authority on settlement property, ch 189

SAFE DEPOSIT BOXES AND CONTENTS OF BOXES

Credit union boxes, ch 174, §48 - 51

Unclaimed property in boxes, report filing and delivery to treasurer of state, ch 37, §4

SAFETY

Agricultural safety programs at university of Iowa, appropriations, ch 214, §9
Agricultural safety training national center, equipment purchases, appropriations, ch 219, §1 2

Fire safety, see FIRES AND FIRE PROTECTION

Hunter safety education requirements, ch 28, §19

Iowa state university, safety for campus buildings and facilities, appropriations, ch 205 Juror questionnaires, court sealing to protect safety of jurors or family members, ch 210, §5 Nursing facility construction, renovation, or replacement, regulation exceptions for life safety code violations, ch 219, §39, 41, 43

Occupational safety and health regulation, *see OCCUPATIONAL SAFETY AND HEALTH* Railroad track close-clearance warning devices, ch 164; ch 219, §1, 2

Regents institution campus safety study and report, ch 214, §9

SAFETY — Continued

University of Iowa, safety for campus buildings and facilities, appropriations, ch 205 University of northern Iowa, safety for campus buildings and facilities, appropriations, ch 205

SAILORS

Boat and vessel operators, see BOATS AND VESSELS, subhead Operators and Operation of Boats and Vessels

Naval forces, see MILITARY FORCES AND MILITARY AFFAIRS

SALARIES AND WAGES

County deputy officers, annual base salaries, ch 123, §2, 3

Crime victim parent or caretaker, limitations on remuneration for lost income, ch 27, §8

Direct deposit delays, liability for overdraft charges, ch 29 Minimum wage increase, ch 1

New jobs, tax credits for wages and benefits, ch 22, §9; ch 161, §13, 22; ch 215, §82

State employees and officers, see STATE EMPLOYEES, subhead Compensation

Support obligation payment by income withholding, ch 22, \$57; ch 218, \$162, 187 Taxation, see INCOME TAXES

Unemployment compensation, see UNEMPLOYMENT COMPENSATION

Workers' compensation, see WORKERS' COMPENSATION

SALARY MODEL ADMINISTRATOR

See MANAGEMENT DEPARTMENT

SALES

See also UNIFORM COMMERCIAL CODE, subhead Sales

Alcoholic beverages, see ALCOHOLIC BEVERAGES AND ALCOHOL

Cemetery merchandise, sales regulation, see CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES

Cigarettes, see TOBACCO AND TOBACCO PRODUCTS, subhead Sales, Sellers, and Purchases of Cigarettes and Tobacco Products

Drug wholesalers, limited drug and device distributor licensing and regulation, ch 19, §2

Fuels, see FUELS, subhead Retail Dealers of Motor Fuels and Special Fuels

Funeral merchandise and services, sales regulation, see CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES

Insurance, see INSURANCE, subhead Producers

Motor homes, sales at manufacturer-sponsored club rallies, ch 131, §1 – 4, 6

Motor vehicles, see MOTOR VEHICLES, subhead Sales, Sellers, and Purchasers of Vehicles Real estate, see REAL ESTATE, subhead Brokers and Salespersons

Sheriff's sales, mortgage foreclosures, notices of sales to junior creditors, Code correction, ch 126. §105

Taxation, see SALES, SERVICES, AND USE TAXES

Tax sales, see TAX SALES

Tobacco products, see TOBACCO AND TOBACCO PRODUCTS, subhead Sales, Sellers, and Purchases of Cigarettes and Tobacco Products

SALES, SERVICES, AND USE TAXES

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM Beer permit holders, sales tax permit suspension for amusement device cash prize violations, ch 173, §6

Building equipment, amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Business and community-based seed capital fund investments, tax credits, ch 186, §1, 2

SALES, SERVICES, AND USE TAXES — Continued

Card game tournaments conducted by veterans organizations, sales taxes on receipts, ch 119, §1, 6

Computer on-line services, tax exemption, ch 186, §21

Construction materials, supplies, and equipment used in projects for tax exempt entities, tax exemptions, ch 186, §22

Elections for taxes, see LOCAL OPTION TAXES

Exemptions, ch 22, §74, 75; ch 199, §1; ch 215, §112, 125

Financial institution service charges, ch 186, §20

Information technology facilities, electricity and fuel to generate electricity, refunds of taxes, ch 199, §2

Liability of purchaser for sales tax, exclusion from, applicable circumstances, ch 179, §3, 4, 6, 10

Local option taxes, see LOCAL OPTION TAXES, subhead Elections for Taxes Motor vehicles

Lease taxes, amnesty program for payment of delinquent tax liabilities, see TAX $AMNESTY\ PROGRAM$

Local taxes, amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Use tax program, administration and enforcement, appropriations, ch 217, §18 Use tax receipts, appropriations, ch 217, §14

Multiple points of use exemption forms eliminated, ch 179, $\S2$, 5, 7 – 9

Puerto Rico, inclusion in law, ch 179, §1

Refunds, Code correction, ch 126, §69

School infrastructure taxes, see SCHOOLS AND SCHOOL DISTRICTS, subhead Infrastructure and Infrastructure Taxes

Streamlined sales tax advisory council, membership of, Code correction, ch 22, §76 Tax records, electronic format for maintenance, ch 186, §23

Web search portal businesses, equipment, fuel, and electricity, exemptions from taxes, ch 199, §1

SALIVA

Alcohol and drug testing of private sector employees, exception for employees pursuant to collective bargaining agreement, ch 50

SALONS

Cosmetology salons, see COSMETOLOGY AND COSMETOLOGISTS

SALVAGE AND SALVAGERS

Food salvage operations, licensing and regulation, see FOOD, subhead Establishments for Provision of Food

Motor vehicles, salvage certificates of title from another state, assignment or reassignment, ch 143, \$10

SAND

Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ch 60

SANITARY DISTRICTS

Designation terminology, Code corrections, ch 126, §57, 60, 74

Pollution and pollution control, see POLLUTION AND POLLUTION CONTROL

SANITATION

See FOOD, subheads Establishments for Provision of Food; Processing and Production Plants and Establishments; HOTELS AND MOTELS, subhead Licensing, Regulation, and Sanitation; PLUMBING AND PLUMBERS; POLLUTION AND POLLUTION CONTROL; SEWAGE AND SEWAGE DISPOSAL; WASTE AND WASTE DISPOSAL

SANITY

See INSANE PERSONS AND INSANITY

SATELLITE TERMINALS

Credit unions, ch 174, §32

SATISFACTION

Mortgages, see MORTGAGES

SAVINGS AND LOAN ASSOCIATIONS

See also FINANCIAL INSTITUTIONS

General provisions, ch 88

Consumer credit and loans, see CONSUMER CREDIT CODE

Conversions to and from state banks, ch 88, §8 – 16

Credit practices, discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1, 13

Credit union investments in savings and loan associations, ch 174, §36

Deposits in savings and loan associations

Deposits and collections law, see UNIFORM COMMERCIAL CODE, subhead Bank Deposits and Collections

Tangible property unclaimed by owner, report filing and delivery to treasurer of state, ch 37, \$4

Division of savings and loan associations in state commerce department, see COMMERCE DEPARTMENT, subhead Savings and Loan Division

Examinations and audits of associations, ch 88, §30, 31

Federal regulatory laws and agencies, ch 88, \$18 – 21, 24 – 28, 30 – 34, 38, 47

Fees paid by associations for state regulation expenses, ch 88, §36

Financial condition statements, preparation and dissemination of, stricken, ch 88, §24

Investments in state-issued debt obligations, ch 133, §4

Leases by associations, regulation of, ch 88, §22

Loans, see LOANS AND LENDERS

Mergers of associations, ch 88, §39, 40

Mortgages, ch 88, §19

Motor vehicle dealer continuing education requirements, exemption for savings and loan associations, ch 51, \$3

Mutual holding companies, repealed, ch 88, §49

Names of associations, ch 88, §37

Out-of-state savings and loan associations, service charges, sales taxation of, ch 186, §20

Property deposited in savings and loan associations for safekeeping, unclaimed by owner, report filing and delivery to treasurer of state, ch 37, §4

Receivers and receiverships of savings and loan associations, ch 88, §34, 35

Savings accounts in associations, evidence of ownership of, ch 88, §29

Taxation, see FRANCHISE TAXES

SAVINGS AND LOAN DIVISION

See COMMERCE DEPARTMENT

SAVINGS INSTITUTIONS

See FINANCIAL INSTITUTIONS

SCALES

See WEIGHT AND MEASUREMENT

SCHEDULED VIOLATIONS

See also MOTOR VEHICLES, subhead Violations and Violators

Amusement device registration and regulation violations, penalties, ch 173, §2, 9

SCHEDULED VIOLATIONS — Continued

Computerized citations and complaints, electronic signatures and dates, ch 33, §3; ch 215, §259

Gambling age restriction violations, ch 119, §1; ch 188, §13

Personal watercraft cut-off switches and cut-off switch lanyards, penalties for improper maintenance or operation, ch 28, §22

SCHOLARSHIPS

College student financial aid programs, see COLLEGE STUDENT AID COMMISSION

SCHOOL BUDGET REVIEW COMMITTEE

Fiscal review of school districts, recommendations by committee, ch 42

Supplemental aid to districts for hiring teacher librarians, guidance counselors, and school nurses, ch 108, §8

SCHOOL BUSES

See SCHOOLS AND SCHOOL DISTRICTS, subhead Transportation

SCHOOLS AND SCHOOL DISTRICTS

See also EDUCATION, EDUCATORS, AND EDUCATIONAL INSTITUTIONS

Academies, regional, funding of, ch 130, §3

Accreditation, appropriations, ch 214, §6

Administrators

See also subhead Employees below

Administrator quality program, ch 108, §2, 3, 10, 50 – 58, 60 – 63

Beginning administrator mentoring and induction program, ch 108, \$10, 50 – 53, 56; ch 214, \$6, 39

Criminal history background checks of teacher applicants, access by superintendent and designee, ch 108, §11; ch 215, §102

Education data warehouse, implementation, appropriations, ch 214, §6; ch 219, §14, 15 Licensing and regulation, see EDUCATIONAL EXAMINERS BOARD, subhead Licensing and Regulation of Education Practitioners

Standards and evaluations, development by state board, ch 108, \$2, 3, 10, 50, 51, 53, 55-58

Teaching assignment comparison with license and endorsements, disclosure and noncompliance, duties, ch 214, §18, 33, 35

After school programs, grant program establishment and appropriations, ch 208, §5; ch 214, §6, 19; ch 215, §34

Aid by state, see subhead Budgets below

Appropriations, see APPROPRIATIONS

Area education agencies, see AREA EDUCATION AGENCIES

Asbestos removal and encapsulation projects, bid acceptance requirements, ch 125, §2

Association of school boards, local government innovation commission member appointment, ch 117, §2, 7

At-risk children programs, appropriations, ch 215, §62

Basic skills instruction improvement, grant program, ch 215, §60, 61, 67

Before school programs, grant program establishment and appropriations, ch 208, \$5; ch 214, \$6, 19; ch 215, \$34

Beginning administrator mentoring and induction program, ch 214, §6, 39

Blood lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Books, see subhead Textbooks below

Braille and sight saving school, see BLINDNESS AND BLIND PERSONS, subhead Braille and Sight Saving School

Breakfast programs, see subhead Meal Programs below

${\tt SCHOOLS\ AND\ SCHOOL\ DISTRICTS-Continued}$

Budgets

Allowable growth, ch 3

Area education agency payments, reductions, ch 215, §9, 10

Code corrections, ch 22, §59, 60, 62, 67

Instructional support program participation, budget adjustments for continuation, ch $214,\,\$13,\,44$

Instructional support state aid, appropriation limitations, ch 215, §4

Preschool program, foundation aid funding to districts, ch 148, §4 – 6, 8, 10

Regional academies, funding of, ch 130, §3

Review committee, see SCHOOL BUDGET REVIEW COMMITTEE

State aid payments, prohibition against commingling with student achievement and teacher quality program funding, ch 108, \$23, 33

State mandate funding, ch 108, §65

Supplemental aid to districts for hiring teacher librarians, guidance counselors, and school nurses, ch 108, §8

Supplementary weighting for shared virtual classes via communications network, ch 214, \$20, 44

Supplementary weighting incentives for district reorganization and shared operational functions, ch 130, §2, 4, 5

Tax levy incentive for reorganized or dissolved school districts, continuation, ch 130, §1 Bullying prohibition, policy, and prevention, ch 9

Buses, see subhead Transportation below

Career education, see CAREERS AND CAREER EDUCATION

Claims against school districts, liability for, see TORTS AND TORT CLAIMS, subhead Municipalities, Claims against

Class size management, grant program, ch 215, §60, 61, 67

Colleges, see COLLEGES AND UNIVERSITIES

Community colleges, see COMMUNITY COLLEGES AND MERGED AREAS

Community empowerment programs, see COMMUNITY EMPOWERMENT

Construction and improvement projects, bidding and contract procedures, see PUBLIC CONTRACTS, subhead Construction Project Bidding and Contract Procedures Contracts, see PUBLIC CONTRACTS

Contributions by elementary and secondary schools to west capitol terrace and capitol grounds improvements, acknowledgements, ch 222

Counselors, see subhead Guidance Counselors below

Curriculum requirements

Core content standards and courses for all students, ch 214, §17, 37

Driver's education availability for students participating in open enrollment, ch 214, §40 Graduation requirements under model core curriculum, student plans, reports, and appropriations, ch 214, §6, 7, 16, 36

Human growth and development curriculum, age-appropriate and research-based materials, ch 98; ch 214, §6

Model core curriculum requirements, appropriations and report, ch 214, §6, 7, 16, 17 Student advancement policies and supplemental strategies in core courses, grant program proposals, ch 214, §6, 37

Student plans for progress, parents' signatures, ch 214, §36

Data on students, statewide software system for information collection and sharing, ch 32 Day care facilities, see CHILDREN, subhead Care of Children and Facilities for Care of Children

Deaf, school for, see DEAFNESS AND DEAF PERSONS, subhead School for Deaf, State

Dental screenings of children, requirements, ch 146; ch 218, §97

Department of education in state government, see EDUCATION DEPARTMENT

SCHOOLS AND SCHOOL DISTRICTS — Continued

Des Moines university, see DES MOINES UNIVERSITY — OSTEOPATHIC MEDICAL CENTER

Directors, boards of

Blood lead testing of children, duties, ch 79, §2

Discipline and personal conduct standards and policies review, modification, and publication, ch 214, §38

Student advancement policies and supplemental strategies in core courses, grant program proposals, ch 214, §6, 37

Teaching assignment comparison with license and endorsements, disclosure and noncompliance, duties, ch 214, §18, 33, 35

Disabilities and development, center for, see DISABILITIES AND DISABLED PERSONS, subhead Center for Disabilities and Development of University of Iowa

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, \$1, 4-6, 11, 12

Drake university, see DRAKE UNIVERSITY

Early intervention block grant program, appropriations and extension, ch 215, §60, 61, 67 Elementary school enrollment

Blood lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Dental screening requirements, ch 146; ch 218, §97

Emergency preparedness information, closed session meetings and confidentiality, ch 63 Employees

See also subheads Administrators above; Guidance Counselors; Nurses for Schools; Teacher Librarians below; TEACHING AND TEACHERS

Baccalaureate degree holders, professional recognition statements, ch 108, §9 Bullying prevention, ch 9, §2

Criminal history background and fingerprint checks prior to employment, ch 108, \$11; ch 215, \$102

Discipline and personal conduct standards and policies, inclusion of all school personnel, ch 214, §38

Harassment prevention, ch 9, §2

Licensing and regulation of education practitioners, see EDUCATIONAL

EXAMINERS BOARD, subhead Licensing and Regulation of Education Practitioners

Misconduct charges against education practitioners, see EDUCATIONAL

EXAMINERS BOARD, subhead Misconduct Charges against Education Practitioners Professional development plans, rules and appropriations, ch 108, \$1, 37, 65; ch 215, \$103 Salaries, allocation formula for appropriations, ch 108, \$43, 44

Sharing efficiencies for districts, planning appropriations, duties, ch 130, §6

Teacher shortage loan programs, see COLLEGE STUDENT AID COMMISSION, subhead Teacher Shortage Loan Programs

Empowerment programs, see COMMUNITY EMPOWERMENT

Energy city designation program involvement, ch 157

Energy efficiencies, appropriations, ch 130, §6

Expenditures, see subhead Budgets above

Faith-based schools, see subhead Nonpublic Schools below

Farm-to-school program, ch 211, §26, 30; ch 215, §93 – 96

Fences at attendance centers, barbed wire prohibition, Code correction, ch 126, §51

Finance, see subhead Budgets above

Food programs, see subhead Meal Programs below

Foundation program aid, see subhead Budgets above

Funds, see subhead Budgets above

Gifted and talented education, appropriations, ch 214, §6

Glenwood state resource center, see RESOURCE CENTERS, STATE

SCHOOLS AND SCHOOL DISTRICTS — Continued

Grade sharing

See also subhead Shared Classes and Teachers below

Supplementary weighting and district reorganization, ch 130, §2

Graduation requirements under model core curriculum, student plans, reports, and appropriations, ch 214, §6, 7, 16, 36

Guidance counselors

See also subhead Employees above

Employment by school districts, requirement and waivers and extensions, ch 108, §4, 5, 40

Licensing and regulation, see EDUCATIONAL EXAMINERS BOARD, subhead Licensing and Regulation of Education Practitioners

Standards, rules, and appropriations, ch 108, §4, 40, 65

Supplemental aid to districts for hiring counselors, ch 108, §8

Harassment prohibition, policy, and prevention, ch 9

Health education, curriculum requirements and standards, ch 98 High schools

Advanced placement participation and online advanced placement academy, appropriations, ch 214, §6

Curriculum requirements, see subhead Curriculum Requirements above

Enrollment, dental screening requirements, ch 146; ch 218, §97

Graduation requirements under model core curriculum, appropriations and report, ch 214, §6, 7, 16

Senior year plus program study, appropriations, ch 214, §6

Sports authority regional districts, use for high school athletic activities, ch 219, §32

Hospital-school for children with disabilities, see DISABILITIES AND DISABLED

PERSONS, subhead Center for Disabilities and Development of University of Iowa Human growth and development curriculum, age-appropriate and research-based materials, ch 98; ch 214, §6

Human papilloma virus transmission and vaccine education, ch 98, \$2-4 Improvement advisory committee, harassment and bullying prevention duties, ch 9 Infrastructure and infrastructure taxes

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Collection and distribution of taxes, compliance costs, appropriations, ch 217, §17 Elections for taxes, notice of results, ch 186, §26

Liability for payment of taxes, ch 186, §5

Innovation and excellence initiatives, see LOCAL GOVERNMENT INNOVATION COMMISSION AND FUND

Instructional support program participation, continuation, ch 214, §13, 44

Instructional support state aid, appropriation limitations, ch 215, §4

Insurance efficiencies, appropriations, ch 130, §6

Iowa state university of science and technology, see IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

Job training, see LABOR AND EMPLOYMENT, subhead Training for Jobs

Joint entities and undertakings, see JOINT ENTITIES AND UNDERTAKINGS

Junior colleges, see COMMUNITY COLLEGES AND MERGED AREAS

Juveniles adjudicated delinquent, school-based supervision, appropriations, ch 218, \$18 Laboratory schools, research and development prekindergarten through grade twelve school, creation of, study by task force, ch 215, \$128, 131

Lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Learning technology initiatives

Appropriations, ch 219, §14, 15

Pilot project report, ch 214, §14

SCHOOLS AND SCHOOL DISTRICTS — Continued

Liaison officers, funding, ch 218, §18

Librarians, see subhead Teacher Librarians below

Licensing and regulation of education practitioners, see EDUCATIONAL EXAMINERS BOARD

Local government innovation, see LOCAL GOVERNMENT INNOVATION COMMISSION AND FUND

Lunch programs, see subhead Meal Programs below

Mandates imposed by state, see MANDATES IMPOSED ON POLITICAL SUBDIVISIONS Mathematics, see MATHEMATICS

Meal programs

Applicants for programs, information to human services department, ch 218, §105

Farm-to-school program, ch 211, §26, 30; ch 215, §93 – 96

State matching funds for food service, appropriations, ch 214, §6

Motor vehicles, see subhead Transportation below

Nonpublic schools

See also EDUCATION, EDUCATORS, AND EDUCATIONAL INSTITUTIONS, subhead Private Education, Institutions, Instruction, and Schools

Administrators, mentoring and induction requirement and exemption, ch 108, \$10

Blood lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2

Bullying prevention, ch 9, §2

Curriculum requirements, see subhead Curriculum Requirements above

Dental screenings of children, requirements, ch 146; ch 218, §97

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, \$1, 4-6, 11, 12, 14

Graduation requirements under model core curriculum, appropriations and report, ch 214, §6, 7, 16

Harassment prevention, ch 9, §2

Health and wellness education, curriculum requirements and standards, ch 98

Open enrollment, driver's education availability, ch 214, §40

Preschool program for four-year-old children, statewide, participation in, see subhead Preschool Program for Four-Year-Old Children, Statewide, below

Teachers, see TEACHING AND TEACHERS

Textbooks for nonpublic schools, appropriations and per pupil limitations, ch 214, §6 Transportation of children attending preschool program for four-year-old children,

ineligibility for district reimbursement from state aid, ch 148, §9

Transportation payments by state, appropriation limitations, ch 215, §4

Nursery schools, see CHILDREN, subhead Care of Children and Facilities for Care of Children

Nurses for schools

See also subhead Employees above

Criminal history background and fingerprint checks prior to employment, ch 108, §11; ch 215, §102

Educational examiners board endorsements or statements of recognition for nurses, issuance, ch 108, \$4, 40

Employment by school districts, requirement and waivers and extensions, ch 108, \$4, 5, 40

Medical assistance direct claiming for funding nursing services for students, ch 214, §6 Supplemental aid to districts for hiring nurses, ch 108, §8

Nutrition programs, see subhead Meal Programs above

Open enrollment, driver's education availability, ch 214, §40

Pharmacy colleges and schools, accreditation standards, ch 19, §1, 4

Prekindergarten programs, see subhead Preschool Program for Four-Year-Old Children, Statewide, below SCHOOLS AND SCHOOL DISTRICTS — Continued

Preschool program for four-year-old children, statewide

General provisions, ch 148; ch 214, §6; ch 215, §100

Appropriations, ch 214, §6

Funding, state aid formula and appropriations, ch 148, §4 – 6, 8, 10

Prekindergarten programs, definition inclusion, ch 148, §7

Students, eligibility, ch 148, §3 – 5; ch 215, §100

Teacher, program, and school district requirements, ch 148, §3, 10

Transportation of children attending, state aid for, ch 148, §9

Private schools, see subhead Nonpublic Schools above

Reading, see READING

Regents institutions, see REGENTS, BOARD OF, AND REGENTS INSTITUTIONS

Religious denomination schools, see subhead Nonpublic Schools above

Reorganization of school districts

Appeals of decisions, procedures, ch 214, §34

Feasibility studies, appropriations, ch 214, §6

Supplementary weighting for reorganized districts, ch 130, §5

Tax levy and funding incentives, continuation, ch 130, §1

Research and development prekindergarten through grade twelve school, creation of, study by task force, ch 215, §128, 131

Resource centers, state, see RESOURCE CENTERS, STATE

Retirement system, see PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

School nurses, see subhead Nurses for Schools above

School ready children grant program, appropriations, ch 181; ch 208, §3; ch 214, §6, 41, 44

School-to-career programs, appropriations, ch 212, §3; ch 215, §71

Science, see SCIENCE AND SCIENTIFIC ORGANIZATIONS

Security procedures information, closed session meetings and confidentiality, ch 63

Sexual exploitation of students via use of internet, instruction on prevention, ch 98, §1

Shared classes and teachers

See also subhead Grade Sharing above

District sharing incentives, appropriations, ch 214, §6

Virtual classes via communications network, supplementary weighting for, ch 214, \$20,

Shared operational functions with political subdivisions, supplementary weighting and funding incentives and appropriations, ch 130, §4, 6

Special education, early childhood programs, collaboration with statewide preschool program for four-year-old children, ch 148, §3

Special olympics, use of regional sports authority districts, ch 219, §32 Standards

Human growth and development instruction, age-appropriate and research-based materials, ch 98, §2

Prekindergarten programs, statewide preschool program for four-year-old children definition inclusion, ch 148, §7

Sexually transmitted disease prevention, human papilloma virus vaccine information, ch 98, §2

Student achievement and teacher quality program, see TEACHING AND TEACHERS Students

Blood lead testing of children, requirements, ch 79; ch 215, §88; ch 218, §2 Bullying prevention, ch 9, §2

Correctional services departments youth leadership model program to help at-risk youth, ch 213, §5, 6

Curriculum requirements, see subhead Curriculum Requirements above

Dental screenings of children, requirements, ch 146; ch 218, §97

Discipline and personal conduct standards and policies, ch 214, §38

SCHOOLS AND SCHOOL DISTRICTS — Continued

Students — Continued

Election board and board panel membership, qualifications and restrictions, ch 34 Harassment prevention, ch 9, §2

Jobs for America's graduates, appropriations, ch 214, §6

Math and science education improvement program for low-income, female, and minority students, ch 122, §8, 10, 11

Postsecondary enrollment, Code correction, ch 22, §62

Preschool program for four-year-old children, statewide, eligible students, ch 148, \$3 – 5; ch 215, \$100

Statewide information system, education department study, ch 32

Superintendents, see subhead Administrators above

Supplemental strategies and educational services grant program, establishment and appropriations, ch 214, §6, 37

Taxes, see TAXATION, subhead School Districts

Teacher librarians

See also subhead Employees above

Employment by school districts, requirement and waivers and extensions, ch 108, §5, 40

Supplemental aid to districts for hiring teacher librarians, ch 108, §8

Teachers, see subhead Employees above; TEACHING AND TEACHERS

Technology

Curriculum, technology literacy requirements, ch 214, §6, 7, 16

Learning technology initiatives, see subhead Learning Technology Initiatives above School networks and classrooms, technical services for, appropriations, ch 214, §6 Skills Iowa technology grant program, ch 206, §9, 39

Textbooks

Nonpublic schools, textbooks for, appropriations and per pupil limitations, ch 214, §6 Tax credits, ch 161, §21, 22

Tort claims against school districts, liability for, see TORTS AND TORT CLAIMS, subhead Municipalities, Claims against

Training school, state, see JUVENILE FACILITIES AND INSTITUTIONS, subhead State Training School

Transportation

District sharing of services and operations efficiency, supplementary weighting and appropriations, ch 130, §4, 6

Fuel purchased and used in motor vehicles, Code correction, ch 126, §50

Preschool program for four-year-old children, state aid for districts with children attending, ch 148, §9

School bus inspection by state patrol, reassignments of members to patrol highways, ch 213, \$14

Services to nonpublic schools, payments by state, appropriation limitations, ch 215, \$4 Tuition organizations, tax credits, ch 161, \$20, 22; ch 186, \$9 – 13, 31; ch 215, \$111 Tuition, tax credits, ch 161, \$21, 22

Tutoring

Before and after school grant program, approved instructional programs, ch 208, \$5; ch 214, \$6, 19

Supplemental strategies for students in core courses, tutoring services, ch 214, §37 Universities, see COLLEGES AND UNIVERSITIES

University of Iowa, see UNIVERSITY OF IOWA

University of northern Iowa, see UNIVERSITY OF NORTHERN IOWA

Vehicles, see subhead Transportation above

Virtual classes via communications network, supplementary weighting for shared classes, ch 214, \$20, 44

Vocational agriculture youth organization, appropriations, ch 214, §6

SCHOOLS AND SCHOOL DISTRICTS — Continued

Vocational education, see VOCATIONAL EDUCATION

Voluntary model core curriculum requirements, appropriations and report, ch 214, §6, 7, 16. 17

Wellness education, curriculum requirements and standards, ch 98

Whole-grade sharing, see subhead Grade Sharing above

Woodward state resource center, see RESOURCE CENTERS, STATE

SCIENCE AND SCIENTIFIC ORGANIZATIONS

Before and after school grant program, approved instructional programs, ch 208, §5; ch 214, §6, 19; ch 215, §34

Biotechnology, bioscience, and biology, see BIOTECHNOLOGY, BIOSCIENCE, AND BIOLOGY

Core content standards and courses for all students, ch 214, §17, 37

Cultural trust, use of grant account moneys, ch 73

Education in science, improvement program for low-income, female, and minority students, ch 122, §8, 10, 11

Research park at Iowa state university, appropriations, ch 212, §12

Stem cell research and cures initiative, ch 6

SEALS

Court seals, electronic images on electronic documents, ch 33, §1 Great seal of Iowa, desecration, ch 202, §13, 14

SEARCHES AND SEIZURES

Revenue department applications for administrative search warrants, Code correction, ch $126,\,\$64$

SECRETARY OF AGRICULTURE

See AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT

SECRETARY OF STATE

Administrative rules, ch 190, \$29; ch 215, \$229; ch 217, \$20; ch 219, \$1, 7, 34 Appropriations, see APPROPRIATIONS

Cooperative association and cooperative law administration, see COOPERATIVE ASSOCIATIONS AND COOPERATIVES

Corporation filing fees, refund procedures and rules, ch 217, §20

Corporation law administration, see CORPORATIONS

Election administration, see ELECTIONS

Executive council duties, see EXECUTIVE COUNCIL

Joint government entity boards, filing of electronic records and reports, ch 158, $\S 2$ – 4

Voting system regulation, see ELECTIONS, subheads Machines Used for Voting; Optical Scan Systems Used for Voting

SECURED TRANSACTIONS

See UNIFORM COMMERCIAL CODE

SECURITIES

See also BONDS; SHARES AND SHAREHOLDERS; STOCKS, STOCKBROKERS, AND STOCKHOLDERS; UNIFORM COMMERCIAL CODE, subhead Investment Securities Beneficiaries

Disclaimer of interest in securities resulting in failure to file timely inheritance tax return, ch 134, §1, 28

Dissolutions of marriage, annulments, or separate maintenance decrees, voiding of beneficiary designations, ch 134, §5, 28

Corporation securities, see CORPORATIONS, subhead Shares and Securities of Corporations

SECURITIES — Continued

Enforcement of uniform securities law by insurance commissioner, ch 137, \$3-5 Investment adviser representatives, regulation, Code correction, ch 126, \$87 Investments, see INVESTMENTS

State department, agency, and authority debt obligations, ch 133, §4

SECURITY

See also EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES

Alarm systems, see ALARM SYSTEMS, CONTRACTORS, AND INSTALLERS Capitol and capitol complex buildings, appropriations, ch 215, §3

Domestic or foreign security threats, cooperation between homeland security and emergency management division and public safety department, ch 213, §13

Government security procedures information, closed session meetings and confidentiality, ch 63

Iowa state university, security for campus buildings and facilities, appropriations, ch 205 Regents institution campus security, review of arming officers, study and report, ch 214, §9 University of Iowa, security for campus buildings and facilities, appropriations, ch 205 University of northern Iowa, security for campus buildings and facilities, appropriations, ch 205

SECURITY INTERESTS

See also UNIFORM COMMERCIAL CODE, subhead Security Interests
Boats and vessels, discharge of security interests in, ch 28, §12
Motor vehicles, title issuance for vehicles with unreleased security interests, ch 143, §8

SEEING

See VISION

SEIZURES OF PROPERTY

See also FORFEITURES OF PROPERTY

Disposition of seized property in criminal proceedings, notice and release, ch 107 Firearms and ammunition seized in criminal proceedings, disposition, ch 107 Trespass committed while hunting deer, seizure of illegally taken deer, ch 28, §21

SELF-LIQUIDATING IMPROVEMENTS

City improvements, contracts for, letting procedure, ch 144, §20

SEMITRAILERS

See MOTOR VEHICLES, subhead Trailers and Semitrailers

SENATORS, STATE

See GENERAL ASSEMBLY

SENIOR CITIZENS

See ELDERLY PERSONS AND ELDER AFFAIRS

SENIOR LIVING SERVICES AND PROGRAM

Appropriations, ch 218, §68

Coordinating unit, long-term living resources system team membership and duties, ch 92 Long-term living and care, see LONG-TERM LIVING AND CARE

Nursing facilities, see HEALTH CARE FACILITIES

Senior living trust fund

Appropriations, ch 215, §5, 11; ch 218, §68 – 71, 76

Social service provider reimbursements by human services department, modification based on funding allocations, ch 218, §31

SENTENCES AND SENTENCING

See CRIMINAL PROCEDURE AND CRIMINAL ACTIONS, subhead Judgments and Sentences

SEPARATE MAINTENANCE

Beneficiary designations voided for insurance or other contracts, ch 134, §4, 5, 28 Property division, inherited or gifted property, ch 163

SERVICE MARKS

Finance authority ownership powers, ch 54, §19

SERVICE OF PROCESS

Child support recovery unit, procedures used by, ch 218, §142, 156

SERVICES TAXES

See SALES, SERVICES, AND USE TAXES

SESSION LAWS

See IOWA ACTS (SESSION LAWS)

SEWAGE AND SEWAGE DISPOSAL

See also WASTE AND WASTE DISPOSAL; WATER AND WATERCOURSES, subhead Quality Protection and Regulation

Animal feeding operations and feedlots, regulatory law enforcement, see ANIMALS, subhead Feeding Operations and Feedlots

Plumbing, see PLUMBING AND PLUMBERS

Pollution control, see POLLUTION AND POLLUTION CONTROL

Sanitary districts, see SANITARY DISTRICTS

Semipublic disposal systems defined, Code correction, ch 126, §74

SEX

Abuse of human corpses, criminal offenses and penalties, ch 91

Abuse of persons by performance of sex acts, see SEXUAL ABUSE

Diseases transmitted by sexual activity, see ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HUMAN IMMUNODEFICIENCY VIRUS (HIV); SEXUALLY TRANSMITTED DISEASES

Exploitation based on sex, see SEXUAL EXPLOITATION

Identity, see GENDER

Necrophilia, criminal offenses and penalties, ch 91

Orientation, see SEXUAL ORIENTATION

Pregnancy, see PREGNANCY

SEX CRIMES AND OFFENDERS

See also SEXUAL ABUSE; SEXUAL EXPLOITATION

Appropriations, see APPROPRIATIONS, subhead Sex Offense Prevention, Offender Treatment, and Victims

DNA profiling, see GENETIC MATERIALS AND TESTING, subhead DNA Profiling

HIV test results for sex offenders, disclosure restrictions, ch 70, §10, 11

Necrophilia, criminal offenses and penalties, ch 91

Rape, see SEXUAL ABUSE

Registration and registry of offenders

DNA sample required from sex offenders, ch 38, §4

School district teachers, superintendent's access to sex offender registry checks of, ch 108, §11; ch 215, §102

Sexual predators and violence

Abuse of corpses, sexually violent offenses and exceptions, ch 91

SEX CRIMES AND OFFENDERS — Continued

Sexual predators and violence — Continued

Appropriations, see APPROPRIATIONS, subhead Sex Offense Prevention, Offender Treatment, and Victims

Care and treatment, human services department contracts with other states, ch 218, §27

Cherokee civil commitment unit capital improvements, appropriations, ch 219, §1 – 3

Correctional facility inmate treatment programs for sex offenses issues, evidence-based practices research study, appropriations, ch 219, §1, 2

Evaluations in commitment proceedings, appropriations, ch 215, §64, 65

Violence prevention programming, appropriations, ch 218, §2

Treatment programs for sex offenders, correctional services departments, appropriations, ch 213, §5, 6

Victims of crimes, see VICTIMS AND VICTIM RIGHTS

Violence, see subhead Sexual Predators and Violence above

SEXUAL ABUSE

See also SEX CRIMES AND OFFENDERS

Appropriations, see APPROPRIATIONS, subhead Sex Offense Prevention, Offender Treatment, and Victims

Children

Prevention initiative, appropriations, ch 218, §18

Victims and offenders, decategorization of services to, ch 218, §94 – 96

Dead bodies, abuse of, criminal offenses and penalties, ch 91

Grants related to sexual assault, appropriations, ch 217, §11

Informations and indictments for sexual abuse, limitation of actions, Code correction, ch 126, §110

No-contact orders for victims, ch 180, §4 – 11

Peace officers and public safety and emergency personnel, complaints against alleging violations by, ch $160\,$

Victims and victim rights, see VICTIMS AND VICTIM RIGHTS

SEXUAL ASSAULT

See SEXUAL ABUSE

SEXUAL EXPLOITATION

See also SEX CRIMES AND OFFENDERS

School instruction regarding sexual exploitation via use of internet, ch 98, §1

SEXUAL HARASSMENT

Peace officers and public safety and emergency personnel, complaints against alleging violations by, ch 160

SEXUAL IDENTITY

See GENDER

SEXUALLY TRANSMITTED DISEASES

AIDS and HIV, see ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HUMAN IMMUNODEFICIENCY VIRUS (HIV)

HPV, see HUMAN PAPILLOMA VIRUS (HPV)

School education related to sexually transmitted diseases, ch 98, §2 - 4

SEXUAL ORIENTATION

Bullying and harassment of school students based on sexual orientation, prohibition and prevention, ch 9

Defined, ch 191, §1

Discrimination based on sexual orientation, prohibitions and exceptions, ch 191

SHARE DRAFTS

General provisions, ch 174, §44

Payment by dissolved credit unions, ch 174, §45

SHARES AND SHAREHOLDERS

See also SECURITIES; STOCKS, STOCKBROKERS, AND STOCKHOLDERS

Corporation shares, see CORPORATIONS, subhead Shares and Securities of Corporations Income taxes for S corporation shareholders, see INCOME TAXES

Income tax returns for nonresident trusts and estates, ch 186, §15

Investment tax credits for S corporation shareholders, see INCOME TAXES, subhead Investment Tax Credits

SHEEP

Feeding operations and feedlots, see ANIMALS, subhead Feeding Operations and Feedlots Livestock, see LIVESTOCK

SHELDON

Northwest Iowa community college emergency response training center infrastructure improvements, ch 219, §1, 2, 33

SHERIFFS AND DEPUTY SHERIFFS, COUNTY

See COUNTIES

SHERIFF'S SALES

Mortgage foreclosures, notices of sales to junior creditors, Code correction, ch 126, §105

SHIELDS, TIM, CENTER FOR GOVERNING EXCELLENCE IN IOWA

Establishment, ch 117, §6, 7; ch 215, §54

SHIPPERS

See CARRIERS

SHORTHAND REPORTING AND REPORTERS

Children's justice initiative, authorization for additional reporters and appropriations, ch 210, §1

Examiners board, appropriations, ch 210, §1

SHOTGUNS

See WEAPONS

SHOWS

Emergency vehicle manufacturers, special plates for demonstrating or exhibiting vehicles, ch 102, §1

Iowa junior angus show, appropriations, ch 215, §41

SHRUBBERY

See PLANTS AND PLANT LIFE

SHUTTLES AND SHUTTLE SERVICES

Capitol complex shuttle service for downtown Des Moines, appropriations and operation, ch 215, $\S29$

SIBLINGS

See also FAMILIES

Anatomical gifts, authorization by adult siblings to make, amend, or revoke gifts, ch 44, §4 Definition, ch 67, §2

Military forces members killed on active duty, siblings of, motor vehicle gold star special registration plates, ch 178

SIBLINGS — Continued

Multidimensional treatment level foster care program, provisions for siblings, ch 218, §47 Placement, visitation, and interaction rights for siblings of placed children, ch 67; ch 218, §18

SICK LEAVE

Public safety law enforcement sick leave benefits fund, appropriations, ch 213, §14

SICKNESSES

See DISEASES

SIDEWALKS

Cable or video service franchise authority to construct and operate communications network within public rights-of-way, ch 201, §2, 10, 15

State capitol complex sidewalk repairs, appropriations, ch 219, §1, 2

SIGHT

See VISION

SIGNATURES

Campaign finance committee reports and statements, ch 80, §4

Election candidate nomination papers, signatures and signers of, ch 59, §3 – 5, 19

Electronic signatures, regulation by federal law and uniform commercial code, ch 30, §3; ch 41. §10

Voter registration applications, requirement for signature of, ch 59, §41, 43

SIGN LANGUAGE

Interpreting and interpreters, see INTERPRETING AND INTERPRETERS, subhead Sign Language Interpreting and Interpreters

SIGNS

Advertising signs, see ADVERTISING

Campaign signs, posting on private property, restrictions, ch 14, \$7; ch 215, \$244 Railroad track close-clearance warning devices, installation and penalties for violations, ch 164; ch 219, \$1, 2

SIOUXLAND INTERSTATE METROPOLITAN PLANNING COUNCIL

Tristate graduate center appropriations, ch 214, §9

SISTERS

See SIBLINGS

SKIN

Cosmetology arts and sciences, see COSMETOLOGY AND COSMETOLOGISTS

SLANDER

Building and loan associations, defamation of, criminal offense stricken, ch 88, §23

SMALL BUSINESS

See also BUSINESS AND BUSINESSES

Appropriations, see APPROPRIATIONS

Assistance to small businesses, see subhead Targeted Small Businesses below

Association group health care plans for employees of small employers, ch 57, 1 - 5, 8; ch 215, 255

Credit unions, investments in businesses by, ch 174, §35

Definitions, ch 54, §9, 31, 35, 36, 43; ch 207, §3 – 5, 18

Development centers, appropriations, ch 212, §12

Development of small businesses, see subhead Targeted Small Businesses below

SMALL BUSINESS — Continued

Health care plan affordability for small businesses, commission on, ch 218, §99, 127, 129 Health insurance for small employers, see INSURANCE, subhead Health Insurance and Health Benefit Plans

Loan program of Iowa finance authority, repealed, ch 54, §9, 11, 45

Microbusiness rural enterprise assistance program, application for appropriations, ch 212, \$23

Promotion of small businesses, see subhead Targeted Small Businesses below

Purchasing and procurement from small businesses by state, see subhead Targeted Small Businesses below

Targeted small businesses

Advocate service providers for mentoring, outreach, and professional development services, ch 207, §6, 13, 18

Appropriations, ch 207, §13 – 18

Definitions, ch 207, §4, 5, 18

Financial assistance program grants and loans, terms of awards and appropriations, ch 207, \$6-8, 12, 14, 18

Low-income persons establishing or expanding small businesses, grants from financial assistance program, stricken, ch 207, §7, 12, 18

Marketing and compliance activities and appropriations, ch 207, §10, 15, 16, 18

Mentoring services for small businesses, ch 207, §6, 8, 12, 18

Purchasing and procurement from small businesses by state agencies, ch 207, \$1, 2, 6, 9-11, 15, 16, 18

Wellness initiatives for small employers, ch 57, §6 – 8

SMALL ESTATES

See PROBATE CODE

SMOKING

Cessation, prevention, and control of smoking, see TOBACCO AND TOBACCO PRODUCTS, subhead Use Prevention, Cessation, and Control

SNAKES

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

SNOWMOBILES

General provisions, ch 141, §2 – 26, 54

Definitions, ch 141, §2

Fee receipts, special snowmobile fund deposits and appropriation transfers, ch 211, \\$20 Law enforcement, appropriations, ch 211, \\$20

Manufacturer, distributor, and dealer registration and fees, minimum requirements, ch 141, \$13-17

Misdemeanors, registration and license revocation, ch 141, §25

Nonresidents, operation permits and fees, ch 141, §3, 6

Operation, Code correction, ch 22, §69

Registration and permitting, ch 141, §4 – 10, 20

Safety instruction course and certificate, ch 141, §18, 19

Storage, registration, and fees, stricken, ch 141, §5

Titles and certificates of title, ch 141, §21 – 24

Trail construction projects, appropriations, ch 219, §1, 2

Violations and fees, ch 141, §25, 54, 55

SNUFF

See TOBACCO AND TOBACCO PRODUCTS

SOCIAL SECURITY

Child advocacy board administrative review costs claims, funding application, ch 217, §12

SOCIAL SECURITY — Continued

Employees of state and political subdivisions, benefits administration for, Code correction, ch 22, §31

Federal pass-along requirement fulfillment, ch 218, §14

Foster care funding, goals for placement length of time, ch 218, §18

Foster care placement for children participating in Social Security Act waiver, ch 218, §18

Healthy and well kids in Iowa (hawk-i) program, receipt of federal funds, ch 218, §15

Tax credits in corporate income computation, ch 186, §17

Unemployment compensation administration by workforce development department, appropriation of moneys received under Act, ch 212, §25

SOCIAL SECURITY NUMBERS

County recorder documents and websites, prohibition against use, ch 123, §1

SOCIAL SERVICES AND WELFARE

See PUBLIC ASSISTANCE

SOCIAL STUDIES

See also HISTORY AND HISTORICAL RESOURCES

Core content standards and courses for all students, ch 214, §37

SOCIAL WORK AND WORKERS

See also PROFESSIONS

Licensing and regulation, ch 10, §26 – 67, 73, 147, 148; ch 215, §260

Victims of crimes, compensation for counseling services, ch 27, §8, 9

SOIL

See LAND

SOIL AND WATER CONSERVATION

See also EROSION AND EROSION CONTROL; FLOODS AND FLOOD CONTROL Agricultural drainage well water quality assistance program and fund, appropriations,

ch 211, §26, 30 Appropriations, ch 211, §26, 30

Complaint inspections, cost-sharing allocations for abatement, ch 211, §26, 30

Conservation reserve enhancement program, appropriations, ch 211, §26, 30

Districts and district commissioners

Administrative expenses reimbursement, appropriations and report, ch 211, §9 Appropriations, ch 211, §26, 30

Division of soil conservation in state agriculture and land stewardship department, see AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT, subhead Soil Conservation Division

Financial assistance and incentives to establish conservation practices, appropriations and allocations, ch 211, §26, 30

Natural resource-based business opportunities, eligibility of local resource conservation and development groups to receive appropriations, ch 211, §28, 30

Resource protection programs, appropriations, ch 211, §26, 30

Row-cropped land, management practices to control soil erosion, financial incentive appropriations, ch 211, §26, 30

Tillage and nonpoint source pollution control practices, research and demonstration projects, financial incentive appropriations, ch 211, §26, 30

Watershed management, protection, and improvements, see WATER AND WATERCOURSES

Wetlands, see WATER AND WATERCOURSES

SOIL CONSERVATION DIVISION

See AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT

SOLDIERS

See MILITARY FORCES AND MILITARY AFFAIRS

SOLID WASTE AND SOLID WASTE DISPOSAL

See WASTE AND WASTE DISPOSAL

SOUND

All-terrain vehicles, sound level, ch 141, §35

Film, television, and video project expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

SOUTHERN IOWA DEVELOPMENT AND CONSERVATION AUTHORITY

Appropriations to development and conservation fund, ch 211, §26, 30

SOUTHWEST IOWA GRADUATE STUDIES CENTER

Appropriations, ch 214, §9

SOYBEANS AND SOY PRODUCTS

See also CROPS; GRAIN

Cutting tool oil, use of soy-based products, tax credits, ch 161, §10, 22

Fuels derived from soybeans, see FUELS, subhead Biodiesel Fuel and Biodiesel Blended

Soybean association and association board of directors, agricultural and environment performance program, appropriations, ch 211, §26, 30

Transformer fluid, use of soy-based fluids, tax credits, ch 161, §19, 22

SPANISH-AMERICAN PERSONS

See LATINO PERSONS

SPANISH LANGUAGE

Teacher training in reading recovery pilot projects, ch 214, §42, 44

SPAS

Registration and regulation

Administrative rules for registration and regulation law, advisory committee for, stricken, ch 159, §22

Violations of registration and regulation law, enforcement of compliance, ch 159, \$23

SPEAKING

Communications service, see COMMUNICATIONS SERVICE AND COMMUNICATIONS COMPANIES

Interpreting and interpreters, see INTERPRETING AND INTERPRETERS

 $Languages, see\ LANGUAGES$

Pathology, see SPEECH PATHOLOGY AND PATHOLOGISTS

Sign language interpreting and interpreters, see INTERPRETING AND INTERPRETERS Transliterating and transliterators, see TRANSLITERATING AND TRANSLITERATORS

SPECIAL ASSESSMENTS

City special assessments and improvements financed by special assessments Bids for projects, terminology correction, ch 144, §17 Contract letting procedures, ch 144, §18

SPECIAL EDUCATION

Early childhood programs, collaboration with statewide preschool program for four-year-old children, ch $148, \S 3$

SPECIAL OLYMPICS

Promotion by regional sports authority districts, ch 219, §32

SPEECH

Communications service, see COMMUNICATIONS SERVICE AND COMMUNICATIONS COMPANIES

Interpreting and interpreters, see INTERPRETING AND INTERPRETERS

Languages, see LANGUAGES

Pathology, see SPEECH PATHOLOGY AND PATHOLOGISTS

Sign language interpreting and interpreters, see INTERPRETING AND INTERPRETERS Transliterating and transliterators, see TRANSLITERATING AND TRANSLITERATORS

SPEECH PATHOLOGY AND PATHOLOGISTS

See also PROFESSIONS

Licensing and regulation, ch 10, §26 – 67, 73, 83, 84; ch 215, §260

SPORTS

See ATHLETICS, ATHLETES, AND TRAINERS

SPOUSES

See MARRIAGE AND SPOUSES

SPYWARE

Regulation, Code corrections, ch 126, §108; ch 215, §257

STATE BUILDINGS

See STATE OFFICERS AND DEPARTMENTS, subhead Buildings and Facilities of State

STATE EMPLOYEES

See also index heading for specific state department or agency; PUBLIC EMPLOYEES Appropriations, see APPROPRIATIONS

Collective bargaining agreements, funding for, ch 215, §15, 17, 20

Compensation

General provisions, ch 215, §12 – 27

Unemployment compensation for transportation department employees, appropriations, ch 216, §1, 2

Workers' compensation, see WORKERS' COMPENSATION, subhead State Employees Health insurance, see INSURANCE, subhead State Agencies and Employees

Information disclosure by state employees resulting in adverse employment actions against employees, determinations of employer violations, Code correction, ch 126, §18

Insurance, see INSURANCE, subhead State Agencies and Employees

Merit system, see MERIT SYSTEM FOR STATE EMPLOYEES

Pay, see subhead Compensation above

Retirement systems, see JUDICIAL RETIREMENT SYSTEM; PUBLIC EMPLOYEES'
RETIREMENT SYSTEM (IPERS); PUBLIC SAFETY PEACE OFFICERS' RETIREMENT,
ACCIDENT, AND DISABILITY SYSTEM (PORS)

Salaries, see subhead Compensation above

Sales of goods and services by employees to state agencies, restrictions, ch 5, §1

Social security benefits, administration of, Code correction, ch 22, §31

Unemployment compensation, transportation department employees, appropriations, ch 216, \$1,2

Wages, see subhead Compensation above

Workers' compensation, see WORKERS' COMPENSATION

STATE FAIR

See FAIRS AND FAIRGROUNDS

STATE-FEDERAL RELATIONS OFFICE

Appropriations, ch 204, §15 – 17, 51

STATE GOVERNMENT

See STATE OFFICERS AND DEPARTMENTS

STATE INSTITUTIONS

Correctional institutions, see CORRECTIONAL FACILITIES AND INSTITUTIONS
Juvenile home, state, see JUVENILE FACILITIES AND INSTITUTIONS, subhead State
Juvenile Home

 ${\it Mental health institutes, see MENTAL\ HEALTH\ AND\ DISABILITIES, subhead\ Mental\ Health\ Institutes}$

Resource centers, state, see RESOURCE CENTERS, STATE

Training school, state, see JUVENILE FACILITIES AND INSTITUTIONS, subhead State Training School

STATE MANDATES

See MANDATES IMPOSED ON POLITICAL SUBDIVISIONS

STATE OFFICERS AND DEPARTMENTS

See also index heading for specific state officer or department; GOVERNOR Asbestos removal and encapsulation projects, bid acceptance requirements, ch 125, §2 Bidding and bidders, see BIDDING AND BIDDERS

Board members, resignations for low attendance, Code correction, ch 22, §16 Budget and budgeting process

Appropriations, see APPROPRIATIONS

Budget process for 2008-2009, estimates of expenditure requirements, ch 215, §2 Buildings and facilities of state

See also subhead Capital Projects below; CAPITOL AND CAPITOL COMPLEX Appropriations, see APPROPRIATIONS, subhead State Buildings and Facilities Architecture, service-oriented, establishment appropriations, ch 219, §14, 15 Building project to house utilities board and consumer advocate division, appropriations,

ch 217, §24, 26 Cherokee civil commitment unit capital improvements, appropriations, ch 219, §1 – 3 Construction projects, see PUBLIC CONTRACTS, subhead Construction Project Bidding

and Contract Procedures
Laboratory (Ankeny), multipurpose, appropriations nonreversion, ch 219, §17
Life cycle cost analyses for construction and improvements, Code correction, ch 22,

Maintenance costs, appropriations, ch 219, §1, 2

New construction, regulation of, Code corrections, ch 22, §32, 34

New construction, return on investments requirements stricken, ch 219, §42

Rebuild Iowa infrastructure projects, see INFRASTRUCTURE, subhead Rebuild Iowa Infrastructure Fund

Technology, see TECHNOLOGY

Capital projects

See also subhead Buildings and Facilities of State above

Status reporting requirements, ch 115, §7; ch 219, §27 – 31

Capitol and capitol complex, see CAPITOL AND CAPITOL COMPLEX

Communications for public safety, interoperable systems implementation, ch 90

Communications network, see TELECOMMUNICATIONS SERVICE AND

TELECOMMUNICATIONS COMPANIES, subhead Iowa Communications Network (ICN)

Compensation, see STATE EMPLOYEES, subhead Compensation

Construction and improvement projects, bidding and contract procedures, see PUBLIC CONTRACTS, subhead Construction Project Bidding and Contract Procedures

Contracts, see PUBLIC CONTRACTS

STATE OFFICERS AND DEPARTMENTS — Continued

Debt obligations issued by state departments, agencies, and authorities, see DEBTS, DEBTORS, AND CREDITORS, subhead State-Issued Obligations, Uniform Finance Procedures

Debts owed to state, collection of, Code correction, ch 126, §68

Emergency preparedness information, closed session meetings and confidentiality, ch 63 Employees, see STATE EMPLOYEES

Flag of Iowa, see FLAGS

Funds, see PUBLIC FUNDS

Generation Iowa commission, retention and attraction of young adults, ch 45

Gifts to state, reporting requirements, ch 5, §2

Information technology, ch 54, §1

Infrastructure, see subhead Buildings and Facilities of State above

Investment of public funds benefiting Sudan government, prohibition, ch 39

Joint entities and undertakings, see JOINT ENTITIES AND UNDERTAKINGS

Local government innovation, see LOCAL GOVERNMENT INNOVATION COMMISSION AND FUND

Moneys, see PUBLIC FUNDS

Motor vehicles, see MOTOR VEHICLES, subhead State Motor Vehicles

Pay, see STATE EMPLOYEES, subhead Compensation

Privatization of corrections department services, restrictions, ch 213, §4, 6

Purchasing by state, see PURCHASING

Records, see PUBLIC RECORDS

Records center rent payments, appropriations, ch 212, §1

Representation of agencies by justice department, time records, ch 213, §1

Retirement systems, see JUDICIAL RETIREMENT SYSTEM; PUBLIC EMPLOYEES'

RETIREMENT SYSTEM (IPERS); PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM (PORS)

Risk management coordinator for executive branch, designation of, Code correction, ch 22, \$2

Salaries, see STATE EMPLOYEES, subhead Compensation

Sales by officials and employees to state agencies, restrictions, ch 5, §1

Security procedures information, closed session meetings and confidentiality, ch 63

Services provided to state agencies, oversight and accountability of entities contracting with state, ch 22, \$113, 116; ch 126, \$2

Targeted small businesses, purchasing and procurement from, ch 207, \$1, 2, 6, 9 - 11, 15, 16, 18

Technology, see TECHNOLOGY

Telecommunications network, see TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES, subhead Iowa Communications Network (ICN)

Tim Shields center for governing excellence in Iowa, ch 117, §6, 7; ch 215, §54

Tort claims against state, liability for, see TORTS AND TORT CLAIMS

Unemployment compensation information confidentiality, penalty for violations by public officials, ch 77

Utility costs, appropriations, ch 206, §1, 39; ch 217, §1

Wages, see STATE EMPLOYEES, subhead Compensation

Wildlife management or removal, use of drugs for, ch 56

STATE PATROL, DIVISION OF

See PUBLIC SAFETY DEPARTMENT, subhead Patrol, Division of

STATISTICS

Vital statistics, see VITAL STATISTICS AND RECORDS

STATUES

Military service memorials and monuments, commission membership and quorum, ch 21 Worker's monument construction on capitol complex, appropriations, ch 219, §1, 2

STATUS OF AFRICAN-AMERICANS DIVISION

See HUMAN RIGHTS DEPARTMENT

STATUS OF IOWANS OF ASIAN AND PACIFIC ISLANDER HERITAGE DIVISION See HUMAN RIGHTS DEPARTMENT

STATUS OF WOMEN DIVISION

See HUMAN RIGHTS DEPARTMENT

STATUTES

State law, see CODE AND CODE SUPPLEMENT, IOWA; IOWA ACTS (SESSION LAWS)

STATUTES OF FRAUDS

Uniform commercial code provision repealed, ch 41, §42, 59

STATUTES OF LIMITATIONS

See LIMITATIONS OF ACTIONS

STDS

See SEXUALLY TRANSMITTED DISEASES

STEALING

See THEFT

STEAM ENERGY AND STEAM EQUIPMENT

Boilers, see BOILERS

Heating and cooling systems, see HYDRONIC SYSTEMS

Pressure vessels for steam

General provisions, ch 135, $\S1$, 4-8

Certificates of inspection, ch 135, §1, 6

Cessation of use, ch 135, §8

Exemption from inspection and regulation, ch 135, §4

Heating and cooling systems, see HYDRONIC SYSTEMS

Injunctions against use, ch 135, §7

Insurance and inspections by insurers, ch 135, §5

Permitted use, ch 135, §6

Pressure limits, ch 135, §1, 6

Unclaimed steam resources, abandonment, disposition, and definition, ch 60

STEM CELLS

Postnatal tissue and fluid banking for research and medical treatment use, task force for, ch 147; ch 218, §97

Research and cures initiative, ch 6

STEROIDS

See ANABOLIC STEROIDS

STOCKS, STOCKBROKERS, AND STOCKHOLDERS

See also SECURITIES; SHARES AND SHAREHOLDERS

Insurance companies, proportionate representation of stockholders on boards of directors, repealed, ch 137, §30

STOLEN PROPERTY

Theft, see THEFT

STONE

Unclaimed minerals and mineral proceeds, abandonment, disposition, and definition, ch 60

STORAGE AND STORAGE FACILITIES

Agricultural products, see WAREHOUSES AND WAREHOUSE OPERATORS

Children's hospital of Iowa mother's milk bank, appropriations, ch 218, §2

Documents of title for stored goods, see UNIFORM COMMERCIAL CODE, subhead Documents of Title

E-85 gasoline storage and dispensing infrastructure, ch 22, §80; ch 211, §46 – 49

Postnatal tissue and fluid banking for research and medical treatment use, task force for, ch 147; ch 218, §97

Underground storage tanks, see TANKS

Warehouses and warehouse operators, see WAREHOUSES AND WAREHOUSE OPERATORS

STORES

See SALES

STORM LAKE

Restoration projects, appropriations, ch 219, §1, 2, 26

STRAY ANIMALS

Trespass by livestock, duties and responsibilities of landowners and governmental authorities, ch 64

STREAMS

See WATER AND WATERCOURSES

STREETS

See HIGHWAYS

STRUCTURES

See BUILDINGS

STUDENT ACHIEVEMENT AND TEACHER QUALITY PROGRAM

See TEACHING AND TEACHERS

STUDENTS

See also EDUCATION, EDUCATORS, AND EDUCATIONAL INSTITUTIONS

Braille and sight saving school, see BLINDNESS AND BLIND PERSONS, subhead Braille and Sight Saving School

Colleges, see COLLEGES AND UNIVERSITIES

Community colleges, see COMMUNITY COLLEGES AND MERGED AREAS

Deaf, school for, see DEAFNESS AND DEAF PERSONS, subhead School for Deaf, State

Des Moines university — osteopathic medical center, see DES MOINES UNIVERSITY — OSTEOPATHIC MEDICAL CENTER

Financial aid by state for college students, *see COLLEGE STUDENT AID COMMISSION* Preschool program for four-year-old children, statewide, eligible students, ch 148, §3 – 5; ch 215, §100

Schools, see SCHOOLS AND SCHOOL DISTRICTS

Statewide information system, education department study, ch 32

Student achievement and teacher quality program, see TEACHING AND TEACHERS

Universities, see COLLEGES AND UNIVERSITIES

Veterans, children of, educational assistance, appropriations, ch 218, §4

SUBCONTRACTORS

Construction subcontractors, see CONSTRUCTION WORK, CONTRACTORS, AND EQUIPMENT

SUBPOENAS

Insurance commissioner investigations, subpoena powers, ch 137, §6

SUBSTANCE ABUSE

Appropriations, see APPROPRIATIONS

Children, prevention programming for, appropriations and requirements, ch 208, §1

Consortium for substance abuse research and evaluation of university of Iowa, appropriations, ch 214, §9

Drug abuse resistance education (D.A.R.E.) program, appropriations, ch 217, §10

Drug control policy office and drug policy coordinator, see DRUGS AND DRUG CONTROL, subhead Drug Control Policy Office and Drug Policy Coordinator

Drug court programs, appropriations, ch 208, \$1; ch 218, \$18, 32, 57, 67

Employees in private sector, testing for drugs or alcohol by employers, exception for employees due to collective bargaining agreement, ch 50

Federal substance abuse and mental health services administration (SAMHSA) system of care grant, state match funding, ch 218, §20

Gambling addiction dual diagnosis, priority for treatment, ch 218, §3

Homeless persons, outreach services, ch 204, §13, 15 - 17

Integrated substance abuse managed care system, appropriations and requirements, ch 218, §11

Luster Heights correctional facility counselor and program, appropriations, ch 213, §3, 6 Prevention programs and services

Appropriations, see APPROPRIATIONS, subhead Substance Abuse Prevention and Treatment

Children, prevention programming for, appropriations and requirements, ch 208, \$1 Decategorization of services to children, ch 218, \$94-96

Testing of employees in private sector for drugs or alcohol by employers, exception for employees due to collective bargaining agreement, ch 50

Transitional housing pilot project for paroled offenders recovering from substance abuse, appropriations and report, ch 213, §4, 6

Treatment programs and facilities

Appropriations, see APPROPRIATIONS, subhead Substance Abuse Prevention and Treatment

Competencies development, ch 218, §111

Coordination of services, ch 217, §10

Correctional facilities, appropriations, ch 204, §6, 15 – 17

Culturally competent treatment, ch 218, §97

Decategorization of services to children, ch 218, §94 – 96

Education of children living in treatment facilities, Code correction, ch 22, §66

Evidence-based practices research study by corrections department, appropriations, ch 219, §1, 2

Gambling addiction dual diagnosis, priority for treatment, ch 218, §3

Health care trust fund, ch 17, §5, 6, 12; ch 218, §76, 97

Offender treatment, appropriations, ch 213, §4, 6

Veterans counseling program, reduction of alcohol and chemical dependency among veterans, ch 202, §1, 16; ch 218, §4

SUBSTITUTE DECISION MAKERS AND DECISION-MAKING SERVICES

State and local offices, appropriations, ch 218, §1

SUCTION SYSTEMS

Medical facility gas, vacuum, and suction piping system installers and repairers, certification of, ch 198, §2, 10, 35

SUDAN

Investments of state public funds benefiting Sudan government, prohibition on, ch 39

SUICIDE

Veterans counseling program, reduction of incidence of suicide among veterans, ch 202, §1, 16; ch 218, §4

SULFUR HEXAFLUORIDE

Greenhouse gases, see GREENHOUSE GASES

SUPERVISORS, COUNTY

See COUNTIES

SUPPLEMENTARY ASSISTANCE

Administration, Code corrections, ch 126, §72, 73, 115

Appropriations, ch 208, §1; ch 218, §14, 55, 67

Federal pass-along requirement fulfillment, ch 218, §14

Providers of services, reimbursements, ch 218, §31

Residential care facility residents' personal needs allowance increases, authority and rules, ch 218, \$14

SUPPORT OF PERSONS

Adjustments of support, administrative and judicial proceedings, ch 218, \$143 - 156, 179 - 183, 187

Appropriations, see APPROPRIATIONS

Child support obligations and orders

Collections fees, implementation of, ch 218, §34, 45

Delinquent child support obligors, judicial district pilot project for employment and support services, appropriations, ch 218, §7

Federal access and visitation grant moneys to increase compliance with court orders, issuance to private agencies, ch 218, §10

Payment processing equipment for child support recovery unit, appropriations, ch 219, §14, 15

Public awareness campaign, ch 218, §10

Recovery unit, see HUMAN SERVICES DEPARTMENT, subhead Child Support Recovery Unit

Delinquent support payments

Passport sanction procedures applied to persons owing delinquent support, monetary threshold for, ch 218, §137 – 141

Payment by income withholding, ch 22, §57; ch 218, §162, 187

Establishment of support and notice of debts, ch 218, §158 – 161, 187

Medical support determination and collection procedures, ch 218, §10, 157 - 167, 179 - 187

Modifications of paternity orders, attorney fee payment, ch 24

Modifications of support

Administrative and judicial proceedings, ch 218, \$143 - 156, 179 - 183, 187

Criteria for modifications, ch 218, §185, 187

Temporary orders issued by courts, ch 106

Paternity proceedings, establishment of support in, administrative procedures for, ch 218, \$168 – 178, 187

Receipt and disbursement of payments by district court, appropriations, ch 210, §1

Recovery of support, service of process procedures, ch 218, §142, 156

Recovery unit in state human services department, see HUMAN SERVICES

DEPARTMENT, subhead Child Support Recovery Unit

Separate maintenance, see SEPARATE MAINTENANCE

SUPREME COURT OF IOWA

See COURTS AND JUDICIAL ADMINISTRATION

SURCHARGES

Contraband possession violations in criminal or juvenile facilities or institutions, law enforcement initiative surcharge assessment, ch 89, §2

Delinquent surcharges on criminal penalties, repayment and collection, ch 196, $\S1$, 2, 5, 7-11, 15-17; ch 210, $\S1$, 3; ch 215, $\S47$

SURETIES AND SURETY BONDS

Cemetery and funeral merchandise and funeral services purchase agreements funded by surety bonds, see CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES, subhead Purchase Agreements

Claims to property under unclaimed property disposition law, payment of, surety bond required, ch 37, \$5

HVAC professionals, liability insurance requirements, ch 198, §19, 35

Hydronic professionals, liability insurance requirements, ch 198, §19, 35

Motor carrier bonding, transition from single state registration system to unified system, ch 143, §27, 28, 31, 34, 35

Plumbers, liability insurance requirements, ch 198, §19, 35

Refrigeration professionals, liability insurance requirements, ch 198, §19, 35

SURGERY AND SURGEONS

See PHYSICIANS AND SURGEONS

SURVEYING AND SURVEYORS OF LAND

See LAND SURVEYING AND SURVEYORS

SURVIVORS

Beneficiaries, see BENEFICIARIES

Military forces members, survivors of, motor vehicle special registration plates for and use by, ch 178; ch 184, §4, 5, 7

Spouses, see MARRIAGE AND SPOUSES, subhead Military Forces Members and Veterans, Surviving Spouses of; PROBATE CODE, subhead Surviving Spouses; TRUSTS AND TRUSTEES, subhead Spouses of Settlors

Veterans, survivors of

Motor vehicle special registration plates for and use by survivors, ch 178, §2, 3; ch 184, §4, 5, 7

Vietnam veterans bonus payment to survivors, ch 176, §1

Victims, survivors of, compensation, see VICTIMS AND VICTIM RIGHTS, subhead Compensation for Victims

SWAMPLANDS

See WATER AND WATERCOURSES, subhead Wetlands

SWIMMING POOLS

Registration and regulation

Administrative rules for registration and regulation law, advisory committee for, stricken, ch 159, §22

Violations of registration and regulation law, enforcement of compliance, ch 159, §23

SWINE

See PORCINE ANIMALS AND PORK

TAMA COUNTY

Sac and Fox Indian settlement, hunting and fishing regulatory authority of state, ch 189

TANKS

Comprehensive petroleum underground storage tank board and fund regulation Administrative rules, ch 171, §10, 11, 13

TANKS — Continued

Comprehensive petroleum underground storage tank board and fund regulation — Continued

Moneys transfer from comprehensive petroleum underground storage tank fund, ch 215, \$6

Tank regulation, see subhead Underground Storage Tanks below

Unassigned revenue fund, appropriations, ch 211, §21

E-85 gasoline storage and dispensing infrastructure, ch 22, \$80; ch 211, \$46 - 49

Underground storage tanks

General provisions, ch 171

Administration expenses of natural resources department, appropriations, ch 211, §21 Administrative rules, ch 171, §6, 9, 10, 12

Certification requirements for installers, inspectors, testers, and closers, ch 171, §6, 10

Groundwater professionals, certification and regulation, ch 171, §4 – 6, 9, 12

Inspections and inspectors, ch 171, §1, 3, 11, 13

No further action site agreements, ch 171, §7

Permanent closure costs, ch 171, §8

Training program for owners and operators, establishment, ch 171, §6

TARGET SHOOTING AND SHOOTING RANGES

Firearms discharge near farm units, prohibition exception for owners, tenants, or family members, ch 28, §14

TAX AMNESTY PROGRAM

General provisions, ch 177

Administration, auditing, and enforcement, appropriations, ch 177, §5, 8

Definitions, ch 177, §2, 8

Establishment, administration, and reporting by revenue department, ch 177, §3, 6, 8

Participation by taxpayers, conditions and requirements, ch 177, §3, 8

Period for conducting another tax amnesty program, legislative intent, ch 177, §7, 8

TAXATION

See also index heading for specific tax

Agricultural assets transferred to beginning farmers, tax credits for, ch 22, §45; ch 161, §14, 22

Agricultural land, tax credits, state funding for, ch 215, §5, 11

Aircraft fuel, see subhead Fuels below

Alcoholic beverages

State powers, Code correction, ch 22, §35

Wine gallonage taxes, see subhead Wine Gallonage Taxes below

Assistive devices for employees of small businesses, tax credits for, ch 161, §6, 22

Banks, see FRANCHISE TAXES

Business investments, tax credits for, ch 174, §60

Capital funds investments, tax credits for, ch 174, §60; ch 186, §1, 2

Card game tournaments conducted by veterans organizations, sales taxes on receipts, ch 119, §1, 6

Cigarettes and tobacco products

General provisions, ch 17, §3 – 6, 8 – 10, 12; ch 186, §33 – 52, 54, 55; ch 218, §97

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Audits of permit holders, ch 186, §52

Civil penalties for tax violations, ch 186, §48, 51

Inventory tax, ch 17, §7, 11, 12

Liability for payment, ch 186, §5

Limitation on taxes imposed and tax refunds on cigars, ch 186, §46, 54, 55

Cigarettes and tobacco products — Continued

Returns, electronic forms for, ch 186, §48, 49

Simple misdemeanors for tax violations, ch 186, §50

Tax stamp production costs, appropriations, ch 186, §33

Cigars, see subhead Cigarettes and Tobacco Products above

Condemned property reacquired by taxpayer as prior owner, gains on, credit and refund claim filing, stricken, ch 186, §18

Construction equipment

Administration of taxes, Code correction, ch 126, §71

Tax amnesty program, see TAX AMNESTY PROGRAM

Controlled substances, excise tax on dealers, tax amnesty program, see TAX AMNESTY PROGRAM

Corn excise tax assessment moneys, use of, Code correction, ch 126, §40

Corporations, see INCOME TAXES, subhead Business Taxes on Corporations

County taxes

Loan agencies tax, repealed, ch 185, $\S1$, 2, 4 – 6

Local option taxes, see LOCAL OPTION TAXES

Credit unions

Moneys and credits taxes, see MONEYS AND CREDITS TAXES

Property taxes, ch 174, §60

Cultural districts, rehabilitation projects in, tax credits, see subhead Historic Preservation and Cultural and Entertainment District Tax Credits below

Disabled persons, property tax credits, state funding for, ch 215, §5, 11

Drug dealers, excise taxes on, tax amnesty program, see TAX AMNESTY PROGRAM

Earned income tax credits, increase in percentage of federal tax credit and refundability of excess, ch 161, §1, 22

Economic development region revolving fund contributions, tax credits for, ch 161, §12, 22 Elderly persons

Income tax exemptions, Code and Iowa Acts corrections, ch 126, §65, 112, 116

Property tax credits, state funding for, ch 215, §5, 11

Elections, see ELECTIONS, subhead Tax Elections

Electricity

Information technology facilities, electricity and fuel to generate electricity, sales or use tax refunds, ch 199, §2

Replacement taxes, see subhead Replacement Taxes on Electricity and Natural Gas Providers below

Web search portal businesses, electricity and fuel for power generation, sales tax exemptions, ch 199, §1

Endow Iowa program, tax credits under, ch 161, §9, 22; ch 174, §60; ch 215, §87

Entertainment zones, businesses in, tax credits, see subhead Historic Preservation and Cultural and Entertainment District Tax Credits below

Estates

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Inheritance taxes, see INHERITANCE TAXES

Nonresident composite income tax returns, ch 186, §15

Ethanol, see subhead Fuels below

Excise taxes, see EXCISE TAXES

Family farms, tax credits, state funding for, ch 215, §5, 11

Fiduciaries, see INCOME TAXES, subhead Fiduciaries

Film, television, and video project promotion program, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Financial institutions, see FRANCHISE TAXES; MONEYS AND CREDITS TAXES

Franchise taxes, see FRANCHISE TAXES

Fuels

General provisions, ch 215, §113, 114

Administration and enforcement, appropriations, ch 217, §18

Amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Biodiesel blended fuel tax credits, ch 161, §17, 22

E-85 gasoline promotion tax credits, ch 161, §16, 22

Ethanol blended gasoline tax credits, ch 161, §4, 22

Ethanol promotion tax credits, ch 161, §15, 22

Excise tax on motor and special fuels, allocations to RISE fund and secondary road fund adjusted, ch 200, §6

Income tax credits for ethanol and E-85 fuels, ch 126, §66, 67; ch 161, §4, 15, 16, 22

Information technology facilities, electricity and fuel to generate electricity, sales or use tax refunds, ch 199, §2

International fuel tax administration system, appropriations, ch 216, §1

Licenses issued under motor fuel tax law, grounds for cancellation, ch 143, §30

Licenses, liabilities, and requirements under international fuel tax agreement, ch 143, \$26. 29

Marine fuel tax fund, ch 211, §44, 45

Web search portal businesses, electricity and fuel for power generation, sales tax exemptions, ch 199, §1

Fund of funds, investments in, tax credits, ch 161, §18, 22; ch 174, §60 Gambling

Card game tournaments conducted by veterans organizations, sales taxes on receipts, ch 119, §1, 6

Gambling structures, taxes on receipts, ch 188, §15, 16

Taxes on adjusted gross receipts, disbursements of allocations, ch 100; ch 215, §87 High quality jobs program, tax credits authorized by program, see HIGH QUALITY JOB

High quality jobs program, tax credits authorized by program, see HIGH QUALITY JOE CREATION PROGRAM

Historic preservation and cultural and entertainment district tax credits

General provisions, ch 161, §5, 22; ch 212, §1

Approvable tax credits, total amount increased, ch 165, §3

Certificates for tax credits, reissuance with modified redemption dates, ch 165, §8, 9

Credit option for tax credits in excess of tax liability, ch 165, §1, 2, 4 – 7, 9

Discounted value of tax credit eliminated, ch 165, §2, 9

New projects, tax credit allocation for, ch 165, §3, 9

Reservations for tax credits, modification of reservation dates, ch 165, §8, 9

Homesteads, property tax credits, state funding for, ch 215, §5, 11

Hotel and motel taxes, see HOTELS AND MOTELS, subhead Taxes on Lodging Rental Income taxes, see INCOME TAXES

Industrial new jobs Act project, tax credits, ch 161, §3, 22

Information technology facilities, electricity and fuel to generate electricity, sales or use tax refunds for, ch 199, §2

Inheritance taxes, see INHERITANCE TAXES

Insurance and insurance companies

Film, television, and video project promotion program tax credits, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Historic preservation and cultural and entertainment district tax credits, see subhead Historic Preservation and Cultural and Entertainment District Tax Credits above

Premium taxes based on percentage of gross premiums written, ch 137, §2

Wage-benefits tax credits, Code correction, ch 22, §9

Internal Revenue Code, references in Iowa Code updated, ch 12

Investment tax credits, see INCOME TAXES, subhead Investment Tax Credits

Leased motor vehicles, amnesty program for payment of delinquent tax liabilities, see TAX $AMNESTY\ PROGRAM$

Limited liability companies, see INCOME TAXES

Loan agencies tax, repealed, ch 185, $\S1$, 2, 4 – 6

Local option taxes, see LOCAL OPTION TAXES

Marijuana dealers, excise taxes on, tax amnesty program, see TAX AMNESTY PROGRAM Marine fuel tax fund, ch 211, §44, 45

Military service persons and veterans of military service

Property tax credits, state funding for, ch 215, §5, 11

Vietnam veterans service compensation bonus, tax exemption, ch 176, §1, 2, 4

Moneys and credits taxes, see MONEYS AND CREDITS TAXES

Motor fuels, see subhead Fuels above

Motor vehicles

Fuel taxes, see subhead Fuels above

Lease taxes, amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Local taxes, see LOCAL OPTION TAXES

Rental excise tax, amnesty program for payment of delinquent tax liabilities, see TAX AMNESTY PROGRAM

Use taxes, see SALES, SERVICES, AND USE TAXES, subhead Motor Vehicles

National guard members and veterans, see subhead Military Service Persons and Veterans of Military Service above

Natural gas replacement taxes, see subhead Replacement Taxes on Electricity and Natural Gas Providers below

Partnerships, see INCOME TAXES

Petroleum diminution environmental protection charge, amnesty program for payment of delinquent liabilities, *see TAX AMNESTY PROGRAM*

Property taxes, see PROPERTY TAXES

Qualified use inheritance taxes, amnesty program for payment of delinquent liabilities, see TAX AMNESTY PROGRAM

Real property, see PROPERTY TAXES

Renewable energy production, tax credits for, ch 161, §11, 22

Replacement taxes on electricity and natural gas providers

Excess valuation of new electric power generating plants, allocation to local taxing districts prohibited, ch 150, §4

Generating plants, definition, ch 150, §1

Property transfers, taxpayer report to director of revenue department by local taxing district, ch 150, §3

Task force, study extended, ch 150, §2

Sales for delinquent taxes, see TAX SALES

Sales taxes, see SALES, SERVICES, AND USE TAXES

Savings and loan associations, see FRANCHISE TAXES

School districts

Infrastructure funding, see SCHOOLS AND SCHOOL DISTRICTS, subhead Infrastructure and Infrastructure Taxes

Property tax uniform levies for reorganized districts, ch 130, §1

School tuition and textbooks, tax credits for, ch 161, §21, 22

School tuition organization tax credits

General provisions, ch 161, §20, 22; ch 215, §111

Noncash contributions, allowance of and requirements for, ch 186, §9, 10, 13, 31

Participation form and tax credit certificate, ch 186, §11, 12

Services taxes, see SALES, SERVICES, AND USE TAXES

Social security tax credits in corporate income computation, ch 186, §17

Soybeans and soy products

Cutting tool oil, use of soy-based products, tax credits, ch 161, §10, 22

Transformer fluid, use of soy-based fluids, tax credits, ch 161, §19, 22

Targeted jobs withholding tax credit for urban renewal improvements funding in pilot project cities, ch 2; ch 126, §63

Tax amnesty program, see TAX AMNESTY PROGRAM

Tax deeds, affidavits and claims by title holders under, format and recording, ch 101, §1, 2

Tax increment financing, see TAX INCREMENT FINANCING

Tax preparation assistance by Iowa-based nonprofit organization grant and appropriations, ch 218, §9

Tax sales, see TAX SALES

Tax structures and economic development incentives analysis, comparison with border states, ch 212, §3

Tobacco products, see subhead Cigarettes and Tobacco Products above

Township levies, public notice of trustee meetings related to, ch 139, §1

Transit district levies, collection and payment, ch 143, §36

Trusts, see INCOME TAXES, subhead Trusts

Urban renewal tax increment financing, see TAX INCREMENT FINANCING

Use taxes, see SALES, SERVICES, AND USE TAXES

Utilities

Property taxes, statewide taxes on electricity and natural gas providers, reporting and valuation of property for, ch 150, §3, 4

Replacement taxes, see subhead Replacement Taxes on Electricity and Natural Gas Providers above

Venture capital fund investments, tax credits for, ch 161, §8, 22

Veterans of military service, see subhead Military Service Persons and Veterans of Military Service above

Vietnam Conflict veterans bonus, ch 176, §1, 2, 4

Wage-benefits tax credits, ch 22, §9; ch 161, §13, 22; ch 215, §82

Web search portal businesses, equipment, fuel, and electricity expenditures, exemptions for, ch 199, §1, 3, 4

Wind energy production, tax credits for, ch 161, §11, 22

Wine gallonage taxes

Deposit of revenues, ch 211, §41

Exemption for imported wine, ch 215, §126, 129

Withholding taxes, exemptions and credits allowed, ch 185, §3; ch 186, §16

TAX DEEDS

Affidavits and claims by title holders under tax deeds, format and recording, ch 101, \$1, 2

TAX INCREMENT FINANCING

Urban renewal areas

Financial information, disclosure of, ch 186, §3, 4, 28

Targeted jobs withholding tax credits, ch 2; ch 126, §63

TAX SALES

Notices for adjourned sales, Code correction, ch 22, §77

Sold property, removal, dismantling, or demolition notice service, Code correction, ch 126, \$73

Supplementary assistance recipients, property of, Code corrections, ch 126, §72, 115

Tax deeds, affidavits and claims by title holders under, format and recording, ch 101, §1, 2

TEACHING AND TEACHERS

See also AREA EDUCATION AGENCIES, subhead Teachers; EDUCATION, EDUCATORS, AND EDUCATIONAL INSTITUTIONS; SCHOOLS AND SCHOOL DISTRICTS, subhead Employees

Appropriations, see APPROPRIATIONS

Class assignment comparison with license and endorsements, disclosure and noncompliance, ch 214, §18, 33, 35

Collective bargaining unit employees, student achievement and teacher quality program Funds distribution among teachers, agreements, ch 108, \$29, 30, 43, 44

Intensive assistance programs for teachers not meeting performance review requirements, negotiation and grievance procedures, ch 108, §31

Negotiation of evaluation and grievance procedures, authorization, ch 108, §15, 31

Teacher quality committees, bargaining unit interests representation, ch 108, §17

College faculty, see COLLEGES AND UNIVERSITIES, subhead Faculty

Community college faculty, see COMMUNITY COLLEGES AND MERGED AREAS, subhead Faculty

Criminal history background and fingerprint checks prior to school district employment, ch 108, §11; ch 215, §102

Education data warehouse, implementation, appropriations, ch 214, \$6; ch 219, \$14, 15 Job openings list and resume posting on state website, ch 214, \$6

Librarians, see SCHOOLS AND SCHOOL DISTRICTS, subhead Teacher Librarians

Licensing and regulation of teachers, see EDUCATIONAL EXAMINERS BOARD, subhead Licensing and Regulation of Education Practitioners

Math education, improvement program for, ch 122, §8, 10, 11

National board for professional teaching standards certification pilot project awards, application and certification deadlines and appropriations, ch 108, §6, 7, 36, 65

Nurse educators, forgivable loans for education, establishment and appropriations, ch 214, \$4, 26

Preschool program for four-year-old children, statewide, requirements for teachers, ch 148, \$3, 10

Quality and performance improvement, see subhead Student Achievement and Teacher Quality Program below

Science education, improvement program for, ch 122, §8, 10, 11

Shortage areas, forgivable loans to practitioner preparation program enrollees, see COLLEGE STUDENT AID COMMISSION, subhead Teacher Shortage Loan Programs Skills Iowa technology grant program, ch 206, \$9, 39

Student achievement and teacher quality program

General provisions, ch 108, §12 - 49, 64; ch 215, §103, 253

Appropriations, ch 108, §36 – 45, 59, 65; ch 215, §103

Area education agencies, program participation, ch 108, §13, 16

Career ladder pilots for teacher compensation, establishment and appropriations, ch 108, \$41, 42, 45, 49, 64, 65

Collective bargaining unit employees, see subhead Collective Bargaining Unit Employees, Student Achievement and Teacher Quality Program above

Contract days, allocation of professional development funds for additional days, ch 108, \$23, 37

Education department employees allocated to, ch 214, §6

Funds, prohibition against commingling with state aid payments, ch 108, §23, 33

Intensive assistance programs for teachers to meet performance review requirements, ch 108, §31, 32; ch 215, §253

Market factor teacher incentives, ch 108, §33, 36, 39

Pay-for-performance commission, teacher and staff development planning pilot projects and appropriations, ch 108, §41, 42, 45 – 48, 64, 65

Performance review-based ineligibility for additional pay increases, stricken, ch 108, §28

TEACHING AND TEACHERS — Continued

Student achievement and teacher quality program — Continued

Preschool program for four-year-old children, statewide, requirements for teachers, ch 148, §3, 10

Professional development plans, teachers' individual plans and goals, ch 108, \$18, 20 – 31, 37; ch 215, \$103

Salaries, minimum amounts and appropriations for, ch 108, §24, 26, 29, 30, 43, 44, 65

Standards, use for evaluations for teachers other than beginners, ch 108, §15

Teacher, definition revised, ch 108, §14

Teacher development academies, ch 108, §23, 38

Teacher quality committees, appointments, duties, and appropriations, ch 108, \$17, 33, 37, 65

Team-based variable pay plans, stricken, ch 108, §12, 19, 34

Video portfolios as evidence of teacher performance, stricken, ch 108, §31

Student teaching and educational experiences, contracts between preparation programs and educational institutions, ch 215, §101

Teacher librarians, see SCHOOLS AND SCHOOL DISTRICTS, subhead Teacher Librarians

Termination of employment, appeal procedure, Code correction, ch 22, §65

University faculty, see COLLEGES AND UNIVERSITIES, subhead Faculty

Vacancies, listing on state website, ch 214, §6

Virtual classes shared via communications network, instructor reimbursement formula, ch 214, §20, 44

TECHNOLOGY

See also BIOTECHNOLOGY, BIOSCIENCE, AND BIOLOGY; COMPUTERS AND COMPUTER SOFTWARE; INFORMATION TECHNOLOGY; INTERNET AND INTERNET SERVICES

Ag-based industrial lubrication technology, strategic development initiative and commercial development, application for appropriations, ch 212, §23

Commission, state, see TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION

Communications network, see TELECOMMUNICATIONS SERVICE AND

TELECOMMUNICATIONS COMPANIES, subhead Iowa Communications Network (ICN)

Court technology and modernization fund, usage reports, ch 210, §1, 3

Digital camera use in state patrol vehicles, public safety department study and report, ch 213, §19

Disabled persons, assistive technology purchases, loans for, ch 206, §10, 39

Electronic communications, records, and transactions, see ELECTRONIC COMMUNICATIONS, RECORDS, AND TRANSACTIONS

Electronic monitoring devices for criminal offenders, appropriations and report, ch 213, \$5, 6, 8

High technology apprenticeship program, application for appropriations, ch 212, \$23 Industrial incentive program, donations and matching funds and application for appropriations, ch 212, \$12, 23

Learning technology initiatives, see SCHOOLS AND SCHOOL DISTRICTS, subhead Learning Technology Initiatives

Outcome tracking system for workforce development department, hardware and software purchases, appropriations, ch 219, §14, 15

Physical research and technology, institute for, appropriations, ch 212, §12

Research and commercialization projects involving advanced technology, financial assistance, ch 212, §3

Research parks at state universities, appropriations, ch 212, §12, 13

School district technology, see SCHOOLS AND SCHOOL DISTRICTS, subhead Technology

TECHNOLOGY — Continued

Strategic plan for technology transfer and economic development, regents institutions progress, report, ch 212, §15

Technology reinvestment fund

Appropriations, ch 219, §14, 15

Capital projects receiving appropriations from fund, agency reporting requirements, ch 219, §30, 31

Tristate graduate center, equipment and software appropriations, ch 219, §14, 15

Welfare reform reporting, tracking, and case management technology needs, appropriations, ch 218, §7

Workers' compensation automated appeal processing system costs, appropriations, ch 219, \$14, 15

TEETH

Dental care, see DENTAL CARE AND DENTAL CARE PRACTITIONERS

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION

Appropriations, see APPROPRIATIONS

Equipment replacement, appropriations, ch 219, §14, 15

Executive director, salary, ch 215, §13, 14

Iowa communications network (ICN) administration, see TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES, subhead Iowa Communications Network (ICN)

TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES

See also ELECTRONIC COMMUNICATIONS, RECORDS, AND TRANSACTIONS; RADIO COMMUNICATIONS AND EQUIPMENT; TELEPHONE SERVICE AND TELEPHONE COMPANIES; TELEVISION AND TELEVISION EQUIPMENT

911 and E911 service, see EMERGENCY COMMUNICATIONS SYSTEMS (911 AND E911 SERVICE)

Cable service franchise requirements, restrictions, and fees, ch 201

Commission in state government, see TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION

Disabled persons, communication device purchases, loans for, ch 206, §10, 39

Driver's license and vehicle registration and title issuance by counties, service cost appropriations, ch 216, §1

Emergency communications systems (911 and E911), see EMERGENCY COMMUNICATIONS SYSTEMS (911 AND E911 SERVICE)

Franchises for cable or video services, requirements, restrictions, and fees for, ch 201 Harassment or bullying of school students via telecommunications, prohibition, ch 9, §2 Iowa communications network (ICN)

Appropriations, ch 219, §14, 15

Connection costs and equipment, appropriations, ch 219, §14, 15

Employees, interchange with other public agencies, time period limitations, ch 215, §83, 129

Purchasing of equipment and services, contract limitations and authorizations, ch 116, 82

Reporting of contracts, ch 116, §1

Virtual classes, school supplementary weighting for shared classes, ch 214, §20, 44 Local telecommunications services, certification requirements, future repeal extended, ch 4

Public broadcasting division, see EDUCATION DEPARTMENT, subhead Public Broadcasting Division

Regional telecommunications councils, appropriations, ch 214, §6

Video service franchise requirements, restrictions, and fees, ch 201

TELEPHONE SERVICE AND TELEPHONE COMPANIES

See also ELECTRONIC COMMUNICATIONS, RECORDS, AND TRANSACTIONS; TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES

211 system, appropriations, ch 215, §36; ch 218, §2

Automated victim notification system, see VICTIMS AND VICTIM RIGHTS

Elderly persons, telephone reassurance, information, and assistance, appropriations, ch 218, §1

Peace officer use of billing records in ongoing investigations, confidentiality and limitations of actions, ch 62

Road and weather conditions information system, appropriations, ch 216, §1

TELEVISION AND TELEVISION EQUIPMENT

See also TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES

Advertising, see ADVERTISING

Cable service franchise requirements, restrictions, and fees, ch 201

Production project promotion program, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Public, educational, and governmental access channels, cable or video service franchise requirements, ch 201, §7, 15

Public television, see EDUCATION DEPARTMENT, subhead Public Broadcasting Division Video service franchise requirements, restrictions, and fees, ch 201

TEMPERATURE

Global warming, see GLOBAL WARMING

TEMPERATURE CONTROL SYSTEMS

Comfort systems, see HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING); HYDRONIC SYSTEMS

Food refrigeration, see REFRIGERATION AND REFRIGERATION EQUIPMENT

TENANTS AND TENANCIES

See LANDLORD AND TENANT

TERRACE HILL

Appropriations, ch 206, §2, 20, 39; ch 217, §9

TESTIMONY

Parental rights termination proceedings, consideration of testimony provided by caretakers, ch 172, \$13

TEXTBOOKS

See SCHOOLS AND SCHOOL DISTRICTS

THEFT

Cemetery and funeral merchandise and funeral services sales licensees convicted of theft, ch 175, §19

Real estate broker and salesperson licensees and licensure applicants convicted of theft, ch 187

THERAPY AND THERAPISTS

Anatomical gifts for purposes of therapy, ch 44, §6

Marital and family therapy and therapists, see MARITAL AND FAMILY THERAPY AND THERAPISTS

Massage therapy and therapists, see MASSAGE THERAPY AND THERAPISTS

Occupational therapy and therapists, see OCCUPATIONAL THERAPY AND THERAPISTS

THERAPY AND THERAPISTS — Continued

Physical therapy and therapists, see PHYSICAL THERAPY AND THERAPISTS
Respiratory therapy and therapists, see RESPIRATORY CARE, THERAPY, AND
THERAPISTS

THREATENED SPECIES PROTECTION

Illegal taking or possessing of threatened species, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, \$16

THREATS

Domestic or foreign security threats, cooperation between homeland security and emergency management division and public safety department, ch 213, §13 Wanted persons, redissemination of identifying information of persons posing public threat, ch 38, §5

THRIFT CERTIFICATES

Sales and redemptions, ch 170, §6

TIGERS

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

TIME-21 (TRANSPORTATION INVESTMENT MOVES THE ECONOMY IN THE TWENTY-FIRST CENTURY) FUND

General provisions, ch 200, §1 - 4, 8

TIM SHIELDS CENTER FOR GOVERNING EXCELLENCE IN IOWA

Establishment, ch 117, §6, 7; ch 215, §54

TIRES

Waste tires, disposal of, violations and penalties for violations, ch 151, \$2-4, 9-11

TISSUE (BODY PARTS)

Donors and donations of body parts, see ANATOMICAL GIFTS

TITLE GUARANTY DIVISION

See FINANCE AUTHORITY

TITLES (PROPERTY)

All-terrain vehicle titles, ch 141, §49 – 52

Boat titles, discharge of security interests in, ch 28, §12

Car title loans, finance charge restrictions, ch 26

Conveyances, see CONVEYANCES OF REAL ESTATE

Deeds, see CONVEYANCES OF REAL ESTATE

Division for title guaranty in Iowa finance authority, see FINANCE AUTHORITY, subhead Title Guaranty Division

Documents of title for stored or transported goods, see UNIFORM COMMERCIAL CODE, subhead Documents of Title

Guaranties and guaranty program of Iowa finance authority, ch 54, §27

Marketable record titles, ch 101, §7

Motor vehicle titles, see MOTOR VEHICLES

Snowmobile titles, ch 141, §21 – 24

Tax title holders, affidavits and claims by, format and recording, ch 101, §1, 2

Vessel titles, discharge of security interests in, ch 28, §12

TOBACCO AND TOBACCO PRODUCTS

Addiction, reduction and treatment, see subhead Use Prevention, Cessation, and Control below

TOBACCO AND TOBACCO PRODUCTS — Continued

Age restrictions and violations, law enforcement appropriations, ch 208, §1 Cigarette permits

Application requirements and forms, ch 186, §34

Electronic report forms, ch 186, §38

Permanent display of permits, and implications of failure or refusal, ch 186, §35

Required reports of holders, auditor investigations of filings, ch 186, §41

Cigarettes

Fire safety standards, ch 166

Permits, see subhead Cigarette Permits above

Sales, see subhead Sales, Sellers, and Purchases of Cigarettes and Tobacco Products below

Shipments of cigarettes, report filing by electronic transmission, ch 186, §39

Taxation, see TAXATION, subhead Cigarettes and Tobacco Products

Vending machine sales, prohibition of placement together with nontobacco products, ch 186, §44

Violations and penalties, ch 166, §8

Cigars, taxation of, see TAXATION, subhead Cigarettes and Tobacco Products Distributors

Cigarette fire safety standards regulation, ch 166

Cigarette stamps, prohibition of sale to distributors failing to file returns and reports, ch 186, §42

Monthly returns, information contained in, format, and penalties, ch 186, §49

Taxation, see TAXATION, subhead Cigarettes and Tobacco Products

Excise taxes, see TAXATION, subhead Cigarettes and Tobacco Products

Forfeiture procedures, ch 186, §43

Inventory tax, ch 17, §7, 11, 12

Manufacturers, cigarette fire safety standards regulation, ch 166 Retailers

Cigarette fire safety standards regulation, ch 166

Compliance with tobacco laws and ordinances, appropriations, ch 208, §1

Cost of doing business for fair trade regulation, ch 17, §1, 12

Sales, see subhead Sales, Sellers, and Purchases of Cigarettes and Tobacco Products below

Taxation, see TAXATION, subhead Cigarettes and Tobacco Products

Sales, sellers, and purchases of cigarettes and tobacco products

Cigarette fire safety standards regulation, ch 166

Cigarette package quantity for sales, minimum, ch 17, §4, 12

Fair trade regulation, ch 17, §1, 2, 12; ch 186, §32

Records of sales, permit holder maintenance requirements, ch 186, §36

Sale and distribution of products not bearing federal health warning prohibited, ch 186, \$45

Taxation, see TAXATION, subhead Cigarettes and Tobacco Products

Violations and penalties, ch 166, §8

Wholesalers, see subhead Wholesalers below

Settlement agreement and moneys

Appropriations, see APPROPRIATIONS, subhead Tobacco Settlement Moneys

Healthy Iowans tobacco trust, social service provider reimbursements by human services department, modification based on funding allocations, ch 218, §31

Units sold, definition, ch 186, §53

Smoking, cessation, prevention, and control of, see subhead Use Prevention, Cessation, and Control below

TOBACCO AND TOBACCO PRODUCTS — Continued Snuff

Definition, ch 17, §8, 12

Taxation, see TAXATION, subhead Cigarettes and Tobacco Products

Subjobbers, taxation of, see TAXATION, subhead Cigarettes and Tobacco Products

Taxation, see TAXATION, subhead Cigarettes and Tobacco Products

Transportation of products, report filing requirements and penalties, ch 186, §39, 47 Use prevention, cessation, and control

Appropriations, see APPROPRIATIONS, subhead Tobacco Use Prevention, Cessation, and Control

Insurer premium credits and discounts to small employers, ch 57, §7, 8

Medical assistance smoking cessation benefit, review of use and administration, ch 218, \$11, 36

Vending machine sales, prohibition of placement together with nontobacco products, ch 186, §44

Wholesalers

Cigarette fire safety standards regulation, ch 166

Cost of doing business for fair trade regulation, ch 17, §2, 12

Electronic report forms, ch 186, §38

Sales, see subhead Sales, Sellers, and Purchases of Cigarettes and Tobacco Products above

Taxation, see TAXATION, subhead Cigarettes and Tobacco Products

TODDLERS

See CHILDREN

TOENAILS

Manicuring, pedicuring, and nail technology practice, see COSMETOLOGY AND COSMETOLOGISTS

TOLEDO

State juvenile home, see JUVENILE FACILITIES AND INSTITUTIONS, subhead State Juvenile Home

TOMBS AND TOMBSTONES

See CEMETERIES

TOOTH CARE

See DENTAL CARE AND DENTAL CARE PRACTITIONERS

TORNADOES

See DISASTERS

TORTS AND TORT CLAIMS

Banking division personnel assisting another state with examinations, coverage by tort claims Act, ch 170, §3

Comparative fault percentage assignment to state and municipalities, notice requirements, ch $110, \S 3-6$

Criminal history and intelligence data dissemination violations, liability, ch 38, §6 Field dental clinics in volunteer health care provider program, liability, ch 95

Foreign corporations and nonresident persons, actions against, Code correction, ch 126, \$101

Mental illness, persons with, limitations of actions for claims by, ch 110, \$2, 4-6 Minors, limitations of actions for claims by, ch 110, \$2, 4-6

TORTS AND TORT CLAIMS — Continued

Municipalities, claims against

Comparative fault percentage assignment to municipalities, notice requirement stricken, ch 110, §5, 6

Limitations of actions for wrongful death, loss, or injury, ch 110, §2, 5, 6

State, claims against

Comparative fault percentage assignment to state, notice requirement stricken, ch 110, §3. 6

Limitations of actions, ch 110, §2, 4, 6

TOURISM

See also ATTRACTIONS; TRAVEL

Advertising development, public-private partnerships for, ch 212, §3

Appropriations, ch 212, §3; ch 215, §71

Funding of events, Code correction, ch 126, §5

Marketing, disbursements of gambling receipts tax allocations for, ch 100

Promotion by film, television, and video project promotion program, ch 162, §3, 13

State historical building and historic sites, attendance promotion, ch 212, §1

Transportation maps, production of, appropriations, ch 216, §2

Vision Iowa program, see VISION IOWA PROGRAM

TOURISM DIVISION

See ECONOMIC DEVELOPMENT DEPARTMENT

TOURNAMENTS

Card game tournaments conducted by veterans organizations, regulation of, ch 119, \$1, 3-6

TOWNS

See CITIES

TOWNSHIPS

Asbestos removal and encapsulation projects, bid acceptance requirements, ch 125, §2 Budgets, public notice of trustee meetings to discuss, ch 139

Buildings and facilities, memorial building and monument commissions, membership and quorum, ch 21

Cemeteries, see CEMETERIES

Cigarette fire safety standards regulation, township compliance, ch 166, §10

Claims against townships, liability for, see TORTS AND TORT CLAIMS, subhead Municipalities, Claims against

Clerks of townships, elections of, see ELECTIONS, subhead Township Officers

Communications for public safety, interoperable systems implementation, ch 90

Construction and improvement projects, bidding and contract procedures, see PUBLIC CONTRACTS, subhead Construction Project Bidding and Contract Procedures

Contracts, see PUBLIC CONTRACTS

Elections of officers, see ELECTIONS

Emergency medical services, see EMERGENCY MEDICAL CARE AND SERVICES

Emergency preparedness information, closed session meetings and confidentiality, ch 63

Emergency response services, see EMERGENCIES, EMERGENCY MANAGEMENT, AND EMERGENCY RESPONSES

Employees

See also PUBLIC EMPLOYEES

Fire fighters, see FIRES AND FIRE PROTECTION

Unemployment compensation information confidentiality, penalty for violations by public officials, ch 77

TOWNSHIPS — Continued

Environmental crime investigations and prosecutions, reimbursement of expenses, ch 213, \$22

Fire departments and fire fighters, see FIRES AND FIRE PROTECTION

Historical landmarks, use of inmate labor for restoration and preservation, ch 213, §7 Inmate labor, use to restore or preserve cemeteries and historical landmarks, ch 213, §7 Innovation and excellence initiatives, see LOCAL GOVERNMENT INNOVATION COMMISSION AND FUND

Joint entities and undertakings, see JOINT ENTITIES AND UNDERTAKINGS Libraries, see LIBRARIES

Livestock straying and trespass control, fence viewer duties, ch 64

Local government innovation, see LOCAL GOVERNMENT INNOVATION COMMISSION AND FUND

Memorial building and monument commissions, membership and quorum, ch 21 Monuments, memorial building and monument commissions, membership and quorum, ch 21

Operational functions shared with school districts, ch 130, §4, 6

Retirement system, see PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Security procedures information, closed session meetings and confidentiality, ch 63

Tax levies, public notice of trustee meetings to discuss, ch 139, §1

Tort claims against townships, liability for, see TORTS AND TORT CLAIMS, subhead Municipalities, Claims against

Trustees of townships

Elections of trustees, see ELECTIONS, subhead Township Officers Meetings, public notice of, ch 139

TRACKS

Railroads, see RAILROADS

TRADE

Business and businesses, see BUSINESS AND BUSINESSES

Exports, see EXPORTS

Fair trade laws, see FAIR TRADE

International trade and export assistance, appropriations, ch 212, §3

Uniform commercial code, see UNIFORM COMMERCIAL CODE

TRADEMARKS

Finance authority ownership powers, ch 54, §19

TRAFFIC VIOLATIONS

See MOTOR VEHICLES, subhead Violations and Violators

TRAILERS

Manufactured and mobile homes, regulation by state building code, Code correction, ch 22, \$33

Motor vehicle trailers and semitrailers, see MOTOR VEHICLES

TRAILS

Appropriations, ch 219, §1, 2, 18

Off-road utility vehicles on designated trails, ch 141, §37

Recreational trails, appropriations and nonreversion, ch 219, §1, 2, 18

Water trails, funding of community attraction and tourism projects, ch 215, §58

TRAINING AND TRAINERS OF ATHLETES

See ATHLETICS, ATHLETES, AND TRAINERS

TRAINING SCHOOL, STATE

See JUVENILE FACILITIES AND INSTITUTIONS, subhead State Training School

TRAINS

See RAILROADS

TRANSIT SERVICES AND SYSTEMS

See PUBLIC TRANSPORTATION AND TRANSIT SERVICES AND SYSTEMS

TRANSLATING AND TRANSLATORS

Interpreting and interpreters, see INTERPRETING AND INTERPRETERS

Transliterating and transliterators, see TRANSLITERATING AND TRANSLITERATORS

TRANSLITERATING AND TRANSLITERATORS

See also PROFESSIONS

Licensing and regulation, ch 10, §26 – 67, 73, 150; ch 22, §41; ch 215, §260

TRANSPLANTS OF ORGANS AND TISSUE

Anatomical gifts for purposes of transplantation, ch 44, §6

Postnatal tissue and fluid banking for transplants, task force for, ch 147; ch 218, §97

TRANSPORTATION

Aircraft, see AIRCRAFT AND AIR CARRIERS

Airports, see AIRPORTS

All-terrain vehicles, see ALL-TERRAIN VEHICLES

Appropriations, ch 216

Capitol complex shuttle service for downtown Des Moines, appropriations and operation, ch 215, §29

Department of transportation in state government, see TRANSPORTATION DEPARTMENT Documents of title for goods transported, see UNIFORM COMMERCIAL CODE, subhead Documents of Title

Highways, see HIGHWAYS

Maps, production by transportation department, appropriations, ch 216, §2

Motor vehicles, see MOTOR VEHICLES

Political campaign contributions, value computation method, ch 14, §1

Railroads, see RAILROADS

Road use tax fund, see ROAD USE TAX FUND

School transportation, see SCHOOLS AND SCHOOL DISTRICTS

Snowmobiles, see SNOWMOBILES

Victims of crimes, compensation for transportation expenses, ch 27, §9

TRANSPORTATION DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

Administrative rules, ch 164

Aircraft, airport, and aviation programs, see AIRCRAFT AND AIR CARRIERS; AIRPORTS

Ames complex elevator upgrades, ch 216, §2

Appropriations, see APPROPRIATIONS

Audits by state, appropriations, ch 216, §1, 2

Carrier regulation, violations of, Code correction, ch 22, §70

Clarinda garage construction, appropriations, ch 216, §2

Director, salary, ch 215, §13, 14

Driver's license law administration, see MOTOR VEHICLES, subhead Licenses and Permits for Drivers

Field facility deferred maintenance projects, appropriations, ch 216, §2

Garage roofing projects, appropriations, ch 216, §2

Hazardous waste disposal, appropriations, ch 216, §2

Heating, cooling, and exhaust system improvements, appropriations, ch 216, §2

Highway administration, see HIGHWAYS

Indirect cost recoveries, payments to general fund, appropriations, ch 216, §1, 2

TRANSPORTATION DEPARTMENT — Continued

Infrastructure projects of governmental entities, bid and quotation thresholds for, reviews and adjustments, ch 144, §11, 12

International fuel tax administration system, appropriations, ch 216, §1

International registration plan, appropriations, ch 216, §1

Interoperable communications systems implementation, ch 90

Map production, appropriations, ch 216, §2

Mississippi river parkway commission participation, appropriations, ch 216, §1

Motor carrier regulation, see MOTOR CARRIERS

Motor vehicle regulation, see MOTOR VEHICLES

North America's superhighway corridor coalition membership, appropriations, ch 216, §1 Parks and parking area property, sales of, required authorization by general assembly and approval of governor, ch 131, §5, 7

Peace officer employees, see PEACE OFFICERS

Primary road administration, see HIGHWAYS, subhead Primary Roads and Road System Primary road fund, see PRIMARY ROAD FUND

Property appraisers employed by department, qualifications for, ch 72, §1; ch 143, §2, 3

Railroad regulation and assistance, see RAILROADS Revitalize Iowa's sound economy (RISE) fund, see REVITALIZE IOWA'S SOUND

Revitalize Iowa's sound economy (RISE) fund, see REVITALIZE IOWA'S SOUND ECONOMY (RISE) FUND

Road maintenance and construction, alternative funding sources, evaluation and report, ch 200, §5

Road use tax fund, see ROAD USE TAX FUND

Scale maintenance, appropriations, ch 216, §1

Secondary road administration, see HIGHWAYS, subhead Secondary Roads and Road System

TIME-21 (transportation investment moves the economy in the twenty-first century) fund, establishment and study, ch 200, \$1-4, 8

Trail acquisition, construction, and improvement, appropriations, ch 219, §1, 2, 18

Unemployment compensation appropriations, ch 216, §1, 2

Utility services, appropriations, ch 215, §50, 51; ch 216, §1, 2

Vehicle operating records, certified abstract fees from, revenues transfer, ch 217, §3

Vehicles and fuel used by vehicles of department, Code correction, ch 22, §68

Workers' compensation claims by employees, appropriations for payment, ch 216, \(\xi\)1, 2

TRANSPORTATION INVESTMENT MOVES THE ECONOMY IN THE TWENTY-FIRST CENTURY (TIME-21) FUND

General provisions, ch 200, §1 – 4, 8

TRAPPING AND TRAPS

Dangerous wild animal regulation, see ANIMALS, subhead Dangerous Wild Animals Licenses, suspension for damages to wildlife, ch 28, §16

TRASH

See WASTE AND WASTE DISPOSAL, subhead Solid Waste Disposal

TRAUMA CARE SYSTEM

Appropriations, ch 208, §1

TRAVEL

See also TOURISM

Commerce department officers and employees, review by director, ch 217, §7

Film, television, and video project expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Maps, production by transportation department, appropriations, ch 216, §2

Motor vehicles, see MOTOR VEHICLES

TRAVEL — Continued

Passport sanction procedures applied to persons owing delinquent support, monetary threshold for, ch 218, §137 – 141

Tourism, see TOURISM

TRAVELER'S CHECKS

Credit union authority to sell and cash, ch 118, §1, 3

TREASURER OF STATE

See also STATE OFFICERS AND DEPARTMENTS

Abandoned property disposition, see UNCLAIMED PROPERTY

Agricultural development authority, removal from treasurer's office, ch 215, §78

Appropriations, see APPROPRIATIONS

Audits of treasurer, Code correction, ch 126, §4

County fair infrastructure improvements, appropriations, ch 219, §1, 2

Emergency medical services fund, disposition of motor vehicle special registration plate fees, ch 184, §3, 7

Executive council duties, see EXECUTIVE COUNCIL

Information-related technology, appropriations, ch 206, §23, 39

Investments benefiting Sudan government, prohibition, ch 39, §8

Road use tax fund administration, see ROAD USE TAX FUND

Unclaimed property disposition, see UNCLAIMED PROPERTY

Utilities board and consumer advocate building project bonds, Code correction, ch 22, §6

Veterans license fee fund, disposition of motor vehicle special registration plate fees, ch 178; ch 184, §1, 4, 5, 7

Vision Iowa program bonds, Code correction, ch 22, §5

TREASURERS, COUNTY

See COUNTIES

TREES

Capitol grounds and west capitol terrace improvements, acknowledgements of private contributors, ch 222

Emerald ash borer public awareness and information project, appropriations, ch 211, §8 Gypsy moth detection, surveillance, and eradication, appropriations, ch 211, §7 Railroad track close clearance, warning device installation, ch 164; ch 219, §1, 2

TRESPASS

Flag of United States, desecration of, criminal offenses and exceptions, ch 202, §15 Hunting deer, violations for trespassing, penalties revised, ch 28, §17, 18, 20, 21 Livestock trespass control, duties and responsibilities of landowners and governmental authorities, ch 64

TRIAL COURTS AND TRIAL PROCEDURE

See COURTS AND JUDICIAL ADMINISTRATION

TRIAL INFORMATIONS

See INFORMATIONS

TRIATHLONS

Hy-Vee world cup triathlon, see HY-VEE WORLD CUP TRIATHLON

TRIBES

See AMERICAN INDIANS AND INDIAN TRIBES

TRISTATE GRADUATE CENTER

Appropriations, ch 214, §9; ch 219, §14, 15

TROOPERS

See PUBLIC SAFETY DEPARTMENT, subhead Patrol, Division of

TRUCKS

See MOTOR VEHICLES

TRUST COMPANIES

See also FINANCIAL INSTITUTIONS

Deposits and collections, see UNIFORM COMMERCIAL CODE, subhead Bank Deposits and Collections

Investments in state-issued debt obligations, ch 133, §4

Receiverships of trust companies, debt payment priority, Code correction, ch 22, §104

TRUSTEES (GOVERNMENTAL BODIES)

Township trustees, see TOWNSHIPS, subhead Trustees of Townships

TRUSTS AND TRUSTEES

See also FIDUCIARIES; PROBATE CODE, subhead Trusts and Trustees

Beneficiaries of trusts

See also subhead Spouses of Settlors below

Estate properties, beneficiary's interest in homestead, ch 134, §3, 28

Cemetery merchandise trust funds, see CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES, subhead Trust Funds Established by Sellers

Dissolution of marriage property divisions, interests in property gifted by trusts, ch 163 Funeral merchandise and funeral services trust funds, see CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES, subhead Trust Funds Established by

Sellers
Income taxes, see INCOME TAXES

Inheritance taxes, see INHERITANCE TAXES

Investment tax credits, see INCOME TAXES, subhead Investment Tax Credits

Medical assistance income trusts, expenditures from, ch 136; ch 218, §98

Real estate broker trust account compliance, ch 13, §6

Safe deposit boxes of decedents, access by trustees, ch 174, §49

Spouses of settlors

See also subhead Beneficiaries of Trusts above

Abatement, effect on share of, ch 134, §19, 20, 28

Estate properties, surviving spouse's interest in homestead, ch 134, §3, 28

Taxation, see INCOME TAXES, subhead Trusts

TUBERCULOSIS

Swine tuberculosis control, Code correction, ch 22, §44

TUITION

College student financial aid by state, *see COLLEGE STUDENT AID COMMISSION* School tuition organizations, tax credits, ch 161, §20, 22; ch 186, §9 – 13, 31; ch 215, §111

School tuition, tax credits, ch 161, §21, 22

TURKEYS

See BIRDS

UNCLAIMED PROPERTY

Claims

Paid claims, liability of claimant and immunity of treasurer of state, ch 37, §5 Payment of claims, surety bond for, ch 37, §5

Credit unions, property held by

Dissolved credit unions, property disposition, ch 174, §65

UNCLAIMED PROPERTY — Continued

Credit unions, property held by — Continued

Property deposited in credit unions for safekeeping, unclaimed by owner, report filing and delivery to treasurer of state, ch 37, §4

Property held for safekeeping, unclaimed by owner, abandonment and disposition, ch 174, §52

Safe deposit box contents, unclaimed by owner, abandonment and disposition, ch 174, \$51

Firearms and ammunition seized in criminal proceedings, disposition, ch 107

Minerals and mineral proceeds, defined, ch 60

Notices to public and entitled persons, publication and mailing, ch 37, §2, 3

Records concerning unclaimed property, maintenance and confidentiality, ch 37, §1, 6 Safe deposit box contents

Abandonment and disposition, ch 174, §51

Delivery to treasurer of state and report filing, ch 37, §4

Seized property in criminal proceedings, forfeiture proceedings and disposition, ch 107

UNDERGROUND FACILITIES

Storage tanks, see TANKS

UNEMPLOYMENT COMPENSATION

Appropriations, see APPROPRIATIONS

Confidential information requirements and penalty for violation, ch 77

Disqualification for compensation, Code corrections, ch 22, §26, 27; ch 215, §245

Employment security contingency fund, appropriations, ch 212, §18

Enforcement personnel, indemnification for damages and expenses incurred in performance of duties, Code correction, ch 22, §29

Reserve fund, appropriations, ch 212, §19

Transportation department employees, appropriations, ch 216, §1, 2

Wage payment reports by employers, penalties for, Code correction, ch 22, §28

UNGULATES

Hunting on hunting preserves by remote control or internet, violations and penalties for violations, ch 156

UNIFORM ACTS

Anatomical gift, ch 44

Commercial code, see UNIFORM COMMERCIAL CODE

Consumer credit code, ch 26; ch 118, §2

Controlled substances, ch 8, §1 - 19; ch 126, §24 - 34

Disposition of unclaimed property, ch 37, §2 – 6; ch 60

Electronic transactions, ch 41, §42

Enforcement of foreign judgments, ch 192, §2

Foreign money-judgments recognition, ch 192, §3

Money services, ch 188, §20

Securities, ch 126, §87; ch 137, §3 – 5

UNIFORM COMMERCIAL CODE

General provisions, ch 41, §1 – 22, 43 – 59; ch 215, §262

Bailments, bailees, and bailors, documents of title, see subhead Documents of Title below Bank deposits and collections

Document of title provisions, ch 30, §62, 63

Good faith, definition stricken, ch 41, §27

Bills of lading, see subhead Documents of Title below

Carriers, bills of lading, see subhead Documents of Title below

UNIFORM COMMERCIAL CODE — Continued Choice of law, ch 41, §5 Claims and rights from breaches, discharge of, ch 41, §8 Consignments, consignees, and consignors, bills of lading, see subhead Documents of Title below Construction of UCC provisions, ch 41, §3, 4, 58 Course of performance, ch 41, §17, 24, 60, 61 Definitions, ch 41, §11 Documents of title General provisions, ch 30, §1 - 46 Definitions, ch 30, §2, 47; ch 41, §11, 43, 44; ch 215, §262 Electronic documents, ch 30, §5, 6 Issuance of and obligations under bills of lading, ch 30, §17 – 28 Issuance of and obligations under warehouse receipts, ch 30, §7 – 16, 25 – 28 Lost, stolen, or destroyed documents, ch 30, §40, 41 Negotiability and negotiation of documents, ch 30, §4, 29 – 39 Transfer of documents, ch 30, §29 – 39 Funds transfers See also MONEY, subhead Transfers and Transmissions of Money Good faith, definition stricken, ch 41, §31 Notices and times, ch 41, §33, 34 Prove, defined, ch 41, §32 Gender words, ch 41, §7 Good faith, defined, ch 41, §11, 23, 25, 27, 29 - 31 Investment securities See also SECURITIES Document of title provisions, ch 30, §64 Good faith, definition stricken, ch 41, §29 State-issued debt obligations, ch 133, §4 Leases See also LEASES Document of title provisions, ch 30, §39, 77 – 79 Rights, remedies, and damages, ch 41, §35 – 39, 61 Letters of credit See also LETTERS OF CREDIT Document of title provisions, ch 30, §39 Good faith, definition applicability, ch 41, §11, 27 Variation of provisions, ch 41, §28 Negotiable instruments See also NEGOTIABLE INSTRUMENTS Good faith, definition stricken, ch 41, §25 Prove, defined, ch 41, §26 State-issued debt obligations, ch 133, §4 Notice and knowledge, ch 41, §13 Presumptions, ch 41, §18 Sales See also SALES Course of performance, ch 41, §24, 60 Document of title provisions, ch 30, §39, 48 – 61 Good faith, definition stricken, ch 41, §23 Secured transactions See also subhead Security Interests below Document of title provisions, ch 30, §65 – 76

Good faith, definition stricken, ch 41, §30

UNIFORM COMMERCIAL CODE — Continued

Securities, see subhead Investment Securities above

Security interests

See also subhead Secured Transactions above; SECURITY INTERESTS

Creation by lease, ch 41, §14

Severability of UCC provisions, ch 41, §9

Singular and plural words, ch 41, §7

Statute of frauds under UCC, repealed, ch 41, §42, 59

Value, ch 41, §16

Variation of UCC by agreement, ch 41, §22

Warehouse receipts, see subhead Documents of Title above

UNITED STATES

See FEDERAL GOVERNMENT

UNIVERSAL PRODUCT CODE

Cigarette package markings, fire safety standards, ch 166, §7

UNIVERSITIES

See COLLEGES AND UNIVERSITIES

UNIVERSITY OF IOWA

See also COLLEGES AND UNIVERSITIES; REGENTS, BOARD OF, AND REGENTS INSTITUTIONS

Aging, center for, long-term living resources system team membership and duties, ch 92 Agricultural health and safety programs, appropriations, ch 214, §9

All Iowa opportunity scholarship program, assistance for students, ch 214, $\S 2$, 28; ch 215, $\S 33$

Alzheimer's disease research in institutions of higher education, task force examination of, ch 121; ch 218, §1

Appropriations, see APPROPRIATIONS

Biocatalysis, center for, appropriations, ch 214, §9

Biomedical discovery institute, appropriations, ch 219, §1, 2

Bonds issued for buildings and facilities of university, ch 205

Connie Belin & Jacqueline N. Blank international center for gifted education and talent development, appropriations and use restrictions, ch 214, §6

Construction and improvement of buildings and facilities

Appropriations, see APPROPRIATIONS

Financing by borrowing and bonding, ch 205

Dentistry, college of, health care data research advisory council membership and duties, ch 218, §128, 129

Disabilities and development, center for, see DISABILITIES AND DISABLED PERSONS, subhead Center for Disabilities and Development of University of Iowa

Drug development program at Oakdale research park, appropriations, ch 212, §13 Employment policy group, appropriations, ch 214, §9

Financial aid for students, see COLLEGE STUDENT AID COMMISSION

Fire and environmental safety for buildings and facilities, appropriations, ch 205

Global and regional environmental research, center for, climate change advisory council membership and duties, ch 120, §5

Health care data research advisory council membership and duties, ch 218, §128, 129 Hospitals and clinics

Abortions performed by hospitals and clinics, restrictions, ch 218, §73

Appropriations, ch 204, §3, 15 – 17; ch 206, §12, 39; ch 214, §6; ch 218, §2, 63, 67, 73

Child health specialty clinic, expansion of services to premature, drug-exposed, or medically fragile children, ch 214, §6

UNIVERSITY OF IOWA — Continued

Hospitals and clinics — Continued

Child vision screening programs, appropriations, ch 218, §2

Expansion services and population under IowaCare Act, see MEDICAL ASSISTANCE

Indigent patients, medical and surgical care of, appropriations, ch 218, §73

Indirect costs, funding from public health department appropriation, prohibited, ch 204, §3, 4; ch 218, §2

Medical education, appropriations, ch 218, §73

Mobile and regional child health specialty clinics, services to women and children, coordination and integration, ch 204, §3

Hygienic laboratory, see HYGIENIC LABORATORY

Infrastructure, see subhead Construction and Improvement of Buildings and Facilities above

Lakeside laboratory, appropriations, ch 214, §9

Larned A. Waterman Iowa nonprofit resource center, appropriations, ch 214, §9

Maintenance and repairs, appropriations, ch 205

Medicine, college of

Family practice program, appropriations, ch 214, §9

Health care data research advisory council membership and duties, ch 218, \$128, 129

Primary health care initiative, appropriations, ch 214, §9

Residency programs, appropriations, ch 214, §9

Music building, renovation, appropriations, ch 205

Nurse educators, definition and forgivable loans for education, ch 214, §4, 26

Nursing, college of, health care data research advisory council membership and duties, ch 218, §128, 129

Oakdale campus, appropriations, ch 214, §9

Operating funds deficiency reimbursements, appropriations, ch 214, §9; ch 219, §1, 2

Pentacrest, renewal and HVAC modernization, appropriations, ch 205

Pharmacy, college of, health care data research advisory council membership and duties, ch 218, §128, 129

Postnatal tissue and fluid banking task force membership and duties, ch 147

Public health college building, appropriations, ch 205

Public health, college of, health care data research advisory council membership and duties, ch 218, §128, 129

Registered nurse and nurse educator loan forgiveness program, establishment and appropriations, ch 214, §4, 26

Repayment receipts, student fees and charges exclusion from definition, ch 214, §32,

Research, technology and drug development, appropriations, ch 212, §13

Salaries, ch 212, §13

Security for campus buildings and facilities, appropriations, ch 205

Student fees and charges, retention, ch 214, §32, 44

Students

Financial aid, see COLLEGE STUDENT AID COMMISSION

Internships in targeted high technology industries, ch 122, §1, 7, 10

Technology commercialization and business development, financial assistance by and appropriations to university, ch 122, §3 – 6, 10

Work-study program appropriations, ch 214, §3

UNIVERSITY OF NORTHERN IOWA

See also COLLEGES AND UNIVERSITIES; REGENTS, BOARD OF, AND REGENTS INSTITUTIONS

Ag-based industrial lubrication technology, strategic development initiative and commercial development, application for appropriations, ch 212, §23

UNIVERSITY OF NORTHERN IOWA — Continued

All Iowa opportunity scholarship program, assistance for students, ch 214, §2, 28; ch 215, §33

Alzheimer's disease research in institutions of higher education, task force examination of, ch 121; ch 218, §1

Appropriations, see APPROPRIATIONS

Biomass production project, ch 206, §6, 39

Bonds issued for buildings and facilities of university, ch 205

Construction and improvement of buildings and facilities

Appropriations, see APPROPRIATIONS

Financing by borrowing and bonding, ch 205

Decision making, institute of, appropriations, ch 212, §14; ch 215, §73

Electrical distribution loop system load break, appropriations, ch 205

Energy and environmental education, center for, climate change advisory council membership and duties, ch 120, §5

Financial aid for students, see COLLEGE STUDENT AID COMMISSION

Fire and environmental safety for buildings and facilities, appropriations, ch 205

Infrastructure, see subhead Construction and Improvement of Buildings and Facilities above

Maintenance and repairs, appropriations, ch 205

Metal casting institute, appropriations, ch 212, §14; ch 215, §73

Mobile computer lab and information technology purchases, appropriations, ch 219, §14, 15

Myentrenet internet application, appropriations, ch 212, §14; ch 215, §73; ch 219, §14, 15

Nurse educators, definition and forgivable loans for education, ch 214, §4, 26

Operating funds deficiency reimbursements, appropriations, ch 214, §9; ch 219, §1, 2

Postnatal tissue and fluid banking task force membership and duties, ch 147

Real estate education program, appropriations, ch 206, §27 - 29, 39; ch 215, §261

Recycling and reuse center, appropriations, ch 214, §9

Registered nurse and nurse educator loan forgiveness program, establishment and appropriations, ch 214, §4, 26

Repayment receipts, student fees and charges exclusion from definition, ch 214, §32, 44 Research and development prekindergarten through grade twelve school, creation of, study by task force, ch 215, §128, 131

Research, programs for economic stimulus and Iowa-based company development, ch 212, \$14; ch 215, \$73

Sabin hall, renovation, appropriations, ch 205

Security for campus buildings and facilities, appropriations, ch 205

Student fees and charges, retention, ch 214, §32, 44

Students

Financial aid. see COLLEGE STUDENT AID COMMISSION

Internships in targeted high technology industries, ch 122, §1, 7, 10

Technology commercialization and business development, financial assistance by and appropriations to university, ch 122, §3 – 6, 10

Work-study program appropriations, ch 214, §3

UNIVERSITY OF OSTEOPATHIC MEDICINE (DES MOINES UNIVERSITY)

See DES MOINES UNIVERSITY — OSTEOPATHIC MEDICAL CENTER

UNIVERSITY OF SCIENCE AND TECHNOLOGY

See IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

UNSOUND MIND, PERSONS OF

See MENTAL HEALTH AND DISABILITIES

URBAN RENEWAL

Targeted jobs withholding tax credit for urban renewal improvements funding in pilot project cities, ch 2

Tax increment financing, see TAX INCREMENT FINANCING

URINE

Racing of horses, drug testing and procurement of urine test samples, ch 48, §1, 7 Testing of private sector employees for alcohol and drugs by employers, exception for employees due to collective bargaining agreement, ch 50

USE TAXES

See SALES, SERVICES, AND USE TAXES

UTILITIES

See also ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS; ENERGY Appropriations, see APPROPRIATIONS

Assistance for low-income persons and households, see ENERGY, subhead Assistance for Low-Income Persons and Households

Board, state, see COMMERCE DEPARTMENT, subhead Utilities Division and Board Cable television, see TELEVISION AND TELEVISION EQUIPMENT

City utilities and services

Elections on proposals, ch 215, §109, 110

Franchises for cable or video services, requirements, restrictions, and fees for, ${\rm ch}\ 201$

Telecommunications services, see TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES

Television, see TELEVISION AND TELEVISION EQUIPMENT

Division of utilities in state commerce department, see COMMERCE DEPARTMENT, subhead Utilities Division and Board

Drainage systems, see DRAINAGE AND DRAINAGE SYSTEMS

Electric utilities

City utilities, proposals related to, elections, ch 215, §109, 110

Coal combustion residue, landfills for, regulation, ch 215, §115

Greenhouse gas emissions, ch 120, §2

New power generating plants, definition, ch 150, §1

Replacement taxes, see TAXATION, subhead Replacement Taxes on Electricity and Natural Gas Providers

Franchises for cable or video services, requirements, restrictions, and fees for, ch 201 Gas utilities

City utilities, proposals related to, elections, ch 215, §109, 110

Replacement taxes, see TAXATION, subhead Replacement Taxes on Electricity and Natural Gas Providers

Municipal utilities, security procedures and emergency preparedness information, closed session meetings and confidentiality, ch 63

Natural gas utilities, see subhead Gas Utilities above

Pollution control, see POLLUTION AND POLLUTION CONTROL, subhead National Pollutant Discharge Elimination System (NPDES)

Property transfers, report to revenue department, ch 150, §3

Regulation by state, expenses exceeding budgeted funds, expenditures authorized, ch 217, \$7

Replacement taxes, see TAXATION, subhead Replacement Taxes on Electricity and Natural Gas Providers

State agency utility costs, appropriations, ch 206, \$1, 39; ch 215, \$50, 51; ch 216, \$1, 2; ch 217, \$1

Taxation, see TAXATION

UTILITIES — Continued

Telecommunications service and telecommunications companies, see
TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES
Television, see TELEVISION AND TELEVISION EQUIPMENT

Transportation department payments to administrative services department for utility services, appropriations, ch 215, §50, 51; ch 216, §1, 2

Vehicles, off-road, see ALL-TERRAIN VEHICLES, subhead Off-Road Vehicles

Video services, see TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES

Water quality improvement projects, local watershed improvement grants for, ch 211, \$39

UTILITIES DIVISION

See COMMERCE DEPARTMENT

VACCINES AND VACCINATIONS

See also IMMUNIZATIONS

Human papilloma virus vaccine, education concerning in schools, ch 98, \$2-4 Public health department purchasing of vaccines for immunizations, appropriations, ch 218. \$2

Rabies vaccination tagged dogs caught worrying domestic animals or fowl, right to kill, stricken, ch 111

VACUUM SYSTEMS

Medical facility gas, vacuum, and suction piping system installers and repairers, certification of, ch 198, §2, 10, 35

VALUES FUND

Appropriations, ch 122, §2, 4, 10

VEGETABLES

See also FOOD

Farmers markets, see FARMERS MARKETS

Farm-to-school program, ch 211, §26, 30; ch 215, §93 – 96

Sales of vegetables, labeling for baskets, Code correction, ch 126, §41

VEHICLES

All-terrain vehicles, see ALL-TERRAIN VEHICLES

Film, television, and video project expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Motor vehicles, see MOTOR VEHICLES

Snowmobiles, see SNOWMOBILES

VENDING MACHINES

Cigarette and tobacco product sales through vending machines, ch 186, §44 Food, see FOOD, subhead Establishments for Provision of Food

VENTILATION AND VENTILATION EQUIPMENT

See HVAC SYSTEMS (HEATING, VENTILATION, AIR CONDITIONING)

VESSELS (STEAM PRESSURE CONTAINMENT)

See STEAM ENERGY AND STEAM EQUIPMENT

VESSELS (WATERCRAFT)

See BOATS AND VESSELS

VETERANS AFFAIRS DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS General provisions, ch 202, §1 – 12, 16, 17 Administrative rules, ch 202, §4 – 6, 9 VETERANS AFFAIRS DEPARTMENT — Continued

Appropriations, see APPROPRIATIONS

Benefits and services for veterans

Information dissemination, ch 202, §1, 4; ch 218, §4

Needs report, ch 218, §6, 36

Chemical exposure during Vietnam Conflict, investigations of effects of, ch 22, §14; ch 202, §8 – 10

Counseling program, establishment and report, ch 202, \\$1, 16; ch 218, \\$4, 36

County grant program for veterans, administration and report, ch 218, §4, 36

Director, salary, ch 215, §13, 14

Educational assistance for children of veterans, appropriations, ch 218, §4

Hepatitis C awareness program for veterans, duties transferred to department, ch 202, §11, 12

Home for veterans, state, see VETERANS AND VETERANS AFFAIRS, subhead Home for Veterans, State

Home ownership assistance program for armed forces members, ch 87; ch 203; ch 215, §70, 241; ch 218, §5, 66, 67

Injured veterans grant program, ch 22, \$112, 116; ch 142; ch 203; ch 215, \$258; ch 218, \$66, 67

Long-term living resources system team membership and duties, ch 92

Merchant marine bonus compensation administration, ch 202, §6

Needs and plans for services, ch 202, §7; ch 218, §6, 36

Regional coverage for veterans affairs services, study and report, ch 202, §17

Veterans affairs commission

General provisions, ch 202, §3, 5 – 12

Administrative rules, ch 176, §1; ch 202, §3, 5, 6, 9

Chemical exposure of veterans, investigation duties transferred to department, ch 202, \$8-10

Membership, ch 202, §2

Vietnam Conflict veterans bonus administration, ch 176, §1

Veterans license fee fund, motor vehicle special registration plate fee deposits, ch 178; ch 184, §1, 4, 5, 7

Veterans trust fund, see VETERANS AND VETERANS AFFAIRS

Vietnam Conflict veterans bonus administration, ch 176, §1

VETERANS AND VETERANS AFFAIRS

See also MILITARY FORCES AND MILITARY AFFAIRS

Appropriations, see APPROPRIATIONS

Benefits and services

Information dissemination, ch 202, §1, 14; ch 218, §4

Needs report, ch 218, §6, 36

Card game tournaments conducted by veterans organizations, regulation of, ch 119, \$1, 3-6

Cemeteries of governmental subdivisions, interment of veterans, ch 175, §44

Cemetery for veterans, state, see CEMETERIES, subhead Veterans State Cemetery

Chemical exposure during Vietnam Conflict, investigations of effects of, ch 22, §14; ch 202, §8 – 10

Children of veterans, educational assistance for, appropriations, ch 218, §4

Commission of veterans affairs in state veterans affairs department, see VETERANS AFFAIRS DEPARTMENT, subhead Veterans Affairs Commission

Counseling program, establishment and report, ch 202, §1, 16; ch 218, §4, 36

County commissions of veterans affairs

Regional coverage for services, study, ch 202, §17

Training for directors, ch 202, §5

VETERANS AND VETERANS AFFAIRS — Continued

County grant program for improved services to veterans, appropriations, ch 218, §4, 65, 67 Department of veterans affairs in state government, see VETERANS AFFAIRS DEPARTMENT

Educational assistance for children of veterans, appropriations, ch 218, §4 Home for veterans, state

Appropriations, see APPROPRIATIONS, subhead Veterans Home, State

Capital improvement projects, appropriations, ch 218, §50, 67

Commandant, salary, ch 215, §13, 14

Construction of resident living areas and facilities and infrastructure improvements, reports, appropriations, and contingency, ch 219, \$1, 2, 24

Veterans affairs commission, duties of commandant, ch 202, §2

Injured veterans grant program, ch 22, §112, 116; ch 142; ch 203; ch 215, §258; ch 218, §66, 67

Memorial building and monument commissions, membership and quorum, ch 21 Memorial to American veterans disabled for life, funding contribution appropriation,

ch 219, §1, 2

Merchant marine bonus compensation, ch 202, §6

Motor vehicles of veterans, special registration plates for, see MOTOR VEHICLES, subhead Military Forces Members and Veterans, Special Registration Plates for

Museum at Camp Dodge, infrastructure improvements, appropriations, ch 219, §1, 2, 6

Needs of veterans, report, ch 218, §6, 36

Orphaned children of veterans, educational assistance for, appropriations, ch 218, §4 Spouses of veterans, see MARRIAGE AND SPOUSES, subhead Military Forces Members

and Veterans, Surviving Spouses of

Survivors of veterans, see SURVIVORS

Tax exemptions and credits, see TAXATION, subhead Military Service Persons and Veterans of Military Service

Veterans license fee fund, motor vehicle special registration plate fee deposits, ch 178; ch 184, §1, 4, 5, 7

Veterans trust fund

Appropriations, ch 218, §4, 5, 64, 65, 67

Contributions to fund, income tax checkoff, Code correction, ch 126, §68

Services and needs, identification for use of moneys, ch 202, §7

Vietnam Conflict veterans bonus compensation, ch 176

VETERINARY MEDICINE AND VETERINARY MEDICINE PRACTITIONERS

Dangerous wild animals, certification of and regulation exception, ch 195, \$4, 7; ch 215, \$122

Diagnostic laboratory at Iowa state university, appropriations, ch 211, \$24, 25; ch 219, \$9, 10

Emergency preparedness and response services, appropriations, ch 211, §11

Iowa state university project, funding by state, ch 205

Wildlife, use of drugs on, ch 56

VETOES

See ITEM VETOES

VICTIMS AND VICTIM RIGHTS

Appropriations, see APPROPRIATIONS, subhead Victims and Victim Services

Assistance grants, appropriations, ch 213, §1

Automated victim notification system

Establishment and implementation, ch 27, §1, 3 – 6, 10

Registration of victims with system, ch 27, §3, 5, 6

Victim compensation fund moneys, use to support system, ch 27, §10

VICTIMS AND VICTIM RIGHTS — Continued

Care providers of services to victims, grants for, appropriations, ch 213, §1

Child abuse victims and families of victims, services to, appropriations, ch 218, §18 Compensation for victims

Appropriations, ch 213, §1

Boat-related crimes or license suspensions or revocations, compensation, ch 27, §7

Computation of compensation, allowable charges and limitations revised, ch 27, §8, 9

Crimes, definition revised, ch 27, §7

Human trafficking victims, Code correction, ch 22, §111

Income tax exemption, ch 27, §2, 11

Restitution, see RESTITUTION

Disaster victims, see DISASTERS

Family members of victims, compensation for, see subhead Compensation for Victims

HIV tests in sexual assault cases administered under victim rights law, disclosure of results, ch 70, §10, 11

No-contact orders against defendants, ch 180, §4 – 11

Notification system, see subhead Automated Victim Notification System above

Protective orders for safety of victims, ch 180, §4 – 11

Restitution, see RESTITUTION

Secondary victims, compensation for, see subhead Compensation for Victims above Sex offense victims

Assistance programs, appropriations, ch 218, §2

Services for child sexual abuse victims, decategorization of, ch 218, §94 – 96

Services to victims, appropriations, ch 204, §4, 15 – 17

VIDEO COMMUNICATIONS

See TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES

VIDEO RECORDINGS (DISCS AND TAPES)

Film, television, and video project promotion program, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

VIETNAM CONFLICT

Agent Orange exposure, ch 22, §14; ch 202, §8 - 10

Veterans bonus, ch 176

VINEYARDS AND VINTNERS

Grape and wine development funding and appropriations, ch 211, §13, 41, 42

VIRUSES

Antiviral stockpile management, appropriations, ch 218, §2

Diseases, see DISEASES

VISION

Appropriations, see APPROPRIATIONS

Blind, department for, see BLIND, DEPARTMENT FOR

Children

Vision health initiatives for children, appropriations, ch 218, §97

Vision screening programs, appropriations, ch 218, §2

Optometry, see OPTOMETRY AND OPTOMETRISTS

VISION IOWA PROGRAM

Bonds and notes issued for program, Code correction, ch 22, §5

Employee positions authorized, ch 212, §4

Financial assistance from program, eligibility, ch 215, §81

VISITATION OF CHILDREN AND VISITATION RIGHTS

See CHILDREN

VITAL STATISTICS AND RECORDS

Appropriations, ch 159, §28

Death records and death certificates

Certifications of cause of death by county medical examiners, ch 159, §26

Records of county recorders, prohibition against internet accessibility, ch 123, §1

Fees for certificates, records, and services, collection and deposit of, ch 159, \$27, 28

Medical contracts, electronic cross-matching with state vital records databases, appropriations, ch 218, §13

VOCATIONAL EDUCATION

Appropriations, see APPROPRIATIONS

Community colleges, see COMMUNITY COLLEGES AND MERGED AREAS

Correctional facility inmate programs, appropriations and transfers, ch 213, §4, 6; ch 215, 874

Discrimination based on gender identity and sexual orientation, prohibited, ch 191, §1, 2 Expenditures by secondary schools for vocational education, appropriations for reimbursement, ch 214, §6

Vocational-technical tuition grants to students, appropriations, ch 214, §27

VOCATIONAL REHABILITATION

Division of vocational rehabilitation services in education department, see EDUCATION DEPARTMENT, subhead Vocational Rehabilitation Services Division

Physically or mentally disabled persons, funding for programs enabling more independent functioning, ch 214, §6

VOCATIONAL REHABILITATION SERVICES DIVISION

See EDUCATION DEPARTMENT

VOICE

Communications service, see COMMUNICATIONS SERVICE AND COMMUNICATIONS COMPANIES

 $Interpreting\ and\ interpreters, \textit{see INTERPRETING\ AND\ INTERPRETERS}$

Languages, see LANGUAGES

Pathology, see SPEECH PATHOLOGY AND PATHOLOGISTS

Sign language interpreting and interpreters, see INTERPRETING AND INTERPRETERS

Transliterating and transliterators, see TRANSLITERATING AND TRANSLITERATORS

VOLUNTEERS AND VOLUNTEERISM

See also COMMUNITY SERVICE (PUBLIC SERVICE)

Appropriations, see APPROPRIATIONS

Before and after school grant program, volunteer and service learning programs, ch 208, §5; ch 214, §6, 19; ch 215, §34

Commission on volunteer service

Application for appropriations, ch 212, §23

Appropriations, ch 208, §4; ch 218, §1

Children's programming utilizing mentoring, funding for organizations recognized by, ch 208, $\S 1$

Dental services, field dental clinic participation in volunteer health care provider program, ch 95

Emergency services organizations, annual game nights conducted by, ch 119, §3

Farm management demonstration program, volunteer farmer participation, appropriations, ch 211, §26, 30

VOLUNTEERS AND VOLUNTEERISM — Continued

Fire fighters, see FIRES AND FIRE PROTECTION

Health care provider program, see HEALTH, HEALTH CARE, AND WELLNESS, subhead Volunteer Health Care Provider Program

Human services department development and coordination services, appropriations, ch 204, §11, 15 – 17; ch 218, §30

Retired and senior volunteer program, appropriations, ch 218, §1

School volunteers, bullying and harassment prevention, ch 9, §2

Water quality and keepers of the land programs, volunteer coordination, appropriations, ch 211, §28, 30

VOTING AND VOTERS

See ELECTIONS

WAGERING

See GAMBLING

WAGES

See SALARIES AND WAGES

WARDROBE

Film, television, and video project expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

WARDS (PERSONS)

See PROBATE CODÉ, subheads Conservators and Conservatorships; Guardians and Guardianships

WAREHOUSES AND WAREHOUSE OPERATORS

Agricultural products, warehouses for

Document of title provisions, ch 30, §80 – 82

Licensing and regulation, Code correction, ch 22, §49

Receipts and other documents of title issued for stored goods, see UNIFORM COMMERCIAL CODE, subhead Documents of Title

WARMING

Global warming, see GLOBAL WARMING

WARS AND CONFLICTS

Armed forces, see MILITARY FORCES AND MILITARY AFFAIRS

Civil war, see CIVIL WAR

Darfur and Sudan conflict and genocide, investments of state public funds benefiting Sudan government, prohibition, ch 39

Military forces and military affairs, see MILITARY FORCES AND MILITARY AFFAIRS Veterans and veterans affairs, see VETERANS AND VETERANS AFFAIRS Vietnam, see VIETNAM CONFLICT

WASTE AND WASTE DISPOSAL

See also POLLUTION AND POLLUTION CONTROL; RECYCLING AND RECYCLED PRODUCTS; SEWAGE AND SEWAGE DISPOSAL

Animal feeding operations and feedlots, regulatory law enforcement, see ANIMALS, subhead Feeding Operations and Feedlots

Biomass materials, energy production from, see ENERGY, subhead Biobased Energy and Energy Production

Coal combustion residue from electric generating facilities, landfills for, regulation, ch 215, \$115

WASTE AND WASTE DISPOSAL — Continued Greenhouse gases, see GREENHOUSE GASES

Landfills

See also subhead Solid Waste Disposal below

Coal combustion residue from electric generating facilities, landfills for, regulation, ch 215, \$115

Pharmaceutical disposal, alternatives to landfill disposal, appropriations, ch 155 Pharmaceutical collection and disposal pilot project, appropriations, ch 155 Plumbing, see PLUMBING AND PLUMBERS

Solid waste disposal

See also subhead Landfills above

Film, television, and video project expenditures, tax credits for, see FILM, TELEVISION, AND VIDEO PROJECT PROMOTION PROGRAM

Violations and penalties for violations, ch 151

Tires, disposal of, violations and penalties for violations, ch 151, §2 – 4, 9 – 11

Transportation department facilities, hazardous waste disposal, appropriations, ch 216, §2

Wastewater

Pharmaceutical disposal, alternatives to wastewater disposal, appropriations, ch 155 Treatment, financial assistance program, appropriations, ch 219, §1, 2

WATER AND WATERCOURSES

Agricultural drainage wells and well areas, see DRAINAGE AND DRAINAGE SYSTEMS

Appropriations, see APPROPRIATIONS

Associations, see subhead Rural Water Districts and Associations below Boats, see BOATS AND VESSELS

Clean up of state and county water sources, use of inmate labor for, ch 213, §7 Conservation, see SOIL AND WATER CONSERVATION

Districts, see subhead Rural Water Districts and Associations below

Drainage and drainage systems, see DRAINAGE AND DRAINAGE SYSTEMS

Erosion and erosion control, see EROSION AND EROSION CONTROL

Floodplains, permit backlog reduction, appropriations, ch 211, §22

Floods and flood control, see FLOODS AND FLOOD CONTROL

Fluoridation program and start-up fluoridation, appropriations, ch 204, §4, 15 – 17

Gambling boat operation, see GAMBLING, subhead Excursion Gambling Boats

Groundwater and groundwater protection

See also subhead Quality Protection and Regulation below

Appropriations, ch 211, §18

Groundwater professionals, certification and regulation, ch 126, §79, 80; ch 171, §4 – 6, 12

Quality risk reduction from open feedlot effluent, research project appropriations, ch 211, §23

Heaters, see PLUMBING AND PLUMBERS

Lakes

Appropriations, see APPROPRIATIONS, subhead Water and Watercourses

Clear lake restoration, report, matching funds, and appropriations, ch 219, §1, 2, 26

Crystal lake restoration, report, matching funds, and appropriations, ch 219, §1, 2, 26

Dredging and restoration, appropriations and project selection, ch 219, §1, 2, 26

Dredging, appropriations, ch 211, §44, 45

Gambling boat operation, see GAMBLING, subhead Excursion Gambling Boats

Low head dam public hazard improvement program, appropriations, ch 219, §1, 2

Restoration plan and report by state, Code corrections, ch 22, §81, 82

Storm lake restoration, report, matching funds, and appropriations, ch 219, §1, 2, 26

WATER AND WATERCOURSES — Continued

Lakes — Continued

Watersheds above publicly owned lakes, protection from soil erosion and sediment, financial incentive appropriations, ch 211, \$26, 30

Plumbing, see PLUMBING AND PLUMBERS

Pollution and pollution control, see POLLUTION AND POLLUTION CONTROL Quality protection and regulation

See also subhead Groundwater and Groundwater Protection above; SEWAGE AND SEWAGE DISPOSAL

Animal feeding operations and feedlots, regulatory law enforcement, see ANIMALS, subhead Feeding Operations and Feedlots

Appropriations, ch 211, §26, 28, 30

Improvement initiatives and grants, ch 211, §36 – 40

Lake restoration, see subhead Lakes above

Monitoring stations operation, appropriations, ch 211, §28, 30

Pharmaceutical disposal, alternatives to wastewater disposal, appropriations, ch 155 Volunteer efforts, appropriations, ch 211, §28, 30

Recreation, state river area infrastructure improvements, appropriations, ch 219, §1, 2 Revegetation improvement efforts, appropriations, ch 211, §26, 30 Rivers

Mississippi river parkway commission participation, appropriations, ch 216, §1

State river recreation area infrastructure improvements, appropriations, ch 219, §1, 2

Rural water districts and associations

Liability for fire protection, review by legislative council, Code correction, ch 126, §58 Powers, Code correction, ch 126, §57

Security procedures and emergency preparedness information, closed session meetings and confidentiality, ch 63

Spas, see SPAS

Stormwater discharge permit fees, appropriations, ch 211, §22

Streams, unlawful operation of all-terrain vehicles in, ch 141, §36

Swimming pools, see SWIMMING POOLS

Trails, funding of community attraction and tourism projects, ch 215, §58

Underground water, see subhead Groundwater and Groundwater Protection above

Vessels, see BOATS AND VESSELS

Wastewater disposal, see WASTE AND WASTE DISPOSAL

Watershed management, protection, and improvement

Appropriations, ch 219, §1, 2

Geographic information system data, ch 211, §28, 30

Improvement initiatives and grants, ch 211, §36 – 40

Protection of watersheds above publicly owned lakes from soil erosion and sediment, financial incentive appropriations, ch 211, §26, 30

Quality planning task force, report, ch 211, §40

Wetlands

Conservation reserve enhancement program, appropriations, ch 211, §26, 30

Game bird habitat development programs and funding, ch 194

Restoration and construction, appropriations, ch 211, §26, 30

WATERCRAFT AND WATERBORNE VESSELS

See BOATS AND VESSELS

WATERLOO

National guard aviation armory, construction of, appropriations, ch 219, §1, 2

WATERMAN, LARNED A., IOWA NONPROFIT RESOURCE CENTER

Appropriations, ch 214, §9

WAYNE COUNTY

Council of governments, new service area, ch 76

WEAPONS

Ammunition and firearms seized in criminal proceedings, disposition, ch 107 Contraband. see CONTRABAND

Firearms discharge near farm units, prohibition exception for owners, tenants, or family members, ch 28, §14

Regents institution campus security, review of policy on arming officers, ch 214, §9

WEATHER

Climate change and global warming, see GLOBAL WARMING

Disasters, see DISASTERS

Erosion and erosion control, see EROSION AND EROSION CONTROL

Floods and flood control, see FLOODS AND FLOOD CONTROL

Telephone road and weather conditions information system, appropriations, ch 216, §1

WEATHERIZATION PROGRAMS

Low-income households, programs for, appropriations, ch 204, §10, 15 – 17

WEB AND WEBSITES

See INTERNET AND INTERNET SERVICES

WEIGHT AND MEASUREMENT

Cigarette testing, test methods, performance standards, and test reports, ch 166, §4 Commercial weighing and measuring devices, Code corrections, ch 126, §42, 43 Land surveying standards for distance measurement, ch 143, §4 – 6 Scale maintenance by transportation department, appropriations, ch 216, §1

WELFARE

See PUBLIC ASSISTANCE

WELLNESS

See HEALTH, HEALTH CARE, AND WELLNESS

WELLS

Agricultural drainage wells and well areas, see DRAINAGE AND DRAINAGE SYSTEMS, subhead Agricultural Drainage Wells and Well Areas

Angled well, pump, and piping connection to lake infrastructure, appropriations, ch 219, §1, 2

WETLANDS

See WATER AND WATERCOURSES

WHEAT

See GRAIN

WHEELCHAIRS AND USERS OF WHEELCHAIRS

Disabled persons, wheelchair purchases, loans for, ch 206, §10, 39 Lifts, see CONVEYANCES FOR PASSENGERS AND FREIGHT

WHITETAIL

Hunting, see HUNTING

WHOLESALERS AND WHOLESALE SALES

See SALES

WIDOWS AND WIDOWERS

Military forces and veterans, widows and widowers of, see MARRIAGE AND SPOUSES, subhead Military Forces Members and Veterans, Surviving Spouses of

Probate law, see PROBATE CODE, subhead Surviving Spouses

Trust settlors, surviving spouses of, see TRUSTS AND TRUSTEES, subhead Spouses of Settlors

WILDLIFE

Areas, unlawful operation of all-terrain vehicles in, ch 141, §36

Dangerous wild animals, see ANIMALS

Deer, see DEER

Drug use on wildlife, prohibition and exceptions, ch 56

Endangered species, suspension of hunting, fishing, or trapping licenses for illegal taking or possessing, damages and interest payment, ch 28, §16

Fish, see FISH

Fishing, see FISHING

Game, see GAME

Habitat development programs and funding, ch 194

Hunting, see HUNTING

Illegal taking or possessing of wildlife, suspension of hunting, fishing, or trapping licenses and damages and interest payment, ch 28, §16

Sac and Fox Indian settlement, hunting and fishing regulatory authority of state, ch 189 Sanctuaries, transfers of dangerous wild animals to and regulation exception, ch 195, §4, 5, 7: ch 215. §122

Threatened species, suspension of hunting, fishing, or trapping licenses for illegal taking or possessing, damages and interest payment, ch 28, §16

Trapping, see TRAPPING AND TRAPS

Turkeys, see BIRDS

Wild animals, dangerous, see ANIMALS, subhead Dangerous Wild Animals

WILLS

See also PROBATE CODE, subhead Wills

Anatomical gift authorization by wills, ch 44, §3

Dissolution of marriage property divisions, interests in property gifted by wills, ch 163

WIND

Energy production tax credits, ch 161, §11, 22

Erosion and erosion control, see EROSION AND EROSION CONTROL

WINE

See ALCOHOLIC BEVERAGES AND ALCOHOL

WIRELESS COMMUNICATIONS SERVICE AND WIRELESS COMMUNICATIONS COMPANIES

E911 emergency communications services, appropriations and administration, ch 213, \$16, 17, 21

WIRES

Communication services, see TELECOMMUNICATIONS SERVICE AND TELECOMMUNICATIONS COMPANIES

WIRES — Continued

Electrical systems, see ELECTRICITY, ELECTRICAL SYSTEMS, AND ELECTRICIANS

Fences constructed of barbed wire at school attendance centers, prohibition, Code correction, ch 126, §51

Television cable systems, see TELEVISION AND TELEVISION EQUIPMENT

WITHHOLDING TAXES

Exemptions and credits allowed, ch 185, §3; ch 186, §16

WITNESSES

Court and administrative proceedings, interpreters appointed for parties and witnesses in, Code correction, ch 126, §103

Expert witness fees in proceedings to establish conservatorship or guardianship, payment, ch 134. §15. 28

Parental rights termination proceedings, consideration of testimony provided by caretakers, ch 172, §13

WOLVES

Dangerous wild animals, see ANIMALS, subhead Dangerous Wild Animals

WOMEN

Abortions, see ABORTIONS

Appropriations, see APPROPRIATIONS

Births, see BIRTHS

Breast cancer treatment, medical assistance eligibility and appropriations, ch 208, §1 Cervical cancer treatment, medical assistance eligibility and appropriations, ch 208, §1 Correctional facility for women (Mitchellville), see CORRECTIONAL FACILITIES AND INSTITUTIONS

Division on status of women in state human rights department, see HUMAN RIGHTS DEPARTMENT, subhead Status of Women Division

Entrepreneurs, early-stage industry companies established by, financial assistance, ch 212, §3

Gender identity, see GENDER

Gynecological care, perinatal care program, ch 159, §17; ch 204, §3, 15 – 17

Health care for women, see HEALTH, HEALTH CARE, AND WELLNESS, subhead Women

Iowans in transition program, appropriations, ch 217, §11

Math and science education improvement program for female students, ch 122, §8, 10,

Mothers, see MOTHERS

Perinatal care program, ch 159, §17; ch 204, §3, 15 – 17

Pregnancy and pregnant women, see PREGNANCY

Prenatal support for low-income families, appropriations, ch 214, §6

Sex crimes against women, see SEX CRIMES AND OFFENDERS

Stop violence against women grant program, appropriations, ch 204, §5, 15 - 17

Targeted small business financial assistance board, representation, ch 207, §8, 12, 18

WOODBURY COUNTY

Juvenile drug court programs, appropriations, ch 218, §18, 57, 67

WOODWARD

State resource center, see RESOURCE CENTERS, STATE

WORK AND WORKFORCE

See LABOR AND EMPLOYMENT

WORKERS' COMPENSATION

See also OCCUPATIONAL DISEASE COMPENSATION; OCCUPATIONAL HEARING LOSS COMPENSATION

Appropriations, see APPROPRIATIONS

Automated appeal processing system costs, appropriations, ch 219, §14, 15

Backlog of cases, reductions of, appropriations, ch 212, §16

Commissioner of workers' compensation, see WORKFORCE DEVELOPMENT

DEPARTMENT, subhead Workers' Compensation Division

Disputes over medical services fees, Code correction, ch 22, §20

Division of workers' compensation in state workforce development department, see WORKFORCE DEVELOPMENT DEPARTMENT, subhead Workers' Compensation Division

Exempted employees, employers' liability with purchases of coverage, ch 128, \$1

Filing fees for cases, payment and taxation as costs, ch 212, §16

Health service provider fees disputed by workers' compensation insurance carriers or employers, ch 128, \$2-4

Insurance and insurers for employers liability, see INSURANCE

Second injury fund administration by attorney general, reimbursement for, ch 215, §84, 85

State employees

Claims and costs, payment fund, ch 217, §1

State patrol division costs payment, appropriations, ch 206, §17, 39; ch 213, §14

Transportation department employee claims, appropriations for payment, ch 216, §1, 2 Worker and employee, definitions of, Code correction, ch 22, §21

WORKFORCE DEVELOPMENT DEPARTMENT

See also STATE OFFICERS AND DEPARTMENTS

Alzheimer's disease task force membership and duties, ch 121

Appropriations, see APPROPRIATIONS

Asbestos removal and encapsulation regulation, ch 125

Audit, ch 212, §17

Contracts and contractors with department, accountability measures, ch 212, §17

Conveyance safety regulation, see CONVEYANCES FOR PASSENGERS AND FREIGHT Director, salary, ch 215, §13, 14

Driver's license reinstatement installment agreements, cooperation in collection, ch 196, §15; ch 215, §47

Elevator safety regulation, see CONVEYANCES FOR PASSENGERS AND FREIGHT

Emergency response commission duties stricken, ch 211, §31 – 34

Enterprise zone distress criteria, economic development department use of annual resident labor force statistics from, ch 183

Field offices, funding, ch 212, §16, 19

Food stamp employment and training program, appropriations, ch 218, §8

JOBS program, see PROMISE JOBS PROGRAM

Labor management projects final phase-out, application for appropriations, ch 212, §23 Labor services division

Administrative rules, ch 135, §8

Appropriations, ch 212, §16; ch 217, §12

Asbestos removal and encapsulation regulation, ch 125

WORKFORCE DEVELOPMENT DEPARTMENT — Continued

Labor services division — Continued

Boiler inspection and regulation, see BOILERS

Construction contractor registration hearings, ch 212, §16; ch 217, §12

Conveyances for passengers and freight, regulation, see CONVEYANCES FOR PASSENGERS AND FREIGHT

Duties and enforcement powers, Code corrections, ch 22, §24, 25

Elevator safety regulation, see CONVEYANCES FOR PASSENGERS AND FREIGHT

Fire fighter clothing and equipment standards, stricken, ch 36

Labor commissioner, salary, ch 215, §13, 14

Minimum wage increase administration, ch 1

Occupational safety and health regulation, see OCCUPATIONAL SAFETY AND HEALTH

Special inspectors, commissions, ch 16, §2, 4

Steam pressure vessel inspection and regulation, see STEAM ENERGY AND STEAM EOUIPMENT, subhead Pressure Vessels for Steam

Long-term living resources system team membership and duties, ch 92

Minimum wage increase administration, ch 1

New Iowans centers, appropriations for and services by, ch 212, §16

Occupational safety and health regulation, see OCCUPATIONAL SAFETY AND HEALTH Outcome tracking system computer hardware and software purchases, appropriations, ch 219, §14, 15

PROMISE JOBS program, see PROMISE JOBS PROGRAM

Salaries, ch 212, §16, 18

Unemployment compensation administration, see UNEMPLOYMENT COMPENSATION

Veterans affairs regional services, study of coverage for, ch 202, §17

Workers' compensation administration, see WORKERS' COMPENSATION

Workers' compensation division

Administrative rules, ch 128, §2

Appropriations, ch 212, §16, 18

Automated appeal processing system costs, appropriations, ch 219, §14, 15

Dispute resolution procedures for health service provider disputed fees, ch 128, §2

Workers' compensation administration, see WORKERS' COMPENSATION

Workers' compensation commissioner, salary, ch 215, §13, 14

WORK RELEASE

Violators, confinement by counties, reimbursement appropriations, ch 206, §13, 39; ch 213, §3, 6

WORK-STUDY PROGRAMS

Appropriations, ch 214, §3

WORLD FOOD PRIZE

Appropriations, ch 212, §3; ch 215, §72

Awards ceremony in state capitol, wine use and consumption, ch 220, §1

Banners commemorating awards ceremony, temporary placement on capitol grounds, ch 220, §2

Expenditures of moneys received from state, report, ch 212, §3

World food prize youth institute, application for appropriations, ch 212, §23

WORLD WARS AND CONFLICTS

See WARS AND CONFLICTS

WORLD WIDE WEB AND WEBSITES

See INTERNET AND INTERNET SERVICES

WRIGHT, FRANK LLOYD

Hotel designed by Frank Lloyd Wright, preservation grant appropriation, ch 219, §1, 2

WRITING AND WRITINGS

Statute of frauds under uniform commercial code, repealed, ch 41, §42, 59

WRONGFUL DEATHS

Children, deaths of, parent's cause of action and disposition of damages, ch 132

X RAYS

Jailed persons suspected of contraband possession, sheriff authorization to x-ray, ch 89, \$1

YOUTHS

See also CHILDREN

Appropriations, see APPROPRIATIONS

Before and after school grant program, youth leadership activities programs, ch 208, §5; ch 214, §6, 19; ch 215, §34

Clarinda youth corporation, reimbursement to state for services to, use of moneys, ch 213, §3, 6

Correctional services departments youth leadership model program to help at-risk youth, ch 213, §5, 6

Hunting for deer by youth, ch 129

Minority youth and family projects of human services department, appropriations, ch 218, \$20

Special needs, youths with, medical assistance options for those ineligible due to age, ch 218, §11

Sports authority regional districts, use for special olympics and youth sports, ch 219, §32 World food prize youth institute, application for appropriations, ch 212, §23

ZONING

Residences of medical assistance recipients receiving home and community-based services, zoning status of, ch 218, \$130-132

ZOOS AND ZOOLOGICAL GARDENS

Dangerous wild animal regulation exception and acceptance of confiscated animals, ch 195, \$5, 7

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